

Slavery and Taxes in America

I recently finished reading *American Taxation, American Slavery* by Robin L. Einhorn, 2006. It explains how slavery and taxes influenced the formation of the USA, beginning with the Articles of Confederation (1781–1789) and the Constitution that replaced it in 1789. I found it highly worthwhile.

The Articles of Confederation were drafted in 1777 by the same men who wrote the Declaration of Independence. The Articles were signed by the 13th state on March 1, 1781, seven months before the end of the Revolutionary War. They formed the government of the new nation, the United States of America. The text of the Articles is at <http://www.ourdocuments.gov/doc.php?doc=3&page=transcript> . The nation was a confederacy of 13 sovereign, free, and independent states and a weak central, federal government. The key Article in the discussion of slavery and taxes is Article 8, which said (1) the war debt and other expenses of common defense and the general welfare were to be paid from a common treasury to be supplied by the states in proportion to the amount of the real property contained within the state. (2) The taxes for paying each state's proportion were to be laid and levied by each state's legislature. Article 5 stated that Congressmen were to be appointed annually by the state legislatures, each state could appoint between two and seven representatives, but only one representative per state could vote. Article 2 stated the states retained every power, jurisdiction and right, which was not expressly delegated to the "United States, in Congress assembled." Thus the states reserved to themselves the right to tax and regulate trade. Article 13 stated that any changes to the Articles must be unanimous, i.e., confirmed by the legislatures of every state.

Consequently the federal government set the impost (tax) and apportioned it to the individual states who had the task of establishing a system of setting tax rates, assessing property values, levying taxes on individuals, collecting that tax, and remitting the tax to the federal government; this method kept the federal government out of the concerns of the slave states. In the context of taxation, the issue was what taxes would be applied to slaves; not surprisingly, the slave states did not want to be taxed on their slaves, and avoided public discussions of the value of the slaves and their economic contribution to the wealth of their owners.

The states all too frequently did not pay the federal government, which was still liable for debts incurred during the Revolutionary War. The Confederation Congress grappled with the revenue problem, but was shackled by the requirement that any change in the Articles had to be agreed to by every state. And that was not going to happen. This was the impetus for the Constitution of 1787 that took effect in 1789.

The authors of the Articles of Confederation avoided the slavery issue. Several commented then or later that hypocrisy was present in that avoidance. The northerners largely thought slavery should be abolished, and some of the southern slaveholders agreed, Thomas Jefferson among them. But when it came to the point, slavery went unchallenged. Perhaps they believed that a confrontation would fragment the union. What they would not confront festered until 1860 when the southern states seceded one after the other and then, in 1861, fired on Fort Sumter, a US fort in Charleston, South Carolina, initiating the Civil War. The book points out that secession quickly followed the election of Abraham Lincoln to the presidency, accomplished without any southern votes. This election made it clear that the north had the political power to abolish slavery, should it so choose.

The original Constitution forbade direct taxes by the federal government. This was because the authors and signers believed that direct taxes could be used against slaveholders, thus their prohibition was intended to protect slavery. "The South feared prohibitive slave taxes. If Congress can assess or rate one species of property, it can assess or rate slaves as property."

- Article 1 Section 2 Paragraph 3: “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 number of years, and excluding Indians not taxed, three-fifths of all other persons.” As a sleight of speech, slaves were considered free persons “bound to service,” an imaginary kind of indenturehood, a political convenience with no basis in fact. The apportionment specified here was the conclusion of huge political difficulties. Regardless of whether the apportionments rested on population or wealth, they had to include decisions about how to treat slaves: how to count them as persons or how to count them as property. The issue of apportioning representation was solved by the bicameral Congress, the electoral college, and the three-fifths rule. So the Senate and the House were created to accommodate slavery!
- Article 1 Section 8: “The Congress shall have the power to lay and collect taxes, duties, imposts and excises . . . ; but all duties, imposts and excises shall be uniform throughout the United States.” This section was the solution to the problem with Article 8 of the Confederation. It allowed the federal government to tax while apportioning those taxes uniformly throughout the country. The apportionment handled the problems posed by slavery.
- Article 16 adopted in 1913: “The congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.” This amendment was necessary to levy direct taxes not involving apportionment, as these were not allowed by Article 1 Section 8.

The first acts of the 1st Congress of the United States:

1. The Act to regulate the Time and Manner of administering certain Oaths; signed into law on June 1, 1789. This act was strictly procedural.
2. The Act for Laying a Duty on . . . [goods] imported into the United States; July 4, 1789. This was the tariff that was introduced by James Madison that could not be levied under the Articles of Confederation.
3. An Act imposing Duties on Tonnage. See #2.
4. An Act for establishing an Executive Department, to be denominated the Department of Foreign Affairs.

And what about slavery? The first African slaves sold into the colonies were 19 in number, sold in Jamestown, Virginia in 1619. After that African slaves continued to be sold into the colonies—until 1807. In 1807 the UK Parliament passed the Act for the Abolition of the Slave Trade; while it did not abolish slavery outright, it did abolish the slave trade in the British Empire, in particular the Atlantic slave trade. As a consequence America no longer had a ready source of fresh imported African slaves. So it turned to the descendants of the purchased slaves—whose children and grandchildren swelled the slave population in America and were promptly set to work in the cotton industry. The domestic slave trade flourished, slaves were bred and sold. By 1850, most U.S. slaves were third-, fourth-, or fifth generation Americans.

<i>Year</i>	<i>Number of African Slaves in USA</i>	<i>Comments</i>
1619–1806	about 500,000	imported
1790	681,777	34% of total population
1810	1,005,685	33% of total population
1860	3,953,696	32% of total population, per census

Slavery was abolished in America in several stages. The first, on January 1, 1863, was by presidential proclamation and executive order—the Emancipation Proclamation—issued by President Abraham Lincoln. It was based on the president's constitutional authority as commander in chief of the armed forces; it was not a law passed by Congress. It applied to the ten Confederate states that were still in rebellion, but not to the Union states that were not in rebellion. Previously, on September 22, 1862, Lincoln had threatened to order the emancipation of all slaves in any state that did not end their rebellion by January 1, 1863. No Confederate state complied with the threat.

The Civil War ended in 1865 with the surrender of Confederate General Robert E. Lee to Union General Ulysses S. Grant on April 9 at Appomattox, Virginia.

Slavery was officially abolished in the US by the Thirteenth Amendment to the United States Constitution. It was passed by the Senate on April 8, 1864, and by the House on January 31, 1865. The amendment was ratified by the required number of states on December 6, 1865 and proclaimed adopted on December 8, 1865.