

The background of the image is a close-up, slightly blurred view of the American flag, showing the stars and stripes in detail. The flag is draped and appears to be waving, with the colors of the stars and stripes being slightly muted and overlaid with a semi-transparent white layer to allow the text to be clearly visible.

UNIVERSITY OF
WISCONSIN

PARKSIDE

PRESENTS

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THE
**20 ELECTION
20 EXPERIENCE**

DISCUSSION SERIES

WEEK 2 – SEPTEMBER 16, 2020

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THE
**20 ELECTION
20 EXPERIENCE**

**INTRODUCTION BY:
Dr. Christopher Hudspeth**

UPCOMING EVENTS

TUESDAY, SEPTEMBER 22

POLITICAL COMMUNICATION SERIES: The Co-creation of Political Identities: Reflection, Lived Experience, and Change

6 PM | Virtual

TUESDAY, SEPTEMBER 22 & WEDNESDAY, SEPTEMBER 23

NATIONAL VOTER REGISTRATION DAY

Drive Through Voter Registration

Stay in your car and register!

9 AM-3 PM | 5 PM-7 PM

Parking lot outside the UW-Parkside Student Center

WEDNESDAY, SEPTEMBER 23

ELECTION EXPERIENCE: Political Advertising on Social Media

12:00PM 6 PM | Virtual | Register at www.uwp.edu/eeeevents

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Slavery, Race, and the Constitution

Dr. Ross Astoria

Slavery, Race, and the Constitution

Learning Outcome

Articulate how the 1808 prohibition, the fugitive slave clause, and the 3/5th Clause systematically distorted political power in the early republic

Prohibition on Prohibiting the Slave Trade and taxing the ownership of slaves

1. Art. V: "... no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; . . ."
2. Art. I, Sec 9, clause 1: "The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person."

Fugitive Slave Clause

1. Art V, Sec 2: “No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.”

Fugitive Slave Clause

1. The *Summerset* Doctrine: King's Bench (1772) "The state of slavery is of such a nature, that it is incapable of being introduced on any reason, moral or political, but only by positive law, which preserves its force long after the reasons, occasion, and time itself from whence it was created, is erased from memory. It is so odious, that nothing can be suffered to support it, but positive law."

Fugitive Slave Clause

1. Limited to “fugitive” slaves, not slaves brought voluntarily into free territory by masters
2. Legal process seems required (“on Claim of the Party”), so seems to prohibit the master’s “self-help”
3. But, the authority (state or federal) having jurisdiction over the claim is left ambiguous

The 3/5th Clause

1. Art I, Sec 2: “Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.”

Franchise

1. Art I, Sec 2: “The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.”
2. “Number” to determine representation v. Qualification to vote (suffrage) determined by state law.

Impacts

1. The Electoral College communicates the 3/5th Clause to the election of the President
2. Some states liked the 3/5th Clause so much, they incorporated into their state constitutions, additional impact, then, on the Senate (and hence the judiciary)
3. Without this extra power to the slavocrats possibly: Adams wins election of 1800; slavery excluded from Missouri; no Indian Removal Act (1830); Taney not Chief Justice / no *Dredd Scott* decision

Summary

1. Slavery as a constitutive element of the constitution: 1808, fugitive slave clause, 3/5th Clause
2. With the Rebellion of the Slave Masters (1861-1864), a strong discontinuity, but avoid the “redemption” narrative, those structural deformities continue
3. With the Posse Comitatus Act of 1878, reconstruction ends and the Deep South constructs an apartheid state that lasted another 100 years (e.g., the first federal Civil Rights Act is 1866, the next is 1964).

QUESTIONS & ANSWERS