



CENTER FOR THE STUDY OF THE AMERICAN CONSTITUTION

csac.history.wisc.edu > Document Collections > The Founding Period and Slavery > The Southern States Debate Slavery and the Constitution > Debates Over the 3/5 Clause

Debates in the Virginia Convention, 17 June 1788 (excerpts)

(The first clause, of the ninth section, read.) . . .

Mr. *Henry* replied, that though the proportion of each was to be fixed by the census, and three-fifths of the slaves only were included in the enumeration, yet the proportion of Virginia being once fixed, might be laid on blacks and blacks only. For the mode of raising the proportion of each State being to be directed by Congress, they might make slaves the sole object to raise it. Personalities he wished to take leave of: They had nothing to do with the question, which was solely whether that paper was wrong or not.

Mr. *Nicholas* replied, that negroes must be considered as persons or property. If as property, the proportion of taxes to be laid on them was fixed in the Constitution: If he apprehended a poll tax on negroes, the Constitution had prevented it. For, by the census, where a white man paid ten shillings, a negro paid but six shillings. For the exemption of two fifths of them reduced it to that proportion.

(The 2d, 3d, and 4th clauses read.)

Mr. *George Mason* said, that Gentlemen might think themselves secured by the restriction in the fourth clause, that no capitation or other direct tax should be laid but in proportion to the census before directed to be taken. But that when maturely considered it would be found to be no security whatsoever. It was nothing but a direct assertion, or mere confirmation of the clause which fixed the ratio of taxes and representation. It only meant that the quantum to be raised of each State, should be in proportion to their numbers in the manner therein directed. But the General Government was not precluded from laying the proportion of any particular State on any one species of property they might think proper. For instance, if 500,000 dollars were to be raised, they might lay the whole of the proportion of the Southern States on the blacks, or any one species of property: So that by laying taxes too heavily on slaves, they might totally annihilate that kind of property. No real security could arise from the clause which provides, that persons held to labor in one State, escaping into another, shall be delivered up. This only meant, that run-away slaves should not be protected in other States. As to the exclusion of *ex post facto* laws, it could not be said to create any security in this case. For laying a tax on slaves would not be *ex post facto*.

Mr. *Madison* replied, that even the Southern States, who were most affected, were perfectly satisfied with this provision, and dreaded no danger to the property they now hold. It appeared to him, that the General Government would not intermeddle with that property for twenty years, but to lay a tax, on every slave imported, not exceeding ten dollars; and that after the expiration of that period they might prohibit the traffic altogether. The census in the Constitution was intended to introduce equality in the burdens to be laid on the community. No Gentleman objected to laying duties, imposts, and excises, uniformly. But uniformity of taxes would be subversive of the principles of equality: For that it was not possible to select any article which would be

easy for one State, but what would be heavy for another. That the proportion of each State being ascertained, it would be raised by the General Government in the most convenient manner for the people, and not by the selection of any one particular object. That there must be some degree of confidence put in agents, or else we must reject a state of civil society altogether. Another great security to this property, which he mentioned, was, that five States were greatly interested in that species of property, and there were other States which had some slaves, and had made no attempt, or taken any step to take them from the people. There were a few slaves in New-York, New-Jersey and Connecticut: These States would probably oppose any attempts to annihilate this species of property. He concluded, by observing, that he would be glad to leave the decision of this to the Committee [of the Whole of the Virginia Convention]. . . .

(The 7th clause read.)

Governor [Edmund] *Randolph*: But the insertion of the negative restrictions has given cause of triumph it seems, to Gentlemen. They suppose, that it demonstrates that Congress are to have powers by implication. I will meet them on that ground. I persuade myself, that every exception here mentioned, is an exception not from general powers, but from the particular powers therein vested. To what power in the General Government is the exception made, respecting the importation of negroes? Not from a general power, but from a particular power expressly enumerated. This is an exception from the power given them of regulating commerce. . . .

CITE AS: John P. Kaminski et al., eds., *The Documentary History of the Ratification of the Constitution*, Vol. X: Virginia [3] (Madison, Wis.: Wisconsin Historical Society Press, 1993), 1342–44, 1348.