

## Slaves as part of each state's population

### Debate Statements

**Debate Question:**

- Should slaves count as part of a state's population?

**Possible Positions:**

- YES: Slaves should be counted as part of a state's population.
- NO: Slaves should not be counted as part of a state's population.
- LET'S COMPROMISE: Each slave will count as  $\frac{3}{4}$  of a person and this number will be added to the state's population.

**Background:**

- Slavery had existed in the American colonies prior to the United States becoming independent from Britain.
- At the time of the convention, there was no issue that divided the delegates as much as the issue of slavery.
- At the time of the convention, there were over 600,000 slaves in the United States, which was about 20% of the population.
- Virginia, North and South Carolina, and Maryland had more than 100,00 slaves altogether.
- Southern states were fearful that they were outnumbered by the other "large states" (Virginia, Pennsylvania, and Massachusetts)
- To increase their representation, the Southern states wanted their large number of slaves to be included in the population count.

**States and Slave Populations**

The following numbers are from the 1790 Census.

State	Non-Slave Population	Slave Population
Connecticut	237,946	2,764
Delaware	59,096	8,887

Georgia	82,548	29,264
Maryland	319,728	103,036
Massachusetts	378,787	0
New Hampshire	141,885	158
New Jersey	184,139	11,423
New York	340,120	21,324
North Carolina	393,751	100,572
Pennsylvania	434,373	3,737
Rhode Island	68,825	948
South Carolina	249,073	107,094
Virginia	691,737	292,627

**Excerpt from the National Constitution Center: “Rationalizing the Irrational”**

The following excerpt includes more details and some of the arguments used to rationalize the ¾ Compromise.

*Federalist No. 54*, which was likely authored by James Madison (it may also have been Alexander Hamilton), offers a sense of how mightily Madison struggled to justify the irrationality of the three-fifths rule and the Constitution’s approach to enslaved persons. In truth, it was a political deal that many delegates felt was essential to preserving the Union.

Though Madison was a slaveholder, he felt deeply conflicted about slavery, as shown in much of his writings. But he was a strong advocate of the Constitution, so he felt obligated to defend even the three-fifths rule.

Because he wanted the other slaveholders to appreciate this dilemma, he wrote that his “Southern brethren” might say that “representation relates more to persons and taxation more immediately to property, and we join in the application of this distinction to the case of our slaves.”

He then lists some aspects of slaves that support the argument that they should be considered property: Their labor was compelled for a master, they were sellable from

one master to another, and their liberty was restrained, much like animals, which under the law were considered property.

At the same time, Madison recognized that, under the law, slaves' lives were protected against bodily harm, they could be punished for doing harm to others, they were not an irrational creature (such as a domesticated animal), and they were seen by the law as a member of society. Hence, slaves were also persons.

Madison concludes that because of these "mixed" characteristics, the Constitution should treat slaves as both persons and property. And since the proposed Constitution did so, the people should support the Constitution, or so he reasoned. Madison next sets forth the arguments that underpin the Constitution's approach.

Madison opined that the approach involving both representation and taxation would support accurate census results. If a state were to attempt to "overcount" its population in order to increase its number of representatives, its taxes would also go up. On the other hand, if a state were to "undercount" its population in order to reduce its taxes, its number of representatives would also be reduced. As a result, the Constitution's "balanced" approach, states would be an incentive to report accurate census counts.

Madison then turned to how the states have treated suffrage. He noted that in all states, it was accepted that some portions of the population had been denied the right to vote. Further, in none of the states having slaves did they have the right to vote. Given that, it was not novel, nor should it be objectionable, for slaves to be denied the right to vote under the federal Constitution.

Yet slaves would be included in the census upon which apportionment and taxes would be based—just as other segments of society have been denied voting privileges yet were counted in censuses (e.g. women). But because slaves are "debased by servitude below the level of free inhabitants," their count as a person should be reduced. They settled on counting three-fifths, a figure that had been proposed earlier as an amendment to the Articles of Confederation in 1783.

Madison also noted that the structure of the federal government would protect both persons and property, so it is appropriate for Constitution to consider census counts for both representation and taxation. He argued that since one state did not have the ability to impact another state's wealth, it should be acceptable to fix a state's taxation based on a state's wealth, or property. In his mind, this should address the Southern states' concerns about being overwhelmed by the largely populated states.

Finally, Madison concludes that while the proposed system is not without fault, it is a balanced solution to the dilemma surrounding how slaves were to be counted.

However, he avoids the essential question: Was this solution fair to slaves, to the states, and to the country? It may not have been fair (which Madison suggested), but it was necessary—in order to obtain the support of the Southern states to make the Constitution a reality. Through the eyes of the 18th-century delegates it was both: necessary and fair.

Source: Applestein, Donald, Esq. "Rationalizing the Irrational." *National Constitution Center* – <https://constitutioncenter.org/blog/the-three-fifths-compromise-rationalizing-the-irrational>, 12 Feb. 2013