

Slave-state representatives condemned the proposed Missouri and Arkansas restrictions. Every Southerner who spoke out agreed that Congress could not constitutionally require emancipation as a condition for statehood.¹⁷¹ The overwhelming majority of Southerners in the national legislature either declared that Congress had no power to ban slavery in any territory or relied heavily on arguments later used to deny that power.¹⁷² Prominent Southern notables, including former president James Madison, asserted that slaveholders were constitutionally authorized to bring their human property into the Western regions. All agreed that such measures as had been proposed

¹⁷¹ For representative speeches, see *Annals of Congress*, 15th Cong., 2nd Sess., pp. 1184–8, 1195–1202, 1228–35; *Annals of Congress*, 16th Cong., 1st Sess., pp. 130–2, 166–70, 307–10, 315–26, 352–9, 1078–83, 1151–7, 1224–35, 1254–61, 1265–75, 1333–9, 1493–1505. See also Brown, “Missouri Crisis,” pp. 58–9 (quoting Nathaniel Macon and Thomas Ritchie).

¹⁷² Twenty-one slave-state representatives either asserted that Congress could not constitutionally ban slavery in the territories or advanced arguments in the debate over Missouri statehood that clearly entailed a lack of such Congressional power. See *Annals of Congress*: 15th Cong., 2nd Sess., pp. 1226 (Walker, N.C.), 1229 (McLane); 16th Cong., 1st Sess., pp. 131–2 (Elliot), 164 (Walker, Ga.), 198–9 (Leake), 222 (Macon), 262–3 (Smith), 320 (Barbour), 405 (Pinckney), 992–1009 (Smyth), 1026, 1031 (Reid), 1082 (Hardin), 1167 (McLane), 1236 (Cobb), 1281 (Barbour), 1318–19, 1326–7 (Pinckney), 1337–8 (Rankin), 1364–7 (Johnson, Va.), 1383–91 (Tyler), 1455 (Rhea), 1459–60 (Jones), 1405 (Scott). See also Cooper, *Liberty and Slavery*, p. 140 (quoting Nathaniel Macon); Moore, *Missouri Controversy*, pp. 63–4, 101–2, 121–2, 220, 260; Syndor, *Development*, p. 123. Ninian Edwards from Illinois and John Holmes from Massachusetts also hinted that Congress may have lacked power to ban slavery in the territories: *Annals of Congress*, 16th Cong., 1st Sess., pp. 189, 983–4. Several Southern representatives who spoke did not have their words recorded in the *Annals*, although the evidence indicates that John Randolph in particular attacked the constitutionality of any restriction on slavery. See *Annals of Congress*, 16th Cong., 1st Sess., pp. 1092, 1111, 1453–4. Several free-state representatives acknowledged Southern claims that slavery could not constitutionally be banned in the territories: *Annals of Congress*, 15th Cong., 2nd Sess., pp. 1175–6; 16th Cong., 1st Sess., pp. 337, 340, 1379, 1475. Three slave-state representatives clearly asserted Congressional power: *Annals of Congress*, 16th Cong., 1st Sess., pp. 736 (Mercer), 941 (Smith, Md.), 1561 (Clay). Robert Goodloe Harper, a prominent slaveholder not in Congress at the time, also publicly acknowledged the national power to ban slavery in American territories: H. Niles, “General Harper’s Speech,” 17 *Niles’ Weekly Register*, 434, 435 (February 19, 1820). Three other Southern representatives indicated ambivalence: *Annals of Congress*, 16th Cong., 1st Sess., pp. 1262–3 (Anderson), 1274, 1283–6 (Pindall), 302–7 (Van Dyke). John Quincy Adams recalled that John C. Calhoun and other Southern members of the Monroe cabinet did maintain that Congress had the constitutional authority to ban slavery in the territories: J. Q. Adams, 5 *Memoirs*, pp. 5, 14–15. Adams pointed out, however, that no Southern member of the cabinet “could find any express power to that effect given in the Constitution,” and all explicitly rejected claims that the power was located in the territorial clause. Anticipating Taney’s position in *Dred Scott*, Calhoun and others insisted that the congressional “power to dispose of and make all needful rules and regulations respecting the territories … of the United States, had reference to land … and that a prohibition of slavery was not needful.” Thus, the basic elements of Calhoun’s later views were already in place by 1820. As Adams noted, the South Carolinian’s claim that Congress could ban slavery in the territories was “in direct opposition to [his] premises”: J. Q. Adams, 5 *Memoirs*, p. 5. See also Moore, *Missouri Controversy*, p. 124. Adams was the only cabinet member who thought Congress could make a ban on slavery a condition for statehood: J. Q. Adams, 5 *Memoirs*, p. 9.