UNITED STATED DISTRICT COURT
DISTRICT OF NEW JERSEY
TRENTON VICINAGE

EUGENE MARTIN LaVERGNE,

Plaintiff,

vs.

JOHN BRYSON in his official capacity as the Secretary of the United States Department of Commerce;
JOHN GROVER in his official capacity as the Director of the United States Census Bureau;
KAREN L. HAAS in her official capacity as the Clerk of the United States House of Representatives;
JOHN BOEHNER in his official capacity as the Speaker of the United States House of Representatives;
DANIEL INOUYE in his official as the President *Pro Tempore* of the United States Senate,
JOSEPH BIDEN in his official capacity as the President of the Senate, and
DAVID FERRIERO in his official capacity as the Archivist of the United States of America,

Defendants.

Civil Action No. _____

Civil Action:

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF RULE 65 APPLICATION FOR A PRELIMINARY INJUNCTION AND DECLARATORY AND OTHER RELIEF

PRELIMINARY STATEMENT:

In this action plaintiff challenges the Constitutionality of the purported 2010 Decennial Apportionment of Congress conducted as required by Article I, Section 2 of the United States Constitution after the 2010 Decennial Census under the automatic Apportionment process

provided for pursuant to existing Federal Law, specifically Act of June 18, 1929. Chapter 28, Section 22 (46 *Stat.* 26), as amended by Act of April 25, 1940, Chapter 152 (54 *Stat.* 162), as amended by Act of November 15, 1941, Chapter 470, Section 1 (55 *Stat.* 761), as amended by Public Law 104-186, title II, Section 201, August 20, 1996 (110 *Stat.* 1724), now codified at 2 *U.S.C.* 2a. Specifically plaintiff claims that the present Apportionment process is unconstitutional on its face and as applied to plaintiff specifically as more particularly set forth herein.

As a remedy, plaintiff seeks:

(A) A declaration from this Article III Court that the actions of defendants as described herein have operated to violate plaintiff's Constitutional Rights;

(B) A preliminary, and then permanent injunction prohibiting the collective defendants from treating the 2 *U.S.C.* 2a(a) "2010 Decennial Census Apportionment Statement" prepared by career Federal Civil Service Employees as federal law and as an otherwise valid Decennial Apportionment of the House of Representatives as mandated by Article I, Section 2 of the United States Constitution;

(C) A preliminary, and then permanent injunction prohibiting the collective defendants from treating the fifty separate 2 *U.S.C.* 2a(b) "Certificates of Entitlement" prepared by defendant Hass and sent to the Governors of the 50 States as federal law and as an otherwise valid Decennial Apportionment of the House of Representatives as mandated by Article I, Section 2 of the United States Constitution;

(D) A declaration that 2 *U.S.C.* 2a is unconstitutional on its face and / or as applied to plaintiff as violating Article I, Section 2 ("Apportionment Clause"); the Fourteenth Amendment, Section 2 ("Apportioning of Whole Persons"); Article I, Section 1 ("Vesting Clause"); Article I,

Section 7, Clause 2 ("Bicamerality Clause"); Article I, Section 7, Clause 3 ("Presentment Clause"), Article II, Section I, and Twelfth and Twenty Third Amendments (Fair representation in "Electoral College") specifically, the so called "Separation of Powers Doctrine" generally;

(E) A declaration that 2 *U.S.C.* 2a is unconstitutional on its face and / or as applied to plaintiff as violating Article I, Section 2 ("Apportionment Clause"); the Fourteenth Amendment, Section 2 ("Apportioning of Whole Persons"); Article I, Section 1 ("Vesting Clause"); Article II, Section I, and Twelfth and Twenty Third Amendments (Fair representation in "Electoral College") specifically, and the "Non Delegation Doctrine" generally;

(F) A declaration that 2 *U.S.C.* 2a is unconstitutional on its face and / or as applied to plaintiff as violating the "1 man – 1 vote" standard of *Westburry v. Sanders,* 367 *U.S.* 1 (1964) specifically and the "1 man – 1 vote" standard of Article I, Section 2 of the United States Constitution;

(G) A declaration that the "1 man – 1 vote" standard of *Westburry v. Sanders,* 367 *U.S.* 1 (1964) applies to the Article I, Section 2 Decennial interstate Apportionment of Representatives and clarifying that Congress and the President must meet this standard as far as is practicable when enacting the Constitutionally mandated 2010 Decennial Census Apportionment Law;

(H) A declaration that the Decennial Apportionment of Representatives in the United States House of Representatives mandated by Article I, Section 2 of the United States Constitution to follow each Decennial Census, has not yet occurred as to the 2010 Decennial Census;

(I) An Order pursuant to 28 *U.S.C.* 1361 directing by *mandamus* that defendants Boehner and Inouye forthwith immediately take measures to create and enact an Apportionment

Law relative to the 2010 Decennial Census and in accordance with Congress' Constitutional obligation and in accordance with the requirements of the textual provisions of Article I, Section 2 of the United States Constitution, in accordance with the United States Supreme Court's "1 man – 1 vote" standard, and in accordance with original historical practice;

(J) An Order pursuant to 28 *U.S.C.* 1361 directing by *mandamus* that defendant Boehner continue to seat 13 Representatives from the State of New Jersey with full voting rights and other full and unrestricted rights of participation in the business of the United States House of Representatives as of January 13, 2013 and thereafter continuously until such time a Constitutionally valid Apportionment of Representatives under the 2010 Census has occurred and been approved by this Court as having met Constitutional standards;

(K) An Order pursuant to 28 *U.S.C.* 1361 directing by *mandamus* that the State of New Jersey shall continue to have 15 votes in the Electoral College until further Order of the Court or until a valid Apportionment of Representatives under the 2010 Census has occurred and been approved by this Court as having met Constitutional standards, and specifically directing defendant Biden, in his capacity as President of the Senate, when carrying out his statutory duties regarding the counting of Electoral Votes as per 3 *U.S.C.* 15 on January 6, 2013, to count 15 Electoral Votes from the State of New Jersey;

(L) An Order declaring that "Article the First" has been ratified as a codicil amendment to the United States Constitution as having met the requirements of Article V of the United States Constitution's ratification process; and

(M) An Order pursuant to 28 *U.S.C.* 1361 directing by *mandamus* that defendant Archivist Ferriero declare, pursuant to the powers conferred upon him by 1 *U.S.C.* 106b, that "Article the First" has been ratified and enacted as an actual amendment to the United States

Constitution, directing by *mandamus* that defendant Archivist Ferriero number proposed amendment "Article the First" as the now ratified and effective Twenty Eighth Amendment to the United States Constitution, and directing by *mandamus* that defendant Archivist Ferriero publish same in accordance with Federal Law; and

(N) An Order granting such further relief as the Court deems fair, just and equitable.

THREE JUDGE COURT:

As noted, plaintiff directly challenges the Constitutionality of the 2010 Census Apportionment plan as invalid. To this end, 28 *U.S.C.* 2284(a) provides in relevant part that ". . . a district court of three judges *shall be convened* . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts . . . [.]" (emphasis added) *Id.* Therefore, a three judge District Court must be convened to hear this case. In this regard, as a matter of procedure, 28 *U.S.C.* 2284(b) requires that when a three judge District Court is to be convened, the Chief Judge of the Circuit (here, Chief Circuit Judge the Honorable Theodore A. McKee of the United States Third Circuit Court of Appeals) shall be charged with designating the two other judges in addition to the original District Court Judge assigned by the District Court Clerk upon filing, with at least one of the two additional judges assigned to the case being from the Circuit Court of Appeals. Therefore, Third Circuit Chief Circuit Judge McKee must designate 2 other judges, at least one of which is a presently a sitting judge on the Third Circuit Court of Appeals, to hear this case.

JUDICIAL NOTICE OF FEDERAL LAWS AND FACTS:

No material facts will be in dispute in this case. This case is strictly one where the statutory three Judge District Court will be called upon to determine the law as applied to the undisputed facts. In this process, the three Judge District Court will be required to take statutory judicial notice or judicial notice under the Rule 201 of the Federal Rules of Evidence ("*F.R.Evid.* 201") of all material facts and then rule on the law without necessity for any discovery or evidentiary hearing.

The specific Federal Statutes challenged as unconstitutional in this action, now collectively codified at 2 U.S.C. sec. 2a, are attached this Memorandum at "RIDER I", along with all past relevant Apportionment Laws passed by Congress and the President since 1791, in the form as printed and as published in the United States Statutes at Large. In this regard, 1 *U.S.C. sec.* 112 provides in part that ". . . Statutes at Large shall be legal evidence of laws...". *Id., see also United States National Bank of Oregon v. Independent Insurance Agents of America*, 508 *U.S.* 439, 448 (1993) (noting that the United States Statutes at Large, not the United States Code, provide authoritative evidence that a statute has the force of law.)

Also at issue is the "2010 Decennial Census Apportionment Statement" created by career Federal Civil Servant Employees in the United States Census Bureau, within the Department of Commerce, pursuant to the directions and process outlined in 2 *U.S.C. sec.* 2a. The "2010 Decennial Census Apportionment Statement" is attached at "Exhibit A" to Plaintiff's Verified Complaint. Also at issue are the 50 "Certificates of Entitlement" prepared by the Clerk of the House of Representatives and sent to the 50 Governors pursuant to the directions and process outlined in 2 *U.S.C. sec.* 2a. New Jersey's "Certificate of Entitlement" is attached at "Exhibit B" to Plaintiff's Verified Complaint. Neither of those two government documents are "federal law"

such that the District Court would be authorized or able to take Judicial Notice of same under 1 *U.S.C. sec.* 112 or *sec.* 113. Nor are either of those two government documents "federal administrative law" such that the district Court could take Judicial Notice of same under the Federal Register Act of 1935 (9 *Stat.* 502, *sec.* 7) (providing that the contents of the Federal Register shall be judicially noticed) or 1 *C.F.R. secs.* 1.1 – 2.2. However, notwithstanding the fact that these documents do not qualify as "federal law" for statutory judicial notice purposes, under *F.R.Evid.* 201(B) the three Judge District Court will still be authorized to take judicial notice of these two documents as "judicially noticeable facts", just as the Court can take *F.R.Evid.* 201(B) Judicial Notice of all factual statements plaintiff makes regarding the history of past Decennial Apportionment Laws and of "Article the First" and the ratification process.

LEGAL STANDARDS FOR INJUNCTIVE RELIEF:

Applications for injunctive relief are governed by Rule 65 of the *Federal Rules of Civil Procedure* (*F.R.Civ.P.* 65). The standards governing an application for injunctive relief in the Third Circuit are well established:

> To satisfy the injunction standard, the moving party must demonstrate the classic four elements: (1) a reasonable probability of success on the merits; (2) that denial of injunctive relief will result in irreparable harm; (3) that granting injunctive relief will non result in even greater harm to the non-moving party; and (4) that granting injunctive relief will be in the public interest.
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> [*Saudi Basic Industry, Corp. v. Exxon Corp.*, 364 *F.3d* 106, 112 (3d Cir. 2004), citing *Allegheny Energy, Inc. v. DQE, Inc.*, 171 *F.3d* 153, 158 (3d Cir. 1999)].

In addition to the declaratory relief and injunctive relief as requested by plaintiff, there is also a request for various forms of *mandamus* to certain defendants to ensure that plaintiff's Constitutional rights, and the Constitutional Rights of others, are protected. To this end, 28 *U.S.C.* 1361 provides as follows:

> The district court shall have original jurisdiction of any action in the nature of *mandamus* to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.
>
> [28 *U.S.C.* 1361].

Plaintiff from the onset concedes that the issuance of a *mandamus* by a Court is an extraordinary remedy. But, indeed, plaintiff submits that this is that extraordinary case. The Supreme Court addressed the issue of actual standards that must be met to justify a Court granting the extraordinary remedy of a mandamus:

> As the writ is one of "the most potent weapons in the judicial arsenal," [*Will v. United States,* 389 *U.S.* 90 at] 107, three conditions must be satisfied before it may issue. *Kerr v. United States District Court for Northern District of California,* 426 *U.S.* 394, 403 (1976). First, 'the party seeking issuance of the writ [must] have no other adequate means to attain the relief he desires,' *ibid.* - - a condition designed to ensure that the writ will not be used as a substitute for the regular appeals process. [*Ex parte:*] *Fahey*, [332 *U.S.* 258], 260 [1947]. Second, the petitioner must satisfy 'the burden of showing that [his] right to issuance of the writ is clear and undisputable." *Kerr*, *supra.* at 403. ... Third, even if the first two prerequisites have been met, the issuing court, in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances. *Kerr*, *supra.* at 403. (citing

Schlagenhauf v. Holder, 379 *U.S.* 104, 112 n.8 (1964)).

[*Cheney v. United States District Court*, 542 *U.S.* 367, 380-381 (2004)].

Plaintiff submits that when the legal standards just articulated are objectively considered in consort with the arguments made herein that he is entitled to the injunctive and declaratory relief and *mandamus* directives as requested.

STANDARD OF REVIEW:

The Standard of Federal Court Review of any challenged Article I, Section 2 Decennial Apportionment Law or Article I, Section 2 Decennial Apportionment "process" is as follows: "Whether the apportionment method used was consistent with the constitutional language and the constitutional goal of equal representation." *See United States Department of Commerce v. Montana*, 503 *U.S.* 442 (1992); *Franklin v. Massachusetts*, 505 *U.S.* 788 (1992); and *Wisconsin v. City of New York*, 517 *U.S.* 1 (1996).

STATEMENT OF FACTS:

The Constitution itself contained the first actual Apportionment of Representatives of the original 13 States directly in Article I, Section 2.

In 1790, then Secretary of State Thomas Jefferson oversaw the first National Census which was conducted in accordance with the standards of Article I, Section 2 of the Constitution.

On February 25, 1791, a law was passed that made temporary provisions to guarantee newly admitted States Vermont and Kentucky 2 Representatives per State until such time as the First Decennial Apportionment law was enacted. ***See "RIDER I – Document A".***

On April 14, 1792 the First Decennial Apportionment of the House of Representatives was created by law, using as a basis the population figures from the First Decennial Census of 1790. That law was passed by both houses of the Article I Legislative Branch and enacted on upon signing by President Washington of the Article II Executive Branch. The ratio of Representatives to persons was 1 / 33,000. ***See "RIDER I – Document B".***

On January 14, 1802 the Second Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Second Decennial Census of 1800. The Apportionment Law was passed by both houses of the Article I Legislative Branch upon signing by Article II Executive Branch President. The ratio of Representatives to persons was 1 / 33,000. ***See "RIDER I – Document C".*** Also, during this time period the House of Representatives moved to Washington, D.C., and into the "new" South Wing of the Capitol Building (now known as the "old" South Wing) to hold sessions.

On December 21, 1811 the Third Decennial Apportionment of the House of Representatives Congress was created by law using as a basis the population figures of the Third Decennial Census of 1810. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by Article II Executive Branch President. The ratio of Representatives to persons was 1 / 35,000. ***See "RIDER I – Document D".***

On April 7, 1820 the Fourth Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Fourth Decennial Census of 1820. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by Article II Executive Branch President. The ratio of Representatives to persons was 1 / 40,000. On January 14, 1823, a supplemental law was passed awarding the State of Alabama 1 additional Representative. ***See "RIDER I – Document F".***

On May 22, 1832, the Fifth Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Fifth Decennial Census of 1830. The Apportionment Law and was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. The ratio of Representatives to persons was 1 / 47,700. ***See "RIDER I – Document H".***

On June 25, 1842 the Sixth Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Sixth Decennial Census of 1840. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. The ratio of Representatives to persons was 1 / 70,680. ***See "RIDER I – Document I".*** After the Census of 1840 the size of the House had been increased to 223, and the Nation now had 26 States admitted to the Union, with an expectation of soon adding more States. Five more States for a total now of 31 States were added during the next 10 years by the end of 1850, with a national population now of 23.1 Million as per the 1850 Census, and the continued expectation that even more States would be added to the Union in the coming years. When these factors were considered together, it was clear that the House "needed a bigger room", so to speak, within which to meet while in full Session. Therefore, in 1850, Senator Jefferson Davis of Mississippi introduced a bill calling for an increase to the size of the Capitol Building. Construction began on a large addition to the Capitol Building, including a huge addition designated and planned for use by the House of Representatives which was built on the South side, attached to and directly South of the "Old South Wing". The 1850 construction addition to the Capitol Building ultimately resulted in an expansion that was more than double the length of the existing Capitol Building. During the construction in this pre-Civil War period, an odd fact of history is that

slave labor was at times used in the construction of the additions to the Capitol Building. Within 20 years those slaves would be citizens and equally entitled – or at least *in theory by Constitutional Law equally entitled* – to be directly counted and represented as "whole" persons, to vote for Representatives (if a male), and to serve in the House in the room that they had built while slaves just a few years earlier.

After the Seventh Decennial Census in 1850, Congress was faced with still having to operate out of what is know known as the "old" South Chamber, or the "old" House Chamber, and would until after construction on the "new" South Chamber was completed. On May 23, 1850 a law was passed by both houses of the Article I Legislative Branch and enacted after being signed by into law by the Article II Executive Branch President which outlined the method that would be used to determine the Apportionment of Congress based upon the 1850 Census. ***See "RIDER I – Document J".*** On June 30, 1852, the Seventh Decennial Apportionment of the House of Representatives was created by law – in accordance with the Federal Law created 2 years earlier - using as a basis the population figures of the Seventh Decennial Census of 1850. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. The ratio of Representatives to persons was now approximately 1 / 97,000. ***See "RIDER I – Document K".***

The Eighth Decennial Census was completed in 1860, and in 1862 Congress decided to apportion by leaving the existing apportionment from 1850 intact with the exception of increasing the size of the House of Representatives by adding 8 additional Representatives to a total new total of what was now 241 Representatives total, and allocating those 8 new Representatives, 1 each, to the States of Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont and Rhode Island. None of the 8 additional Representatives were

apportioned to any of the Southern States that were on the verge of attempting to leave the Union. That Apportionment Law, just like all previous Decennial Apportionment Laws, was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. The ratio of Representatives to people was approximately 1 / 130,000. ***See "RIDER I – Document L".***

In 1869, after the Conclusion of the Civil War and the ratification of the 14th Amendment, the Construction on the additions to the Capitol had now been completed and the House of Representatives of the re-unified Nation moved into what we know of today as the Full House Chamber in the South Wing of the Capitol. In 1870, the Ninth Decennial Census was completed, the first Census after the 14th Amendment was ratified now requiring the equal counting of all people.

On February 2, 1872, the Ninth Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Ninth Decennial Census of 1870. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. ***See "RIDER I – Document M".*** However, after further debate in Congress, on May 30, 1872 the original Ninth Decennial Apportionment of the House of Representatives was amended and modified so that the number of Representatives was augmented so that 9 States (New Hampshire, Vermont, New York, Pennsylvania, Indiana, Tennessee, Louisiana, Alabama and Florida) were each "apportioned" 1 additional Representative to what each State had been apportioned 3 months earlier, with each additional Representative to be allowed to run "at large". ***See "RIDER I – Document N".***

On February 25, 1882, the Tenth Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Tenth Decennial Census of 1880. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. ***See "RIDER I – Document O".***

On February 7, 1891, the Eleventh Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Eleventh Decennial Census of 1890. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. ***See "RIDER I – Document P".***

On January 16, 1901, the Twelfth Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Twelfth Decennial Census of 1900. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. ***See "RIDER I – Document Q".***

On August 8, 1911, the Thirteenth Decennial Apportionment of the House of Representatives was created by law using as a basis the population figures of the Thirteenth Decennial Census of 1910. The Apportionment Law was passed by both houses of the Article I Legislative Branch and enacted upon signing by the Article II Executive Branch President. The Thirteenth Decennial Apportionment Law fixed the size of the House of Representatives at 433, and provided that if New Mexico and Arizona were admitted as States, that they would be entitled to 1 Representative each until the next Decennial Census and the enactment of the next Decennial Apportionment Law. ***See "RIDER I – Document R".***

On May 16, 1912 the 17th Amendment, which provided for the direct election of Senators by the voters, was proposed to the States and was ratified on May 31, 1913. In 1920, the Fourteenth Decennial Census was completed. Also that year, the 19th Amendment, guaranteeing all woman the right to vote, was proposed June 4, 1919 and was ratified on August 26, 1920, several months ahead of – and in time for, the 1920 Presidential Election. At this point in history both the manner in which the Census was conducted and the manner in which federal Constitutional Officials were chosen was very different that as originally created in 1787. With the passage of the 14th Amendment, blacks and former slaves were now counted as a "whole" person for Census purposes, the Senate now was directly elected by the voters, and the voters now included blacks, women, and even black women, though it would literally be years before the Constitutional rights conferred by legal truth were converted into actual historical truth in the political process.

The same year as the Fourteenth Decennial Census of 1920, Republican Warren Harding of the State of Ohio was elected and took office as the Article II President in 1921. Also elected in 1920, taking office in 1921, were solid Republican majorities in both the United States Senate and in the House of Representatives. As the Fourteenth Decennial Census was now completed, the Congress and the President were now Constitutionally required to pass a new Apportionment Law. However, Congress and the President simply refused to meet their obligations under the Constitutional mandate of Article I, Section 2. So, for the first time in history, the size of the House of Representatives was not changed (increases had been made every 10 years except 1840) and for the first time in History Representatives were not apportioned among the States. While there were several legislative efforts, the fact remains that during the entire decade of the 1920s no Apportionment of the House of Representatives took place.

In 1929, the very same Republican controlled Congress and a (different) Republican President, proposed a controversial federal law, H.R. 11725, that by its own terms attempted to, for the first time, created a process to Apportion the House of Representatives several years in the future, after the 1930 Census, a job that many argued should be left for that Congress. There was much opposition to the 1929 Act, as best articulated by the January 8, 1929 Minority Views to H.R. 11725, which read as follows:

> We desire to submit briefly our reasons for opposing the bill.
>
> In the first place it is practically the same bill that was rejected by this House on May 18, 1928. It has been slightly denatured by a few minor amendments.
>
> This legislation is unnecessary, and is an attempt to bond a future Congress.
>
> It does not propose to reapportion Congress under the census of 1920, but attempts to legislate for a future Congress relative to a reapportionment on the basis of a census to be taken in 1930.
>
> It also attempts to arbitrarily fix the size of the House at 435 Members without first taking into consideration the inequities and injustices that might be avoided by adjusting the size of the House under the census of 1930 to take care of all of the States.
>
> ***It proposes to lay down a formula, which they call "major fraction" and which few Members of the House will understand and fewer still can explain.***
>
> ***It is proposed also to delegate to the Secretary of Commerce the apportioning power, which is primarily vested in the Congress of the United States.***
>
> ***In case Congress failed to act at the first session after the taking of the decennial census, the executive department charged with the duty of taking the census would also have placed in its hands the power of reapportioning the House of Representatives under that census.***
>
> The Department of Commerce seems to have tried the case in advance, as they have filed

> with the Committee on the Census a table showing their estimation of the number of Representatives each State will receive under the census of 1930. ***This forecast itself shows the inadvisability of delegating the power of reapportionment of Congress to the Department of Commerce.***
>
> Under the table prepared they show that, according to their estimation, if the method of "major fractions" is used to reapportion Congress after the census of 1930 is taken, the following States would lose the number of representatives indicated: Indiana, 2; Iowa, 2; Kansas, 1, Kentucky, 2; Louisiana, 1, Maine, 1; Massachusetts, 1; Mississippi, 2, Missouri, 4; Nebraska, 1, New York, 2; North Dakota, 1; Tennessee, 1, Vermont, 1; Virginia, 1.
>
> ***Thus, approximately one-third of the States would have their representation arbitrarily reduced without any opportunity to equitably adjust the size of the House to meet the then existing conditions. In Order to avoid the absurd and ridiculous situation in which the passage of this bill would place the Congress, we respectfully submit that it would be better to wait until after the taking of the census of 1930, and then have the House reapportion its membership according to that census.*** (Emphasis added).
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> [REPORT - "Apportionment of Representatives – Minority Views on H.R. 11725", 70th Congress, 2d Session, Report 2010 Part 2, January 8, 1929].

Over strenuous opposition, the 1929 Act was passed by the Republican Congress and signed by Republican President Herbert Hoover into law on June 18, 1929. ***See "RIDER I – Document S".*** As enacted, and by its terms, the 1929 Act left the size of the House of Representatives the same as created in 1911 (ie. 435 as New Mexico and Arizona had been admitted to the Union, so 433 + 2 = 435). House Speaker Nicholas Longworth had strongly and effectively opposed increasing the Size of the House of Representatives beyond the then existing, yet completely arbitrary number, of 435 Representatives, arguing that any increase in size would

make the House too large to administer, and that in any event any increase in the number of Representatives would require adding on to or making the South Wing House Chamber larger. As configured in 1911, there were, and are, 448 Seats in the Well of the House Chamber. In the end, Speaker Longworth had gotten his way: The House size was effectively "capped", at least temporarily, at 435 Representatives. The 1929 Act also required that the after the 1930 Census the Census Bureau in the Department of Commerce prepare an Apportionment of the 435 Seats pursuant to 2 math formulas, "The Method of Major Fractions", which had been used in 1911, and the "Method of Equal Proportions." Congress was free to choose one or the other, but if no action was taken, the Apportionment figures as calculated under the manner last used in 1911 ("Method of Equal Fractions") would become the 1930 Decennial Apportionment Law due to inaction. ***See* 46 *Stat.* 26 at "RIDER I – Document S".**

After the 1930 Decennial Census, as now required by the 1929 Act, the Bureau of Census in the Department of Commerce prepared a "Census Apportionment Statement" in chart format which referenced the number of Representatives each State would be entitled to under both the "Method of Major Fractions" and the "Method of Equal Proportions", and as per the 1929 Act, on December 4, 1930, President Herbert Hoover – who had been defeated the month before by Franklyn Roosevelt in the Presidential Election – forwarded on the "Census Apportionment Statement" to Congress. **See "RIDER I – Document T".** As the number of Representatives apportioned to each State happened to be the same under both mathematical formulas, Congress took no action and the "Census Apportionment Statement" went into effect, becoming the first Decennial Apportionment in history that was put into effect without a specific law being enacted relative to the corresponding Decennial Census where the law itself specifically determined the total number of Representatives to serve in the House of Representatives and specifically

apportioned those Representatives to each State, with a State and a "dash" and a corresponding number of Representatives Apportioned. ***See "RIDER I – Documents A through Document S".***

This "process" of Decennial Apportionment was also used after the 1940 Decennial Census. However, the Census Process had now been altered again. Under Article I, Section 2 as originally enacted, slaves were counted as 3/5 of a person for Census purposes, but the 14th Amendment changed this in 1868 so that now free blacks were counted as whole persons for census purposes. Article I, Section 2 as originally enacted also required that "Indians not taxed" not be counted in the population count of the Census. However, as of 1940, the United States Attorney General concluded that there were no longer any Indians that fit that definition, *see* 39 Opinions of Attorney General 518 (1940), and as such, after 1940, all persons were counted. With the counting of "all persons" as "whole persons" after the Sixteenth Decennial Census was completed. However, under the 1929 Act the Census Bureau was required to prepare Apportionment with 2 Charts, and unlike 10 years earlier, now there was a variance between the two math formulas. Under the "Method of Major Fractions" that would go into effect if no other law making action was taken, Arkansas would loose 1 Representative and Michigan would gain that Representatives. Under the "Method of Equal Proportions", however, each State would retain the same identical number of Representatives as had been "apportioned" in the 1930 "Census Apportionment Statement".

After debate, on November 15, 1941, Congress and the President passed the 1941 Apportionment Act which operated to amend the 1929 Apportionment act so as to permanently choose the "Method of Equal Proportions" as the math formula for all future automatic Apportionment processes. ***See* 55 *Stat.* 761 at "RIDER I – Document V".** So, for the decade

of the 1940s, everything stayed the same: 435 Voting Representatives, Apportioned as they were under the Census Bureau's "1930 Decennial Census Apportionment Statement".

In 1950, after the Seventeenth Decennial Census was completed, the Constitutionally required Article I, Section 2 Apportionment of the now essentially fixed by tradition number of 435 Representatives was completed with the "process" as outlined in the 1929 Act as amended by the 1941 Act, which was now codified at 2 *U.S.C.* 2a: With a "1950 Decennial Census Apportionment Statement" being prepared by a career Federal Civil Servant in the Bureau of Census within the Department of Commerce, using the "Method of Equal Proportions", which was then effectively treated as Federal Law by virtue of inaction of Congress and the President. In 1959, Alaska and Hawaii were admitted to the Union as the 49th and 50th States respectively, and upon admission, each was given the 1 Representative guaranteed to every State by Article I, Section 2, which temporarily raised the number of voting members of the House of Representatives to 437. ***See "RIDER I – Document W" and RIDER I – Document X".***

In 1960, the Eighteenth Decennial Census was completed, the number of Representatives was then reduced from 437 back to 435, and the Constitutionally required Article I, Section 2 Apportionment of the 435 Representatives was completed with the "process" as outlined in the 1929 Act as amended by the 1941 Act, which was now codified at 2 *U.S.C.* 2a: With a "1960 Decennial Census Apportionment Statement" prepared by a career Federal Civil Servant in the Bureau of Census within the Department of Commerce, using the "Method of Equal Proportions", which was effectively then treated as Federal Law by virtue of inaction of Congress and the President.

During the 1960s, the United States Supreme Court addressed the issue of proportional representation in the United States House of Representatives and State Legislative Bodies, requiring compliance with the so called "1 man – 1 vote" standard. *See* Legal Argument, *infra.*

In 1970, the Nineteenth Decennial Census was completed, and the Constitutionally required Article I, Section 2 Apportionment of the 435 Representatives was completed with the "process" as outlined in the 1929 Act as amended by the 1941 Act, which was now codified at 2 *U.S.C.* 2a: With a "1970 Decennial Census Apportionment Statement" prepared by a career Federal Civil Servant in the Bureau of Census within the Department of Commerce, using the "Method of Equal Proportions", which was effectively then treated as Federal Law by virtue of inaction of Congress and the President.

The same "process" of Apportionment took after the Twentieth Decennial Census in 1980, after the Twenty First Decennial Census in 1990, after the Twenty Second Decennial Census in 2000, and, unless this Court acts, will take place after the Twenty Third Decennial Census of 2010.

Under the relevant portions of the Census Act and 2 *U.S.C.* 2a, President Obama received the "2010 Decennial Census Apportionment Statement" from the Secretary of Commerce ***(See "Exhibit B" attached to Plaintiff's Verified Complaint)***, who received it from the Director of the Census Bureau, who received it after it was prepared by career Federal Civil Servants in the Census Bureau applying the "Method of Equal Proportions" formula to the 2010 Census figures ***(See "Exhibit A" attached to Plaintiff's Verified Complaint).*** Having been sent up through the "chain of command" in the Article II Executive Branch, as per 2 *U.S.C.* 2a(a), on January 6, 2011, President Obama sent on the "2010 Decennial Census Apportionment Chart" to the Speaker of the House and the President Pro Tempore of the Senate. ***(See "Exhibit C" attached***

to Plaintiff's Verified Complaint). Congress took no action other than to refer a copy of the "Census Apportionment Statement" to Committees and note receipt of the 1 page 1 sentence cover letter from the President in the Congressional Record. As per the statutory obligation imposed under 2 *U.S.C.* 2a(b), the Clerk of the House of Representatives then prepared a "Certificate of Entitlement" advising that as of January 3, 2013, the State of New Jersey is entitled to twelve representatives in the United States House of Representatives. ***(See "Exhibit D" attached to Plaintiff's Verified Complaint).*** That is the entirety of the action taken in the Constitutionally mandated Apportionment of Representatives under the Twenty Third Decennial Census of 2010.

According to Census statistics, the average optimal ratio of Representatives to people in the House of Representatives as per the 2010 Nation Census Population stated as of April 1, 2010 at 308.7 Million would be 1 Representative for every 710,676 people. Under the 2010 "Census Apportionment Statement", New Jersey will loose 1 Representative, from 13 to 12, and will have a ratio of Representatives to people of 1 Representative for every 733,958, above the National Average. ***The Chart plaintiff has prepared uses population statistics from official United States 2010 Census Statistics as listed in the Census Bureau Web Site, which data is different from the population data listed in the "Chart" that was actually used for the creation of the 2010 statutory automatic "2010 Decennial Apportionment Statement". See and compare population data as listed on the Census Bureau Web Site with "Exhibit A", "Exhibit B", and "Exhibit C" attached to Plaintiff's Verified Complaint. Plaintiff to date has found no explanation for this discrepancy.***

At paragraph 24, subparagraphs 1 through 50, of Plaintiff's Verified Complaint is a chart for all 50 States based upon Official 2010 Census Statistics that demonstrates the great variances

not only by percentages but more importantly, by *actual people,* among the States. Plaintiff's votes for Congress and for President (through the Electoral College process) will be counted with less weight than that of millions of others throughout the nation. The vast disparity among the States will detrimentally and to an unconstitutional level dilute plaintiff's vote for President in the Electoral College and will detrimentally and to an unconstitutional level dilute plaintiff's voice in the United States House of Representatives.

LEGAL ARGUMENT

POINT I

THE PRESENT "PROCESS" FOR DETERMINING DECENNIAL APPORTIONMENT IS UNCONSTITUTIONAL AND VIOLATES THE "SEPARATION OF POWERS DOCTRINE"

The 2011 Apportionment conducted by the Article II Executive Branch pursuant to 2 *U.S.C.* 2a, is *per se* unconstitutional as a violation of Article I, Section 2 ("Apportionment Clause"); the Fourteenth Amendment, Section 2 ("Apportioning of Whole Persons"); Article I, Section 1 ("Vesting Clause"); Article I, Section 7, Clause 2 ("Bicamerality Clause"); Article I, Section 7, Clause 3 ("Presentment Clause"), Article II, Section I, and Twelfth and Twenty Third Amendments (Fair representation in "Electoral College") of the United States Constitution specifically, and the so called "Separation of Powers Doctrine" generally.

The operative Federal Statute for the 2010 Census Apportionment of Representatives being directly challenged in this case, now codified at 2 *U.S.C.* 2a reads in its present form as follows:

* * *

***Sec.* 2a. Reapportionment of Representatives; time and manner; existing decennial census figures as basis; statement by President; duties of clerk.**

(a) On the first day, or within one week thereafter, of the first regular session of the Eighty-second Congress and on each fifth Congress thereafter, the President shall transmit to the Congress a Statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the seventeenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member.

(b) Each State shall be entitled in the Eighty –Third Congress and in each Congress thereafter until the taking effect of a reapportionment under this section or subsequent statute, to the number of Representatives shown in the statement required by subsection (a) of this section, no State to receive less than one Member. It shall be the duty of the Clerk of the House of Representatives, within fifteen calendar days after the receipt of such statement, to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section. In case of a vacancy in the office of the Clerk, such duty shall devolve upon the Sergeant at Arms of the House of Representatives.

(c) Until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner: (1) If there is no change in the number of Representatives, they shall be elected from the districts provided by the law of such State, and if any of them are elected from the State at large they Shall continue to be so elected; (2) if

> there is an increase in the number of Representatives, such additional Representative or Representatives from the districts then provided by the law of such State; (3) if there is a decrease in the number of representatives but the number of districts in each State is equal to such decreased number of Representatives, they shall be elected from the districts then provided by the law of such State; (4) if there is a decrease in the number of Representatives but the number of districts in such State is less than such number of Representatives, the number of Representatives by which such number of districts is exceeded shall be elected from the State at large and the other Representatives from the districts then prescribed by law of such state; (5) if there is a decrease in the number of Representatives and number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large.
>
> [2 *U.S.C.* 2a(a), (b) and (c)].

The Statutory Federal Law Making Process in 2 *U.S.C.* 2a, simply described, and as took place in 2011 regarding the 2010 Decennial Census, works as follows:

A.) Defendant Director Grover (or his predecessor) and the United States Bureau of Census in the Article II Branch of Government conducts the 2010 Census and reports the Census Populations of the Nation as a whole and of each individual State as of April 1, 2010.

B.) Thereafter, United States Civil Servant Employees at the Bureau of Census in the Article II Branch of Government then take the number of 435 Representatives that Congress capped their size at in 1911 and, using the State Census Populations of the 50 States, apply the mathematical formula known as the "Method of Equal Proportions" to determine how many Representatives out of the 435 each State is entitled to, with each State entitled to at least 1 Representative no matter what the State's population.

C.) United States Civil Servant Employees at the Bureau of Census in the Article II Branch of Government then prepare a "Chart" (usually 1 page), commonly known as a "Decennial Census Apportionment Statement", which reflects each State and the number of Representatives each State is entitled to out of the 435 Representatives according to the statutorily chosen mathematical formula.

D.) That "Chart" ("Decennial Census Apportionment Statement") is then given by the United States Civil Servant Employees to the Director of the Census Bureau, in this case, defendant Director Grover (or his predecessor). Director Grover (or his predecessor) does nothing more than the ministerial task of preparing a "Census Director's cover letter" (usually 1 page also) addressed to the Secretary of Commerce which is then literally stapled over the "2010 Decennial Census Apportionment Statement", and the "Census Director's cover letter' and the "Census Apportionment Statement" are then sent to the Secretary of Commerce, in this case defendant Secretary Bryson (or his predecessor, former Commerce Secretary Gary Locke). ***See* "Exhibit A" attached to Plaintiff's Verified Complaint.*** ****("Exhibit A" includes the December 5, 2011 cover letter formal response that plaintiff received from Dana Cope, Chief, Freedom of Information Act and Information Branch, United States Department of Commerce, Economics and Statistics Administration (1 page), which FOIA response included the December 21, 2010 Memorandum (1 page) from and signed by defendant Grover, with three pages of single page charts referenced as "Tables" 1, 2 & 3, with Table 1 being the single page 2010 Decennial Census Apportionment Statement, all sent to non-party Rebecca M. Blank, Undersecretary for Economic Affairs in the United States Department of Commerce, who then gave the "2010 Decennial census Apportionment Chart" to the then Secretary of Commerce, Gary Locke, predecessor to defendant Bryson. Also part of the same FOIA response to plaintiff's request are the documents included in this Verified Complaint at "Exhibit B", which is the 1 page December 21, 2010 Cover letter from then Commerce Secretary Gary Locke (predecessor to defendant Bryson) which was sent to President Obama with the 2010 Decennial Apportionment Statement (1 page) enclosed.)***

E.) Once defendant Secretary Bryson (or his predecessor, former Commerce Secretary Gary Locke) receives the "Census Director's cover letter" and the "Decennial Census Apportionment Statement" at the United States Commerce Department at what is now the Presidential Cabinet level of Article II Government, Secretary Bryson is statutorily charged with the ministerial task of then drafting *his own* 1 page "Commerce Secretary's cover letter" addressed to the President, which encloses the "Decennial Census Apportionment Statement". The cumulating document at this point consists entirely of 1 chart prepared by United States Civil Servant Employees at the Bureau of Census and 1 cover letter from an Article II Cabinet Official, with this 2 page packet then being sent to the President of the United States, and at this point any prior charts or cover letters being discarded. ***See* "Exhibit B" attached to Plaintiff's Verified Complaint.**

F.) Once the President of the United States receives the package with 1 Chart (prepared by United States Civil Servant Employees at the Bureau of Census) and 1 cover letter from the Secretary of Commerce, an Article II Cabinet Official, the President by statute is required to perform the additional ministerial task of sending the information on to Congress. This process requires Presidential staff to discard the cover letter from the Secretary of Commerce, to make a photocopy (so that there are 2 copies of what the President has received) and for the President to also *prepare his OWN cover letters* (usually 1 page, 1 sentence), one addressed to the each of the Presiding Legislative Officers in Congress, in this case defendant Speaker Boehner at the House of Representatives and defendant President *Pro Tempore* Inouye in the Senate. The President may opt to simply send the same one identical cover letter to each legislative leader addressed simply to "Congress". At this point, the 2 packages contains 1 Chart prepared by United States Civil Servant Employees at the Bureau of Census (the "Decennial Census Apportionment Statement"), and the President's cover letter. That is it. That is the entirety of the Decennial Apportionment of Representatives required by Article I, Section 2 of the United States Constitution.

G.) A true copy of the President's 2010 Census 2 U.S.C. 2a Cover Letter and the "2010 Decennial Census Apportionment Statement" is attached hereto. ***See*** **"Exhibit C" attached to Plaintiff's Verified Complaint.**** ****(The President's Cover letter and the actual "2010 Decennial Apportionment Statement" sent to Congress were found by plaintiff with great difficulty, but with the assistance of the defendant Haas' Office, ultimately plaintiff was directed to the Government Printing Office where the letter and chart are printed as House Document 112-5).**

H.) "Exhibit C" attached to Plaintiff's Verified Complaint was sent by the President to the Speaker of the United States House of Representatives and was received by defendant Boehner on January 5, 2011 as reflected in the Congressional Record as follows:

> THE APPORTIONMENT POPULATION AND NUMBER OF REPRESENTATIVES, BY STATE: 2010 CENSUS - MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H.DOC.NO.112-5) - - (House of Representatives – January 5, 2011)
>
> [Page: H31]
>
> The SPEAKER pre tempore laid before the House the following message from the President of the United States; which was read and referred to the Committees on the Judiciary and Oversight and Government Reform and ordered to be printed:
>
> To the Congress of the United States:
>
> Pursuant to title 2, United States Code, section 2a(a), I transmit herewith the statement showing the apportionment population for each State as of April 1, 2010, and the number of Representatives to which each State would be entitled.

Barack Obama.

The White House, January 5, 2011

[*See House Doc. No.* 112-5]

I.) "Exhibit C" attached to Plaintiff's Verified Complaint was sent by the President to the President Pro Tempore of the Senate and was received by defendant Inouye on January 5, 2011 as reflected in Journal of the Senate:

> REPORT OF THE APPORTIONMENT POPULATION FOR EACH STATE AS OF APRIL 2010, AND THE NUMBER OF REPRESENTATIVES TO WHICH EACH STATE WOULD BE ENTITLED - - PM1 - - (Senate – January 5, 2011)
>
> [Page: S61]
>
> The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Homeland Security and Government Affairs:
>
> To the Congress of the United States:
>
> Pursuant to title 2, United States Code, section 2a(a), I transmit herewith the statement showing the apportionment population for each State as of April 1, 2010, and the number of Representatives to which each State would be entitled.
>
> Barack Obama.
>
> The White House, January 5, 2011
>
> [*See* Page S61, 2011 Congressional Record.]

J.) Once received in the House of Representatives, defendant House of Representatives Clerk Haas is charged by law with the ministerial task of looking at the "2010 Census Apportionment Statement" as to each State and the number of Representatives apportioned out of the 435 by pursuant to the mathematical formula conducted by United States Civil Servant Employees at the Bureau of Census, and to then prepare "Certificates of Entitlement" (ie "New Jersey – 13 representatives") for all 50 States, and to then send each of the 50 Governors a "Certificate of Entitlement" - with yet another 1 page 1 sentence cover letter. Attached hereto is a true copy of the "Certificate of Entitlement" as to New Jersey and a true copy of the House Clerk's cover letter to New Jersey Governor Chris Christie dated January 12, 2011. ***See* "Exhibit D". *** ***("Exhibit D" includes the November 28, 2011 response to plaintiff's New Jersey State Law "Open Public Records Act Request" (1 page), which provided plaintiff with a copy of the January 12, 2011 cover letter from defendant Haas to New Jersey Governor Christie (1 page) and the January 11, 2011 "Certificate of Entitlement" granting New Jersey 12 Representatives in the United States House of Representatives (a loss of 1 Representative) as of January 3, 2011 (1 page), both filed with the New Jersey Secretary of State Kim Guadagno on September 19, 2011).**

K.) Once each Governor receives the cover letter and "Certificate", each Governor (here Governor Christopher Christie) follows State

Law to commence the politically complicated intrastate "Redistricting" Law Making Process.

The present statutory scheme for creating the "Federal Law" or "Federal Process" which Apportions the Representatives in Congress in 2 *U.S.C.* 2a, delegates the Article I, Section 2 Constitutional responsibility of Congress to Apportionment the Representatives in the House of Representatives after each Decennial Census automatically and exclusively to the Article II Executive Branch of Government to the exclusion of the Article I Legislative Branches of Government, and operates such that the what is actually occurring is that career Federal Civil Service Employees in a Bureau within a Cabinet Department under the Article II President are literally deciding and enacting the actual Decennial Apportionment. This bizarre process of a "law to automatically create law" is nonetheless still in the end creating Federal Law as otherwise mandated by Article I, Section 2. As Constitutional Jurisprudence is easily understood, this apportionment "process" outlined in 2 *U.S.C.* 2a is conducted in such a way as to clearly violate the "Separation of Powers Doctrine" generally, and Article I Section 2, the Fourteenth Amendment, Section 2, Article I, Section 1 ("Vesting Clause"); Article I, Section 7, Clause 2 ("Bicamerality Clause"); Article I, Section 7, Clause 3 ("Presentment Clause"), and Article II, Section I, and Twelfth and Twenty Third Amendments (Fair representation in "Electoral College") of the United States Constitution specifically. *See Clinton v. City of New York*, 524 *U.S.* 417 (1998); *Bowsher v. Synar*, 478 *U.S.* 714 (1986); *I.N.S. v. Chada*, 462 *U.S.* 919 (1983); *United States Senate v. Federal Trade Commission,* 463 *U.S.* 1216 (1983); *City of New Haven, Conn. v. United States,* 809 *F.2d* 900 (D.C. Cir. 1987); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 *U.S.* 579 (1952); *Panama Refining Co. v. Ryan*, 293 *U.S.* 388 (1935); and *Schecter Poultry Corp. v. United States*, 295 *U.S.* 495 (1935).

The challenged statute, 2 *U.S.C.* 2a by its very terms, quits simply completely divests the Article I Senate and House of Representatives and the Article II President of any obligation to participate in or oversee or even to review the Article I, Section 2 Constitutionally mandated law making process of Decennial Apportionment. The fact that Congress and the President may still enact another law if they are unhappy with the "Census Apportionment Statement" (if members of Congress can even find it or bother to look for it) does not change the reality that this "pre-planned" manner of delegating what is most certainly and clearly Federal Law making to career Federal Civil Service Employees to unilaterally and automatically create the "Census Apportionment Statement" that is ultimately treated as "Law", is under any objective analysis little more that the product of a blatantly unconstitutional blind delegation of Article I legislative powers and Article II Executive Law making powers. Indeed, in this "process", these career Federal Civil Servants are required to use what is in all probability a flawed mathematical formula to supposedly "equitably" Apportion the Representatives in Congress among the States. (How any mathematical formula could ever exercise the necessary discretion to "equitably" apportion, as opposed to somehow "divide", is another issue entirely.).

Under Article I, Section 2 the Congress and the President themselves are to perform the Constitutionally mandated job of Decennial Apportionment of Representatives through the political process and in conformance with and pursuant to the actual Constitutional law making process. Indeed, this is how Congress and the President interpreted their own Article I, Section 2 obligations regarding Decennial Apportionment since the first Decennial Apportionment in 1792. Every 10 years, after the first Decennial Census in 1790 and the first Decennial Apportionment in 1792, Congress and the President always enacted the Decennial Apportionment by passing a specific law listing each State and the number of Representatives

each State would be entitled to in the House of Representatives until the next Decennial Census and next Decennial Apportionment occurred. The number of Representatives was routinely increased, and equitable (as opposed to "mathematical") adjustments were routinely made in the Decennial Apportionment Federal Law Making Process. This was the case after the first Decennial Census held in 1790, and each thereafter in 1800, 1810, 1820, 1830, 1840, 1850, 1860, 1870, 1880, 1890, 1900 and 1910. *See* Statement of Facts. In this regard, " ... early Congressional practice [ ] provides contemporaneous and weighty evidence of the Constitution's meaning." *Alden v. Maine*, 527 *U.S.* 706, 743-744 (1999) (quotations omitted). It has been noted directly in the Apportionment Context by the Supreme Court itself that "...[t]he interpretations of the Constitution by the First Congress are persuasive[.]" *Franklin v. Massachusetts,* 505 *U.S.* 788, 803 (1992).

Why in 1920, 90 years ago, Congress and the President suddenly stopped meeting their Constitutional obligation may be an interesting question to hypothesize about. Indeed, plaintiff has his own suspicions. But such historical conjecture is not relevant to this case, as the undisputed fact remains that, for whatever the reason, Congress and the President stopped meeting their Article I, Section 2 Constitutional obligation to enact a Decennial Apportionment Law after the 1920 Census. To this end, there can be no reasonable question that Congress and the President still have not enacted any valid "Federal Law" within the meaning of the Constitution regarding the 2010 Decennial Census.

The Article I Congress takes official action through "Resolutions" (not Constitutionally made "Law", rather an official expression of the will or sentiments of either house, whether either simple, joint or concurrent), and creates Federal Law by passing bills that ***may*** become law, but only if approved by a majority of both houses and approved by the President, or if

approved by a majority of both houses and if such bill is subject to "veto" by the President, the bill may still become law if 2/3 of each House votes in favor to "override" the veto and enact the bill into Federal Law. However, that is now what occurred here.

The Article II President may take Article II Legislative Action by approving or disapproving a law with a "veto" as previously described. Additionally, the President may under certain circumstances issue "Executive Orders" which often are treated as though they carry the force of Federal Law, though an Executive Order is actually not a Constitutional made Federal Law. And, when permitted by Congress, the Article II President may also engage in what is now a limited and accepted form of Article I Legislative Law making through the Administrative Process and the A.P.A., which process is completely public and transparent and is reported in the Federal Register and the Code of Federal Regulations. (for more detail, *see infra.*). But again, that is not what occurred here.

The sum total of the Article II President's actual "substantive" participation in the process is a 1 page 1 sentence transmittal letter to both houses of Congress, that reads merely as follows: "Pursuant to title 2, United States Code, section 2a(a), I transmit herewith the statement showing the apportionment population for each State as of April 1, 2010, and the number of Representatives to which each State would be entitled." *See* President's Transmittal Letter at "Exhibit A" to Plaintiff's Verified Complaint.

Exactly what is a "2010 Decennial Census Apportionment Statement" in relation to the actual Article I and Article II law making process? Exactly what is a 2 *U.S.C.* 2a(b) "Certificate of Entitlement" prepared by the Clerk of the House of Representatives in her ministerial capacity solely from blind reliance on the "2010 Decennial Census Apportionment Statement" which is then merely mailed to the 50 State's Governors? Neither qualify as any recognizable form of

"Federal Law" that an Article III Court could recognize, or more importantly that an Article III Court would ever be lawfully or equitably entitled to actually enforce! Moreover, Article III "Federal Laws" are kept and compiled and made public in the United States Statutes at Large, United States Public Laws, or made part of the 50 Titles in the United States Code. Neither the "Census Apportionment Statement" nor the House Clerk's 50 "Certificates of Entitlement" are found with the laws and are rather titled as miscellaneous House and Senate Documents. Article II "Administrative Laws" are created through the detailed and public A.P.A. process and are reported in the Federal Register or the Code of Federal Regulations. Indeed, the United States Bureau of the Census and all standards and steps in the 2010 Decennial Census counting process were created through the APA Process and well reported in the Federal Register and the Code of Federal Regulations. The Decennial Apportionment Process conducted by the United States Census Bureau? Nothing is found anywhere in the Federal Register or the Code of Federal Regulations. Nothing.

Whatever this odd process is, it is quite simply not any recognized form of lawmaking, nor is it is the exercise of properly delegated legislative authority, and it is not a constitutionally valid Article I, Section 2 Apportionment of Representatives. At best the "2010 Decennial Census Apportionment Statement" is a *suggestion* for Apportionment that may – or may not – be adopted and enacted by Congress and the President. The "Certificate of Entitlement" issued by the Clerk of the House of Representatives in this case truly means absolutely nothing in a Constitutional, and therefore, Legal, sense. At issue is merely a Chart prepared by a Bureau within a Department within the Article II Executive Branch, without any substantive participation by the President, and without any participation from the Article I Legislative

Branch. And a certificate sent out by a Clerk. Neither is "Federal Law" in any Constitutional sense, nor in any other sense.

As such, until such time as Congress and the President take some action in conformance with the Constitution and enact a valid and legitimate 2010 Decennial Apportionment Law, the 2010 Decennial Apportionment has not yet occurred. Therefore, plaintiff is entitled to a declaration that the "2010 Decennial Census Apportionment Statement" and the House of Representative Clerk's "Certificate of Entitlement" are not Federal Law and are a nullity, and that as yet the 2010 Decennial Apportionment of Representatives in the United States of Representatives has not yet occurred.

POINT II

THE PRESENT "PROCESS" FOR DETERMINING DECENNIAL APPORTIONMENT IS UNCONSTITUTIONAL AND VIOLATES THE "NON-DELEGATION DOCTRINE"

The 2011 Decennial Apportionment conducted pursuant to 2 *U.S.C.* 2a is unconstitutional as a clear violation of Article I, Section I ("Vesting Clause") specifically, and as a clear violation of the so called "Non-Delegation Doctrine" generally.

Well over 100 years ago in *Field v. Clark*, 143 *U.S.* 649 (1892) Justice Harlan acknowledged the fact "…[t]hat Congress cannot delegate legislative power … is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution." *Id.* at 692. This principle is universally recognized in the so called "Non-Delegation Doctrine" which derives textually from Article I, Section I of the United States Constitution ("Vesting Clause"). Unchecked delegation by the Article I Legislative Branch of Constitutional Government undercuts the accountability of the Senate and House of

Representatives to the voting electorate, and subjects people to rules created through *ad hoc* commands rather than to rules created by democratically considered and enacted general laws created by elected officials..

Despite the absolute statement in *Field v. Clark* that "Congress cannot delegate legislative power", the reality arose that for the Executive II Branch to faithfully execute laws enacted that that there would necessarily be a degree of interpretation of the duly created federal law by the Article II Executive Branch when implementing and enforcing the federal law through Article II Executive Branch Agencies. Article II Executive Branch Agencies are unique in that in performing their Article II job, they are often inevitably required to execute and perform powers characteristic of all three Constitutional branches of government. Stated somewhat more simply, once a federal law is enacted in conformance with the Constitution in the first instance, some further action to implement the law by the Article II Executive Branch in creating Administrative Rules and Regulations may be viewed as the Article II Executive Branch unilaterally exercising a form of Article I "*legislative power*", though "legislative power" of a nature that is short of actual Article I and Article II Constitutional law making. Ultimately, in *J. W. Hampton, Jr. & Co. v. United States*, 276 *U.S.* 394 (1928), the Supreme Court addressed and resolved the conflicted issue, stating that in adopting a ***legislative delegation*** to the Article II Executive Branch, Congress must include in a federal statute an "intelligible principle" to guide the exercise of discretion by the Article II Executive Branch. In short, what is now known as the "Intelligible Principle Doctrine" operates to permit a limited delegation of legislative power to the Article II Branch and the Article II Agencies charged with administering the duly enacted federal laws, but only of if accompanied by an "intelligible guiding principle" in the enacted federal statute. Conversely, a direct delegation of the actual Article I and Article II

Constitutional law making power to the Article II Executive Branch would remain unconstitutional as a clear violation of Article I, Section I specifically, and the "Separation of Powers Doctrine" generally.

Thereafter, the Supreme Court has used the "Non-Delegation Doctrine" as the sole source to invalidate and declare federal statutes unconstitutional only twice, first in *Panama Refining Co. v. Ryan*, 293 *U.S.* 388 (1935) and later in *Schecter Poultry Corp. v. United States*, 295 *U.S.* 495 (1935). However, despite the continued viability of the "Non-Delegation Doctrine", and despite that fact that the "Non-Delegation Doctrine" has never been explicitly or implicitly overruled by the Supreme Court, the plain fact is that since 1935 the Supreme Court, though asked to do so on a variety of occasions, has not held a single federal statute unconstitutional on "Non-Delegation Doctrine" grounds only.

Since *J. W. Hampton, Jr. & Co.* there has remained evolving disagreement in the Supreme Court of what exactly is a permitted limited delegation of "legislative powers" to the Article II Executive Branch necessary for enacting Administrative Rules and Regulations to implement properly enacted federal laws, and what might otherwise constitute an unpermitted delegation of Article I Constitutional *law making powers.* We know that "...[d]espite the statement in Article I of the Constitution, that 'All legislative Power herein granted shall be vested in a Congress of the United States', it is far from novel to acknowledge that independent agencies do indeed exercise legislative power." *Bowsher v. Synar,* 478 *U.S.* 714, 721 (1986). We also know that Justice Thomas questions the scope of the "Intelligible Principle Doctrine" first created in *J. W. Hampton, Jr. & Co. See Whitman v. American Trucking Association*, 531 *U.S.* 457, 487 (2001) (Thomas, J., concurring). Former Justice and later Chief Justice Rhenquist also took a similar position to that of Justice Thomas. *See e.g. Union Department v. American*

Petroleum Institute, 448 *U.S.* 607 (1980) (Rhenquist, J., concurring) and *American Textiles Manufacturers Institute v. Donovan*, 542 *U.S.* 490, 547 (1981) (Rhenquist, J., dissenting). And Justice Kennedy discussed the "Non-Delegation Doctrine" at length and in detail in his concurrence in *Clinton v. City of New York*, 524 *U.S.* 417 (1998) where the majority struck down the "Line Item Veto Statute" on the broader Separation of Powers Doctrine.

The most recent case where the Supreme Court has addressed the "Non-Delegation Doctrine" directly is *Whitman v. American Trucking Association, supra.* In *Whitman* the specific question before the Supreme Court was "… whether … the Clean Air Act (CAA) delegates legislative powers to the Administrator of the EPA." *Whitman,* 531 *U.S.* at 462. In *Whitman*, the Court majority opinion upheld the challenged portions of the CAA relying upon the so called "intelligible principles doctrine", and in so doing, stated as follows: "…[w]e have '***almost never*** felt qualified to second-guess Congress regarding the permissible degree of ***policy judgment*** that can be left to those ***executing*** or ***applying*** the law.'" *Whitman,* 531 *U.S.* at 474-475 (quoting *Mistretta v. United States*, 448 *U.S.* 361, 416 (1989)). The majority in *Whitman* then stated that initially "…[i]n a delegation challenge, the constitutional question is whether the Statute has delegated ***legislative powers*** to the agency." And, if so, the *legislative powers delegated* to the Article II Executive Branch may only be delegated under the following limitations: "…When Congress confers decision making authority ***upon agencies***, Congress must "lay down by intelligent principle to which the person or body authorized to [act] is directed to conform.'" *Whitman,* 531 *U.S.* at 472. Finding that such had been done by Congress, the majority upheld the challenged portions of the CAA.

A significant distinction between the CAA at issue in *Whitman* and the other federal Rules and Regulations that have been upheld through the years and by the Supreme Court

applying the "Intelligible Principle Doctrine", and the statute challenged here, is the applicability of the "Administrative Procedure Act" to those cases. The "Administrative Procedure Act" (APA), 60 *Stat.* 237 (enacted June 11, 1946), as amended, now codified at 5 *U.S.C.* 500 *et. seq.*, governs the way in which the Article II Executive Branch Federal Administrative Agencies may initially propose and then formally establish Federal Regulations that are used to enforce the laws enacted by Congress and the President. According to the Attorney General's Manual on the APA (1947), the basis purposes of the APA are (1) to require Agencies to keep the public informed of their organization, procedures, and rules; (2) to provide for public participation in the rulemaking process; (3) to establish uniform standards for the conduct of formal rule making and adjudication; and (4) to define the scope of judicial review. These APA procedural requirements are included in the process so that the people may comment in what is a completely public and transparent Article II political Administrative Rule and Regulation making process. Many steps must take place before a proposed Administrative Rule or Regulation becomes binding on the public. A detailed and extensive discussion of the APA process is not necessary here. In lieu of such, plaintiff posits that it is only necessary to note that the statute challenged in this case, 2 *U.S.C.* 2a, does not operate any way like the APA, and indeed is not governed by the APA. Here, unlike the Rules and Regulations enacted under the APA, the "Census Apportionment Statement" prepared by the Federal Civil Servants in the United States Census Bureau is not published in the Federal Register or the Code of Federal Regulations, nor is there a public comment period. Indeed, it took a formal FOIA request from Plaintiff to obtain these documents.

It is frankly otherworldly that the 535 Members of Congress quietly sit by doing nothing year after year while such an important law making process – perhaps in many way ***the most***

important law making process – the Constitutionally mandated Decennial Apportionment of Representatives in the House of Representatives among the States according to their numbers - can be allowed to function on its own in plain sight, yet almost completely in secrete from the public, and in such a blatantly unconstitutional manner.

Directly on the point of the "Non-Delegation Doctrine", Justice Thomas made the following comments in *Whitman* which plaintiff submits apply to this case:

> Although this Court since 1928 has treated the "intelligible principle" requirement as the only constitutional limit on congressional grants of power to administrative agencies, *see J. W. Hampton, Jr. & Co. v. United States*, 276 *U.S.* 394, 409 (1928), the Constitution does not speak of "intelligible principles." Rather, it speaks in much simpler terms: "*All* legislative powers herein granted shall be vested in a Congress." U.S. Const. Art I, sec. 1. (emphasis added). ***I am not convinced that the intelligible principle doctrine serves to prevent all cessations of legislative power. I believe that there are cases in which the principle is intelligible and yet the significance of the delegated decision is simply too great for the decision to be called anything other than "legislative."***
>
> As it is, none of the parties to these cases has examined the text of the Constitution or asked us to reconsider our precedents on cessations of legislative power. ***On a future day, however, I would be willing to address the question of whether our delegation jurisprudence has strayed too far from our Founders' understanding of separation of powers.*** (emphasis in bold italics mine).
>
> [*Whitman v. American Trucking Association*, 531 *U.S.* 457, 487 (2001) (Thomas, J., concurring)].

In *Clinton v. City of New York*, 524 *U.S.* 417 (1998), Justice Kennedy discussed the "Non-Delegation Doctrine" in the context of the collateral broader "Separation of Powers

Doctrine" (which was the Majority's basis for striking down the "Line Item Veto Statute"), noting that that "… [f]ailure of political will does not justify unconstitutional remedies …", and that "[l]iberty is always at stake when one or more of the branches seek to transgress the separation of powers." *Id.* at 450 (Kennedy, J. concurring). Most significant to the plaintiff's claims in this case, Justice Kennedy noted as follows:

> That a Congressional cessation of power is voluntary does not make it innocuous. The Constitution is a compact enduring for more than our time, and our Congress cannot yield its own power, much less that of other Congresses to follow. *See Fryetag v. Commissioners*, 501 *U.S.* 868, 880 (1991); *c.f. Chada, supra.* at 942, n 13. Abdicating of responsibility is not part of the Constitutional design.
>
> [*Clinton v. City of New York*, 524 *U.S.* at 452 (Kennedy, J., concurring)].

Unlike the CAA, or any of the other Article II Executive Branch Administrative Rules or Regulations that have been brought before the Supreme Court and challenged as a violation of the "Non-Delegation Doctrine", the statute in this case, 2 *U.S.C.* 2a, was enacted by Congress to carry out ***a specific action that Congress itself is required to undertake – every 10 years – by specific Constitutional mandate.*** *See* Article I, Section 2. And indeed, Congress and the President interpreted the Constitution as requiring an actual political process culminating in an actual Federal Law to enact each Decennial Apportionment, as this is how Congress and the President effected the Constitutionally required Decennial Apportionments after the Constitutionally required Decennial Census after the First Decennial Census in 1790, and each Decennial Census thereafter in 1800, 1810, 1820, 1830, 1840, 1850, 1860, 1870, 1880, 1890, 1900 and 1910. Then, for whatever reason, in 1920, Congress and the President stopped meeting

their obligations under Article I, Section 2. Despite a "process", Congress and the President have not passed a Constitutionally valid Decennial Apportionment Law since 1911. "That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date". *Powell v. McCormack*, 395 *U.S.* 486, 547 (1969).

This is not a case dealing with a challenge to the Article II Executive Branch fixing of milk prices pursuant to the APA process for enacting Administrative Rules and Regulations. Indeed, such a comparatively trivial "legal process" for fixing of milk prices, whether legislative or not, and if *legislative* but accompanied by "intelligible principles" to be used in the APA Administrative Rule and Regulation process permitted, would be conducted in the open with full notice to the public and the right of the public to be heard, respected and preserved. More attention would be paid to the theoretical milk price control Regulations than is paid to the Constitutionally required Article I, Section 2 Decennial Apportionment of the United States House of Representatives.

The closest – and indeed the only – other "hybrid federal law making process" plaintiff could find in history in any way analogous to what takes place with this "automatic" Decennial Apportionment is the statutory law defining the law making process through which Congress and the President and the Department of Defense (DOD), working in consort, together determine which military bases to realign or close, which hybrid, somewhat inverted legislative process has been used 5 times to date (1988, 1991, 1993, 1995 and 2005). *See* "Defense Base Closure and realignment Act of 1990", 104 *Stat.* 1808, as amended, note following 10 *U.S.C.* 2687. However, unlike the Statute at issue in this case, the BRAC process and statute require that the initial DOD Final BRAC Recommendations be presented to the President (ie. the Article II Executive Branch) for his ***express approval***, and then sent to the Congress (ie. the Article I

Legislative Branches) for their ***express "disapproval".*** Indeed, in 2005, the President reviewed and affirmatively signed off on and affirmatively "approved" the DOD initial BRAC recommendations, and sent the recommendations on the Congress. If Congress took no action, the DOD recommendations would become law. If both the Senate and the House passed a "disapproval resolution" the recommendations would fail to become law. Indeed, a "disapproval Resolution" was introduced in the House and was defeated by a vote of 324 to 85, so the Senate took no action (as the House had already failed to "disapprove") and the recommendations became law.

While the BRAC law making process may still be somewhat politically controversial, and perhaps even constitutionally questionable, what can not be disputed is that in the somewhat inverted BRAC law making process, the legislation started with an initial delegation to the DOD by Congress in the BRAC Act with an "intelligent principle", as signed into law by the President after being passed by both the Senate and the House. Once the DOD made initial *recommendations*, such *recommendations* did not and would not become Federal Law unless and until a second process wherein the *recommendations as a whole* were actually substantively considered and passed on by the Article II President and the Article I Legislative Branches - even though the required action in the Article I Legislative Branch was a "negative resolution to "disallow" the recommendations. Also, the BRAC process was conducted fully in public and with the actual requirement in the BRAC statute that the President be "presented" with the recommendations for review, and that the President having an opportunity to take required conscious action and reject the proposals if he saw fit. If the President substantively approved the proposals, then the proposals were sent on to the Congress for conscious action and a full legislative evaluation and substantive approval and passage into law (albeit in Congress at this

point the "conscious action" and substantive approval was "negative" as accomplished by doing nothing if in agreement with the proposals).

This BRAC Process is nothing at all like the mathematically "automatic" and ministerial apportionment process that results in a "Census Apportionment Statement", a few cover letters, and a "Certificate of Entitlement". In the statutory apportionment "process", the statutorily required actions of the Director of the Census Bureau, the Secretary of Commerce, and the President, are all merely ministerial. The President has no right to approve or disapprove. The President's statutory mandate is to prepare a 1 sentence cover letter to Congress, and staple to that cover letter the "Census Apportionment Statement" that he received from the Secretary of Commerce, the Secretary of Commerce having received the Census Apportionment Statement from the Director of the Census Bureau, who had received the "Census Apportionment Statement" from the career Federal Civil Servants who prepared the "Census Apportionment Statement" in some subsection inside the Census Bureau in their offices in Maryland. Once the "Census Apportionment Statement" was finally sent to Congress, the Clerk of the House then prepared a "Certificate of Entitlement" and sent a cover letter and a certificate to each of the 50 Governors as the final step in the "process" of actually formally advising each State of the new number of Representatives apportioned to them as of January 3, 2013. As if this so called law making process were not strange enough, one only needs to look at the 1996 amendment to the statute at issue in this case to confirm how non-substantive and curious this so called law making process is: Under present version, if the Clerk of the House is for some reason not available, the ministerial job of preparing the "certificates" and sending them to the Governors of all 50 States falls to the responsibility of the Sergeant at Arms of the House. However, up until 1996, if the Sergeant at Arms himself was also otherwise unavailable, ***the person then vested with the***

***responsibility by pre-1996 version of 2 U.S.C. 2a to prepare and send out the certificates to the 50 Governors was the House Cloak Room Clerk! See Public Law* 104-186, title II, Section 201, August 20, 1996, 110 *Stat.* 1724, found at "RIDER I –Document Y".** In this regard, plaintiff is unaware of any Constitutional powers vested in the person in charge of coats, hats and umbrellas for the House members, no matter how nice or trustworthy he or she may actually be. Sarcastic point having been made, once again it is submitted that an objective review of this "process" clearly shows that, except for the career Federal Civil Service employees who actually prepare the "Census Apportionment Statement", once sent up through the "chain of command", all actions in every step of the process are merely ministerial and are in no way substantive. Indeed, not only does the "process" fail to require any review or approval by Congress or the President, the process *does not even allow any reasonable opportunity for any review by Congress or the President*. Indeed, once sent on to the Speaker of the House and the President *Pro Tempore* of the Senate, by the President, the "Census Apportionment Statement" was not then even sent on to all 435 Members for Consideration but rather was sent on to two Committees to be filed away for posterity in what plaintiff will refer to as the "miscellaneous obscure government documents" file cabinet. Neither the Journal of the Senate nor the Congressional Record contain the actual "Census Apportionment Statement", only a recitation of the Presidents 1 page 1 sentence transmittal letter. There is not even so much as a Resolution to acknowledge receipt the "Census Apportionment Statement" by Congress. Nor was the "Census Apportionment Chart" listed as a "Chapter Law", Public Law, Statute, or codified anywhere. The only place that it can be found is through the Government Printing Office where it is assigned "House Document No. 112-5."

Quite simply, to continue to blindly defer to the "process" that is taking place regarding Constitutional Decennial Apportionment under the challenged statute is to ignore the clear wording of the text of the Constitution, to ignore the obligations of Congress and the President imposed by the Constitution, and to ignore the realities of representative government itself. In the end, this is a case dealing with the core right of plaintiff to Constitutionally fair representation in one legislative body of Congress, and the core right of plaintiff to Constitutionally fair representation every 4 years in the Electoral College process used to select the President and Vice President of the United States. Plaintiff, if he is to be bound by anything that operates to discriminate against his right to vote for President and to be represented fully in the House of Representatives, can only be so bound and limited by an actual law enacted in conformance with the Constitution. And the substance of any such properly enacted law must still itself comply with the other requirements of the text of the Constitution, and Supreme Court precedent interpreting the Constitution. Again, that is not the case here at all. All that is at issue here is a "Census Apportionment Statement" and a "Certificate of Entitlement", neither of which are "Federal Law" by even the most forgiving and broad and loose definition. And the fact that the Census Bureau is directed to use the Census data and the "Method of Equal Proportions" should also be of no moment as plaintiff submits that this is that rare case, alluded to by Justice Thomas, "*...in which the principle is intelligible* ***and yet the significance of the delegated decision is simply too great for the decision to be called anything other than "legislative."*** *Whitman v. American Trucking Association*, 531 *U.S.* 457, 487 (2001) (Thomas, J., concurring). Delegating this clearly Constitutionally mandated *legislative* process to a Division in the Commerce Department in the Article II Executive Branch to the total exclusion of the Article I Legislative Branch's substantive participation in the law making process, and to the total

exclusion of the Article II President's substantive participation in the law making process, is a clear violation of Article I, Section 1 specifically, and a violation of the "Non-Delegation Doctrine" generally. Therefore, plaintiff is entitled to the relief requested.

POINT III

CLEARLY ESTABLISHED SUPREME COURT PRECEDENT AND HISTORICAL PRECEDENT DEMONSTRATES THAT 2 U.S.C. 2a, AS APPLIED, VIOLATES PLAINTIFF'S CONSTITUTIONAL RIGHTS

The method used by the Article II Executive Branch of Government to prepare the 2011 apportionment of Representatives as required 2 *U.S.C.* 2a, is unconstitutional as applied to the apportionment of Representatives to the State of New Jersey generally, and as applied to plaintiff specifically, as failing to comply with the so called "1 man – 1 vote" rule of *Westburry v. Sanders,* 367 *U.S.* 1 (1964). Assuming that the Court rejects plaintiff's legal arguments in Point I and Point II above, then in any event 2 *U.S.C.* 2a, as applied, operates to violate plaintiff's Constitutional Rights as outlined further herein.

A. CLEARLY ESTABLISHED SUPREME COURT PRECEDENT DEMONSTRATES THAT 2 U.S.C. 2a, AS APPLIED, VIOLATES PLAINTIFF'S CONSTITUTIONAL RIGHTS.

In *Westburry v. Sanders,* 367 *U.S.* 1 (1964) the United States Supreme Court stated the following:

> We hold that, construed in its historical context, the command of Article I, Section 2 that Representatives by chosen "by the people of the several States means that, as nearly as is practicable, one man's vote in a congressional election is to be worth as much as another's."

[*Westbury v. Sanders*, 376 *U.S.* at 7-8].

Westbury declared such a principle in the context of the *intra*state Redistricting process conducted by State Legislatures that takes place after the *inter*state process of apportioning representatives that is conducted by Congress. However, nothing in the *Westbury's* statement that "...one man's vote in a congressional election is to be worth as much as another's" in any way explicitly or implicitly limits this principle to only apply solely to intrastate Redistricting that takes place within the State where such man (like plaintiff) may happen to live. Indeed, the contrary would appear to be the case. The very words of the Constitution itself suggest that the *inter*state context was the primary concern of the founding fathers. The Article I, Section 2 controlling phrase regarding apportionment refers to "...the people *of the several States* ...." (emphasis added), Article I, Section 2. Moreover, Justice Harlan, in his dissent in *Westbury* argued that it was **only** the *interstate* apportionment context that was addressed by the language of Article I, Section 2. *Westbury v. Sanders*, 376 *U.S.* at 20 *et seq.* (Harlan, J., dissenting). Population variances in Redistricting cases have through the years reduced the Constitutional standard to acceptable mathematical variances. *See Karcher v. Daggett*, 462 *U.S.* 725 (1983).

However, unlike the State intrastate Redistricting context, it is obvious that the population disparities among the States in the interstate apportionment context can not ever realistically be susceptible to the same type of actual exacting mathematical equality required by the Supreme Court in intrastate Redistricting cases.

In *United States Department of Commerce v. Montana*, 503 *U.S.* 442 (1992), the Supreme Court addressed an apportionment challenge by the State of Montana, and in so doing stated that .....

> There is some force to the argument that the same historical insights that informed our construction of Article I, Section 2 in the context of intrastate districting should apply here as well. As we interpret the constitutional command, that Representatives be chooses "by the People of the Several States" to require the States to pursue equality in representation, ***we might well find that the requirement that Representatives be apportioned among the several States "according to their respective Numbers" would also embody the same principles of equality. Yet it is by no means clear that the facts here [in Montana] establish a violation of the Westburry standard.***
>
> [*United States Department of Commerce v. Montana*, 503 *U.S.* at 461].

So, it is clear that the Supreme Court did not in any way reject the *Westburry* standard of "…as nearly as is practicable, one man's vote in a congressional election is to be worth as much as another's …" (the "one man – one vote" standard) to interstate Apportionment, but rather merely held that the State of Montana had failed to establish sufficient facts rising to a level of such a violation. Indeed, if anything, *Montana* implicitly recognizes that the *Westburry* standard applies to interstate Apportionment of Representatives, though without the Supreme Court sounding in on exactly what variance rises to the level of an actual Constitutional violation. There are only 2 other apportionment cases that the Supreme Court has substantively decided: *Franklin v. Massachusetts*, 505 *U.S.* 788 (1992) and *Wisconsin v. City of New York*, 517 *U.S.* 1 (1996). Neither address the issue of the *Westburry* standard and at what point a variance in the weight of one's vote rises to the level of a Constitutional violation.

There was a recent Three Judge Federal District Court Decision on such a challenge, but the District Court Ruled that there was no jurisdiction to hear such a challenge in the first instance. *See Celmons v. Department of Commerce*, 710 *F.Supp.2d* 570 (N.D. Miss. 2010).

That decision was appealed to the United States Supreme Court, where the claims in that case were dismissed on jurisdictional grounds without opinion. *See* Order in *Cemons v. Department of Commerce,* ___ *U.S.* ___ (December 13, 2010), 131 *S.Ct.* 821 (2010).

The *Westburry* so called "one man – one vote standard" was also addressed by the Supreme Court in the context of a person's right to participate fairly and equally in an Article II, as amended by the 12th and 23rd Amendments, Electoral College Election of the President under Florida State Law in *Bush v. Gore,* 531 *U.S.* 98 (2000). After first noting that a State Legislature may retain the right to themselves to chose the Electors in the Electoral College, once the right to vote for and choose members of the Electoral College has been conferred to the people by State Statute, then the election must also respect the *Westburry* standard and treat and count each vote cast "equally". The Court's analysis started with the fact that the right to vote is a "fundamental" constitutional right. The Court noted that "… one source of its fundamental nature lies in the equal weight accorded to each vote and the equal dignity owed to each voter." *Bush v. Gore,* 531 *U.S.* at 104. The Supreme Court also noted that …"[i]t muse be remembered that 'the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *Bush v. Gore,* 531 *U.S.* at 105 (citing *Reynolds v. Simms*, 377 *U.S.* 533, 555 (1964)). Here, New Jersey also allows for the direct election of Electors to the Electoral College by the voters such as plaintiff. The unconstitutional dilution of plaintiff's vote and the asserted violation of the *Westburry* standard that plaintiff claims will cause violence to his Federal Constitutional Rights in the November 2012 Presidential Election is not caused by a State statute being unequally applied by state actors within the State such as was at issue in *Bush v. Gore,* but rather is caused by the fact that New Jersey, and therefore by extension plaintiff, has now been denied the

appropriate and equitable and fair number of Representatives in the House of Representatives to which they are otherwise equitably entitled, which therefore unconstitutionally reduces the number of votes in the Electoral College allocated to New Jersey – and therefore to plaintiff – under the formula in Article II and the 12th and 23rd Amendments for allocating Electors.

There is no question but that the vast population variances among the States and the specific Constitutional Requirement in Article I, Section 2 that each State is entitled to at least 1 Representative, make any thoughts of literal mathematical equality in interstate Apportionment, and therefore literal exacting mathematical equality in election of Representatives and literal mathematical equality in elections for Electors to the Electoral College, an illusory goal at best. But Article I, Section 2 does not speak in literal mathematical equality terms such as "dividing" but rather speaks using the equitable term of "apportioning". Nor does *Westburry* speak in literal mathematical terms such as "dividing" but rather speaks using the equitable requirement of "…as nearly as is practicable …". And, what is also not disputed is that in *Montana* "…[t]he Government acknowledges that Congress has a judicially enforceable obligation to select an apportionment plan *that is related to population.*" *United States Department of Commerce v. Montana*, 503 *U.S.* at 457. And in a true democracy, "…the weight of a citizen's vote cannot be made to depend upon where he lives." *Reynolds v. Sims*, 377 *U.S.* 533, 567 (1964). But in this "process", arbitrarily limiting the number of Representatives to 435, does just that: The strength and weight of ones vote is determined by where one lives.

Having said all of that, in Montana, the Court noted that the actual specifically stated Constitutional requirements ***in the text of the Constitution itself*** that Congress must comply with when apportioning Representatives are the following: (1) that each State shall be apportioned at lease 1 Representative, (2) that apportionments shall not cross State lines, and (3) that …"[t]he

number of Representatives shall not exceed one for every thirty Thousand …". *United States Department of Commerce v. Montana, supra.* As the Constitution is silent on how to deal with the issue of "fractional numbers", it is then incumbent on Congress to choose some method to address the issue of fractional numbers *as long as the method chosen is consistent with the principles of equal representation. Id.* However, in addition to the explicit textual Constitutional requirements listed above are the Supreme Court's several and diverse "1 man – 1 vote" rulings which define the scope of "the Constitutional principles of equal representation.". *See Bush v. Gore,* 531 *U.S.* 98 (2000) ("1 man – 1 vote" standard applies to established intrastate elections for Presidential electors conducted under State law); *Westburry v. Sanders*, 376 *U.S.* at 20 ("1 man – 1 vote" standard applies in Congressional Elections, though ruling was in context of an intrastate Redistricting Case); *United States Department of Commerce v. Montana*, 503 *U.S.* 442 (1992) (implicitly recognizing the Constitutional applicability of the "1 man – 1 vote" standard in interstate apportionment cases); *Reynolds v. Simms*, 377 *U.S.* 533 (1964) ("1 man – 1 vote" standard applies to the intrastate apportionment of State Legislatures); *Avery v. Midland County*, 390 *U.S.* 747 (1968) ("1 man – 1 vote" standard applies to local government apportionment process).

As such, it is rather clear that Congress must, in exercising their broad discretion in how to deal with fractional numbers, take into account the additional Constitutional requirement that the "1 man – 1 vote" standard must not be violated, or rather, that it must be respected "… as nearly as is practicable …". *Westburry v. Sanders*, 376 *U.S.* at 7-8. In this "process" Congress does not exercise any "discretion" whatsoever *per se*, but rather has abdicated all "discretion" to what ever results a mathematical formula may determine. And that mathematical formula does not actually "divide equally" even in a mathematical sense. ***(For example, simply compare the***

***Apportionment of Representatives to Texas (+4), Florida (+3) and California (no change) to that of New Jersey (-1) and Louisiana (-1) and Ohio (-2) as "decided" by the Method of Equal Proportions)*.** While perhaps appropriate as a starting point in the law making process, mathematical formulas that merely seek to "divide" can not do equity and can not Apportion. A cursory review of the reallocation of Representatives in this 2010 Apportionment "process" demonstrates that the Method of Equal Proportions does not even equally divide, but rather operates to heavily favors the largest populated States to the detriment of the lesser populated or moderately populated States. The logical manner of addressing the issue would be for Congress to significantly increase the number of Representatives, or prohibit any additional Representatives from being apportioned to the largest populated States. But Courts stocked with politically appointed judges should not immediately substitute their judgment for that of a freely elected legislature, especially when the legislature has not acted at all. However, defendant argues that there has not even been a valid Apportionment as yet. If those arguments are rejected by the Article III Courts, then it is incumbent on this Article III Court to protect plaintiff's right to enjoy the benefits of the "1 man, 1 vote" standard with his say in the House of Representatives and his vote for the President through the Electoral College process. It is submitted that Plaintiff need not give his subjective opinion as to whether or where any "bright line" exists, and plaintiff submits that he does not need to hazard to define when the "1 man, 1 vote" standard had been violated, as plaintiff submits that with the vast population variances among States, the existing discrimination violates any reasonable standard of "1 Man – 1 Vote". .

B. HISTORICAL PRECEDENT ESTABLISHED IN THE ENACTMENT OF THE FRIST THIRTEEN APPORTIONMENT LAWS SUPPORT THE PROPOSITION THAT ARTICLE I, SECTION 2 MANDATES RESPECT OF THE "1 MAN - 1 VOTE" PRINCIPLE IN THE INTERSTATE APPORTIONMENT OF REPRESENTATIVES

Once Congress received the First Decennial Census of 1790, Congress was required by the Constitution to conduct the first reorganization of the House, which required augmenting the size of the House, and Apportioning the new increased total number of Representatives among the States. This would be the first time that Congress, through the political process, would have to interpret the meaning and directions of the Constitution and implement a process to increase the size of the House and apportion the seats among the States "… in such Manner as they shall by Law Direct." United States Constitution, Article I, Section 2.

The first method that Congress used was to simply take the number of the entire National population and divide by the Constitutional noted number of 30,000 to arrive at the total number of Seats in the House to be apportioned among the States. As the total Combined Population of the States was (rounded off) 3.6 million, the initial math (formula) to arrive at the total number of Representatives (or "seats") in the future House until after the next Census was easy: Divide 3,600,000 by 30,000 which = 120. This number of 120 Representatives was to be the new augmented size of the House, an increase of 55 more Representatives from the original size of the House that had been Constitutionally fixed at 65 and was in effect for the First Congress and the Second Congress. Indeed, there was wisdom in Madison and others using the word "apportion" rather than the word "divide". There was, and still is, the reality that actual population disparities among the States will inevitably result in fractional numbers when apportioning Representatives among the States if pure math is used. But "Apportionment" is not a pure mathematical process: Rather it is (or is supposed to be) a political process seeking equity

with use along the way of some or several math principles. Also, neither a State's population, nor the nation's population as a whole, is likely to neatly be equally divisibly by 30,000, or any number for that matter. Dividing ***equally*** "among" States with vastly varying populations would be, and is, a mathematical impossibility. On the other hand, apportioning ***equitably and fairly*** is something that can be achieved in a political Legislative process, and was for 120 years until 1920 when everything mysteriously stopped.

Congress having chose the combined mathematical and political process as explained above to be the "… Manner as they shall by Law Direct" for meeting their Constitutional duty, both the Senate and House actually passed the first Apportionment Bill and sent it on to President George Washington on March 26, 1792 for his expected signature, and passage into Law.

When Washington received the first Apportionment Bill he had reservations. During the Philadelphia Convention Washington has risen to officially speak one time only, and on only one issue. Washington believed that a ratio of 1 Representative for every 40,000 people was too large a number for there to be fair proportional representation in the House of Representatives. It would be fair to assume that were Washington to know of the proportion of 1 / 710,767 proposed after the 2010 Census he would be more than shocked at what the concept of "proportional representation" in this Country has devolved into after 220 years. In any event, Washington appealed to the Convention to *lower* the proposed language in what was proposed as Article I, Section 2, from 40,000 to 30,000, so that Representatives would remain attuned to the localized constituencies they were expected to represent. Washington's wish was complied with, and the number of "40,000" was indeed lowered to "30,000" in the final draft.

Washington sought the counsel and advice of Edmund Randolph, Thomas Jefferson, Alexander Hamilton and Henry Knox to give their opinions on the first Apportionment Bill passed by Congress. Washington was concerned with the fact that the number of 30,000 was divided by the National Population, not on a State by State basis, and that no common "divisor" (ie. number) which when applied to the States equaled the number of Representatives. In short, Washington himself expected each Representative to represent approximately the exact same number – or at the very least a substantially similar - number of people. After much consideration, President Washington, as the first President, Vetoed the first Apportionment Bill, which was therefore the first Presidential Veto in the History of the Nation. Washington then drafted and sent a letter to Congress which reads in its entirety as follows:

> Philadelphia
> April 5, 1792
>
> Gentlemen of the House of Representatives
>
> I have maturely considered the Act passed by the two Houses, intitled. "An Act for apportionment of Representatives among the several States according to the first enumeration," and I return it to your House, wherein it originated, with the following objections.
>
> First – The Constitution has prescribed that representatives shall be appointed among the several States according to their respective numbers: and there is no one proposition or divisor which, applied to the respective numbers of the States will yield the number of allotment of representatives proposed in the Bill.
>
> Second – The Constitution has also provided that the number of Representatives shall not exceed one for every thirty thousand; which restriction, by the context, and by fair and obvious construction, to be

> applied to the separate and respective numbers of the States: and the bill has allotted to eight of the States, more than one for every thirty thousand.
>
> *George Washington*
>
> [3 *Annals of Cong.* 539 (1792)].

On April 6, 1792, the day after Washington vetoed the Bill and returned the Bill to the House where it had originated, the House took their first vote ever to seek to override a Presidential Veto, but failed to get the required 2/3 vote necessary. So now, faced with "fractional numbers" in a process of pursuing equally dividing equal ratios of representatives to People, Congress had to figure out a way to deal with inevitable "fractional numbers". What of a State that was entitled to 2.9 Representatives? Should that State get 2 or 3 Representatives in the House? What of a State that was entitled to 2.1 Representatives? Should that State get 2 or 3 Representatives in the House? These were the questions that Congress was required to now address and answer in the political Law making process of Constitutionally apportioning the Representatives among the States "… in such Manner as they shall by Law Direct." What should Congress "by Law Direct" on the issue of fractional numbers? Should Congress "round up" to the next whole number if the fractional number was .5 or more? Should Congress "round down" to the last whole number if the fractional number was .49 or less? Should all fractional numbers, even those .49 or less, be "rounded up" to the next whole number? Or should Congress simply completely disregard any fractional number entirely. Jefferson supported a method of disregarding fractional numbers entirely. The reader is reminded that many of these men were the same me that reached a compromise for Census by agreeing to count certain people for census purposes as 3/5ths of a person. So, a political solution was clearly attainable in a *political* - not a *mathematical* – process. Ultimately, a solution was proposed and adopted. Essentially,

Jefferson advocated the number of 33,000 as the common divisor, and that number was divided by the number of each State's population to arrive at the number of Representatives for each State, which when added together constituted the total number of Representatives in the House of Representatives.

Just as planned and suggested by Jefferson, on April 10, 1792, Congress threw out the prior bill and the 120 number and decided that the ratio to be apportioned among the States based upon their respective populations would be "one for every thirty-three thousand persons in the respective States." This formula was then applied not to the national population as a whole, but rather was applied to the individual population of each State. Then, the total seats of the States would be added up to arrive at the number of the House. Under the prior now disregarded method, the size of the House was arrived at FIRST by dividing up the total combined population of the States (ie. The National population) by 30,000. This way, the number of Representatives would be determined by dividing the 33,000 divisor against each State's Population, disregard any fractional number, arrive at the number of Representatives for a given Staten, add the number of all States up, and that would be the size of the House of Representatives. This is how Apportionment was conducted until 1840, at which time fractions were now considered and rounded either up or down under the "Webster Method". In short, neither the Constitution nor the framers were concerned with the size of a room: They were primarily concerned with fairness and a proportion of Representatives to people that, though not fixed at 1 / 30,000 as referenced in the Constitution itself, stayed within a reasonable range of this ratio. Indeed, if enacted, Article the First would have *capped* the proportion of ratio of Representatives to people at ***no more than 1 Representative for every 50,000 people***. And indeed, it may very well have been ratified. *See infra.* These early methods, by the Framers,

considered in consort with "Article the First", proposed to the States as an amendment by Joint Resolution of Congress, demonstrate a concern for substantial equality in proportion of each Representative to the people that each Representative represents, even across State lines. This was the primary concern, not the size of a room or the need to purchase more chairs. And as previously noted, " … early Congressional practice [ ] provides contemporaneous and weighty evidence of the Constitution's meaning." *Alden v. Maine*, 527 *U.S.* 706, 743-744 (1999) (quotations omitted). It has been noted directly in the Apportionment Context by the Supreme Court itself that "…[t]he interpretations of the Constitution by the First Congress are persuasive[.]" *Franklin v. Massachusetts,* 505 *U.S.* 788, 803 (1992).

To argue today that an average or optimum ratio of 1 / 710,767, with variances of hundreds of thousands of people either direction among the States, is Constitutionally acceptable, is just plain delusional, against the historical background and Supreme Court precedent, is to deny history, law, and equity. And to further and unjustifiably deny plaintiff his Constitutional rights. Plaintiff need not suggest whether or where bright line exists as under any reasonable standard, whatever it may be, the present disparities would clearly violate it.

POINT IV

"ARTICLE THE FIRST" WAS RATIFIED BY ARTICLE V "RATIFICATION STANDARDS" IN 1792.

This is no mere meaningless academic question: Did "Article the First", formally submitted to the States on September 25, 1788 by way of a Joint Resolution of Congress as the first proposed amendment to the United States Constitution, as a matter of Federal Constitutional Law, meet the ¾ threshold for ratification and enactment as stated in Article V of the United

States Constitution (1787), as amended, when on June 24, 1792, the State of Kentucky formally ratified "Article the First" becoming the 11th of the then existing 15 States to do so, or perhaps even earlier?

Chief Justice Marshall proclaimed over 208 years ago that "…[i]t is emphatically the province and duty of the judicial department to say what the law is." *Marbury v. Madison*, 5 *U.S.* 137, 177 (1803). This statement established the principle of "Judicial Review" which all Judges and Lawyers understand today. However, the issue at hand arose from a still unaddressed fact pattern that arose 11 years before Justice Marshal's historic ruling in *Marbury v. Madison.*

On June 1, 1792, Kentucky was admitted as the 15th State. Now with Fifteen States, 15 X .75 = 11.25 States, or possibly 12 "whole" States approval required for ratification of "Article the First". On June 24, 1792, Kentucky ratified and approved all 12 of the proposed "Bill of Rights" as submitted. Approval of "Article the Third" through "Article the Twelfth" was by law at best only ceremonial as such proposals were already ratified – or treated as ratified - on December 15, 1791 with Virginia taking action, and were already acknowledged as codicil Amendments 1 through 10. By approving "Article the First", Kentucky became the 11th State to do so, and only Delaware having refused to do so. However, when joining the Union, Kentucky presumably changed the numerical requirements of the Article V three fourth of the States ratification requirement to 11.25. Or did it? Plaintiff can only surmise that Congress took it upon themselves to assume the manner in which Article V was to operate, and apparently assumed that any fractional number required a "rounding up" and increase to the next whole number of 12, no matter what the fraction. However, the Constitution was and is silent on the issue of fractional numbers and Article V ratification. The Constitution was and is also silent on the issue of whether the ¾ of States required to ratify a proposed amendment means ¾ of the number of the

existing States at the time a proposed amendment is initially submitted to the States for ratification, or ¾ of the existing States as evolved and changed through the admission of new States that are admitted to the Union after an amendment was initially proposed for ratification but before actual ratification. Research reveals no Court Cases addressing this issue anywhere. As a matter of history, plaintiff does note that Article the Second, now ratified as the 28th Amendment, followed a procedure that assumed that the ¾ of States included all States admitted to the Union, including those admitted to the Union after the proposed amendment was sent to the States for ratification process. And that may very well be the meaning of Article V. IBut we also know that the Constitution, by its express terms, required 9 (not 9.75) of the 13 original independent States of the Confederation to ratify the new Constitution. *See* United States Constitution, Article VII ("The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying Same.") These questions are all interesting, and tremendously significant, and under *Marbury,* only an Article III Court can definitively answer the questions of what Article V of the Constitution actually means. And no Article III Court has ever done so. Yet.

With the original 13 states and 9.75 states required for ratification, .75, being more than a 50% fraction of a whole number, basic principles of math would ordinarily require rounding up to now 10 States being required for ratification. With 14 States upon the admission of Vermont to the Union, one assumes that with 10.5 States required for ¾ ratification, and .5 being 50% of a fractional whole number, and with basic math principles required rounding up to the next whole number of 11, than 11 States would be required for ratification. Indeed, Virginia was the 11th State to ratify, and the government has historically treated Virginia as the State that completed the ratification process. But with Kentucky's approval and ratification bringing mathematical

ratification to *11.**25**, less than 50% of a whole number*, basic principles of math would have required ***rounding down*** to the closest whole number of 11. The Constitution is silent on fractional numbers and how to deal with them, save where in the original version of Article I slaves were only counted as 3/5 of a whole person for Census purposes. We do know that the as a matter of History the first Article I, Section 2, Apportionment Laws after the Census of 1790, 1800, 1810, 1820 and 1830 all ignored fractional numbers entirely, rounding all fractions ***down*** to the last whole number no mater what the fraction was. This was Thomas Jefferson's theory on how to deal with fractional numbers: Ignore them completely and round down to the last whole number. In 1840, Congress changed the manner that fractional numbers were addressed in an Apportionment context, and following the suggestions of Daniel Webster, and now "rounded up" to the next whole number if the fractional number is .5 or more, and "rounded down" to the last whole number if the fractional number is .49 or less. Under either the fractional number counting of the "Jefferson Method" or the "Webster Method" in an Article I, Section 2 Apportionment context, "Article the First" was actually ratified as an Amendment to the Constitution on June 24, 1792. Moreover, upon Virginia taking action, 9 of the original 13 States ratified – the same number – 9 – required to enact the Constitution. So, was "Article the First" actually already ratified? Only this Article III Court can answer this question, whatever that answer may be. *See Marbury v. Madison, supra.*

CONCLUSION:

For the foregoing reasons and authorities cited in support thereof, it is respectfully requested that the relief requested by plaintiff be **GRANTED.**

Respectfully submitted,

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APPEARING IN A *PRO SE* CAPACITY

DATED: November 28, 2011

"RIDER I"

All Federal Laws enacted by Congress and the President as per the mandate of Article I, Section 2 of the United States Constitution from the First Decennial Census in 1790 to date are compiled and attached herein in the form as found in the *United States Statutes at Large*, thereby requiring the Federal District Court to take Judicial Notice of all Statutes. *See* 1 *U.S.C. sec.* 112 & 113.

1788 to 1793: The First Constitutional Apportionment:

The members of the Philadelphia Convention signed and submitted a new proposed Constitution on September 17, 1787 and sent the proposed Constitution to the Confederation Congress for review and further action. On September 28, 1789, the Confederation Congress sent the proposed Constitution as written on to the 13 States for consideration and if approved, ratification.

On June 21, 1788, after New Hampshire became the ninth State to ratify the Constitution thereby enacting the new Constitution. *See* United States Constitution, Article VII ("The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying Same.")

Once ratified, the Constitution fixed 65 Congressional Districts for the first elected House of Representatives was to be apportioned among the States as follows: New Hampshire 3, Massachusetts 8, Rhode Island (known then as "Rhode Island and Providence Plantation") 1, Connecticut 5, New York 6, New Jersey 4, Pennsylvania 8, Delaware 1, Maryland 6, Virginia 10, North Carolina 5, Couth Carolina 5, and Georgia 3. *See* United States Constitution, Article I, Section 2.

Thereafter, in the fall of 1788 the first federal general elections were held and the members of the first House of Representatives were elected and therefore Constitutionally obligated to conduct a national census and initially Apportion the House of Representatives, and do the same every 10 years. *See* United States Constitution, Article I, Section 2.

1790 - The First Decennial Census:

"RIDER I – Document A" - "Act of February 25, 1791, Chapter 9" – "*An Act regulating the number of Representatives to be chosen by the States of Kentucky and Vermont.*"

"RIDER I – Document B" - "Act of April 14, 1792, Chapter XXIII" – "*An Act for apportioning Representatives among the several States according to the first enumeration.*"

1800 - The Second Decennial Census:

"RIDER I – Document C" - "Act of January 14, 1802, Chapter 1" – "*An Act for the apportionment of Representatives among the several States according to the second enumeration. (a)*"

- ***The 12th Amendment, proposed on December 12, 1803, is adopted September 25, 1804 changing the manner in which the Electoral College Operates to select the President and Vice-President. The process as outlined in the 12th Amendment remains the same today except with the exception of the addition of 3 Electoral Votes in Presidential Elections conferred upon the District of Columbia by virtue of the 23rd Amendment.***

1810 - The Third Decennial Census:

"RIDER I – Document D" - "Act of December 21, 1811, Chapter IX" – "*An Act for the apportionment of Representatives among the several States, according to the third enumeration. (a)*"

1820 - The Fourth Decennial Census:

"RIDER I – Document E" - "Act of April 7, 1820, Chapter XXXIX" – "*An Act for apportioning of representatives in the Seventeenth Congress, to be elected in the State of Massachusetts and Maine, and for other purposes. (a)*" ***(Divides Massachusetts into States of Massachusetts and Maine, Apportions 13 Representatives to Massachusetts and 7 Representatives to Maine.)**

"RIDER I – Document F" - "Act of March 7, 1822, Chapter X" – "*An Act for the apportionment of representatives among the several States, according to the fourth census. (a)*"

"RIDER I – Document G" - "Act of January 14, 1823, Chapter II" – "*An Act concerning the apportionment of representatives in the State of Alabama. (a)*" ***(Apportions 3 Representatives to Alabama.)**

1830 - The Fifth Decennial Census:

"RIDER I – Document H" - "Act of May 22, 1932, Chapter XCI" – "*An Act for the apportionment of representatives among the several States, according to the fifth census.*"

1840 - The Sixth Decennial Census:

"RIDER I – Document I" - "Act of June 25, 1842, Chapter XLVII" – "*An Act for the apportionment of Representatives among the several States according to the sixth census. (a)*"

1850 – The Seventh Decennial Census:

"RIDER I – Document J" - "Act of May 23, 1850, Chapter XI" – "*An Act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the Number of the Members of the House of Representatives, and provide for the future Apportionment among the several States.*"

"RIDER I – Document K" - "Act of July 30,1852, Chapter LXXIV" – "*An Act supplementary to "An Act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the Members of the House of Representatives, and provide for the future Apportionment among the several States", approved twenty-third May eighteen hundred and fifty.*""

1860 - The Eighth Decennial Census:

"RIDER I – Document L" - "Act of March 4, 1862, Chapter XXXVI" – "*An Act fixing the Number of the House of Representatives from and after the third of March, eighteen hundred and sixty three.*"

- ***Note: The "Emancipation Proclamation" is signed by President Abraham Lincoln on January 1, 1863, see U.S. Stat. at Large, XII, 1268-9.***
- ***Note: The Thirteenth Amendment is proposed February 1, 1865 and ratified December 18, 1865 effectively abolishing slavery.***
- ***Note: The Fourteenth Amendment is proposed June 16, 1866 and adopted July 28, 1868, and now requires that the National Decennial Census count former slaves as a "whole person" of 1, rather than as 3/5 of a person.***
- ***Note: The Fifteenth Amendment is proposed February 27, 1869 and adopted March 30, 1870, guaranteeing blacks the right to vote. (But see United States v. Reese, 92 U.S. 214 (1876) and Ex parte Yarborough, 110 U.S. 651 (1884)).***

1870 - The Ninth Decennial Census:

"RIDER I – Document M" - "Act of February 2, 1872, Chapter XI" – "*An Act for the Apportionment of Representatives to Congress among the several States according to the ninth Census.*"

"RIDER I – Document N" - "Act of May 30, 1872, Chapter CCXXXIX" – "*An Act supplemental to an Act entitled "An Act for the Apportionment of Representatives to Congress among the several States according to the ninth Census.""*

1880 - The Tenth Decennial Census:

"RIDER I – Document O" - "Act of February 25, 1882, Chapter 20" – "*An Act making an apportionment of Representatives in Congress among the several States under the tenth census.*"

1890 - The Eleventh Decennial Census:

"RIDER I – Document P" - "Act of February 7, 1891, Chapter 116" – "*An act making an apportionment of Representatives in Congress among the several States under the Eleventh Census.*"

1900 - The Twelfth Decennial Census:

"RIDER I – Document Q" - "Act of January 16, 1901, Chapter 93" – "*An Act Making an apportionment of Representatives in Congress among the several States under the Twelfth Census.*"

1910 - The Thirteenth Decennial Census:

"RIDER I – Document R" - "Act of August 8, 1911, Chapter 5" – "*An Act For the apportionment of Representative in Congress among the several States under the Thirteenth Census.*"

- ***Note: The 16th Amendment is proposed July 12, 1909, is adopted 4 years later on February 25, 1913, and operates to amend Article I, Section 2 such that Congress is no longer required to apportion taxes among the several States and without regard to any Census enumeration.***

- ***Note: The 17th Amendment is proposed May 16, 1912 (with the States on the verge of calling a Constitutional Convention on the issue) and is adopted May 31, 1913, now providing for the direct election of Senators.***

1920 - The Fourteenth Decennial Census:

Congress and the President fail to meet the Constitutional Mandate of Article I, Section 2 and refuse to Apportion Representatives in accordance with the 1920 Census for the first time in history and for the entire decade of the 1920s.

- ***Note: The 19th Amendment, proposed June 4, 1919, is adopted August 26, 1920, guaranteeing women the right to vote.***

"RIDER I – Document S" - "Act of June 18. 1929, Chapter 28" – "*An Act To provide for the fifteenth and subsequent decennial census and to provide for the apportionment of Representatives in Congress.*"

1930 - The Fifteenth Decennial Census:

"RIDER I – Document T" - Under the "Act of June 18. 1929, Chapter 28", on December 4, 1930, President Herbert Hoover transmits the "1930 Census Statement of Apportionment" to Congress with Apportionment calculated using both the "Method of Major Fractions" and the "Method of Equal Proportions". Each Apportionment Method produces the identical results. Congress takes no action and as per the "Act of June 18. 1929, Chapter 28", the Apportionment as reflected in the chart under the "Method of Major Fractions" is adopted as 1930 Decennial Apportionment of Congress by virtue of Congress taking no action. The President's transmittal letter and the "1930 Census Statement of Apportionment" are printed by the Government Printing Office as "71st Congress, 3d Session, House of Representatives, House Document No. 664" and is not "Federal Law" within the meaning of 1 *U.S.C. sec.* 112 & 113, but the Court may take Judicial Notice of House Document No. 664 under *F.R.Evid.* 201.

- ***The 20th Amendment, proposed on March 2, 1932, is adopted February 6, 1933 providing that henceforth each term of Congress shall commence at noon on January 3, and the term of office for President shall commence at noon on January 20 following election.***

1940 - The Sixteenth Decennial Census:

"RIDER I – Document U" - "Act of April 25, 1940, Chapter 152" – "*AN ACT To amend an Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, approved June 18, 1929, so as to change the date of subsequent apportionment.*

"RIDER I – Document V" - "Act of November 15, 1941, Chapter 470" – "*AN ACT To provide for apportioning Representatives in Congress among the several States by the equal proportions method."*

- ***Note: 1940, the United States Attorney General determined that there were no longer any American Indians who should be classified as "not taxed" for Decennial Census purposes under Article I, Section 2. See Opinion of Attorney General No. 518 (1940)).***

- ***Note: During 1949 and 1950 the House of Representatives meets in the Conference Room in the Second House Office Building (named "Longworth" in 1962) during renovations to the House Chamber in the South Wing of the Capitol Building. That meeting room, with seating for 450+ people, today is used by the Ways and Means Committee.***

- ***Note: 1996, non substantive amendment removes the language regarding the second alternate "Cloak Room" language is House Clerk and Sargeant at Arms are unavailable to send the 2 U.S.C. sec. 2b "Certificates of Entitlement" to the Governors of the 50 States.***

1950 - The Seventeenth Decennial Census:

"RIDER I – Document W" – Act of July 7, 1958, *Pub. L.* 85-508, Section 9, 72 *Stat.* 339 – AN ACT To provide for the admission of the State of Alaska into the Union." **(Alaska is admitted as a State and Apportioned 1 Representative, temporarily increasing the voting size of the House of Representatives to 436 which was then reduced back to 435 after the 1960 Decennial Census statutory "Automatic" Apportionment of Representatives.)**

"RIDER I – Document X" – Act of March 18, 1959, *Pub. L.* 86-3, Section 8, 73 *Stat.* 4 – AN ACT To provide for the admission of the State of Hawaii into the Union." **(Hawaii is admitted as a State and Apportioned 1 Representative, temporarily increasing the voting size of the House of Representatives to 437 which was then reduced back to 435 after the 1960 Decennial Census statutory "Automatic" Apportionment of Representatives.)**

- ***Note: The 1960, 1970, 1980, Decennial Apportionments of Representatives is performed pursuant to the existing statutory "automatic" process.***

1990 – The Twenty First Decennial Census:

- ***Note: The 1990 Decennial Apportionments of Representatives is performed pursuant to the existing statutory "automatic" process.***

"RIDER I – Document Y" - Act of August 20, 1996, *Pub. L.* 104-186, Title II, Section 201, 110 *Stat.* 1724 - *"House of Representatives Administrative Reform Technical Corrections Act."*

2000 – The Twenty Second Decennial Census:

- ***Note: The 2000 Decennial Apportionments of Representatives is performed pursuant to the existing statutory "automatic" process.***

"RIDER I – Document A" - "Act of February 25, 1791, Chapter 9" – "*An Act regulating the number of Representatives to be chosen by the States of Kentucky and Vermont.*"

STATUTE III.
Feb. 18, 1791.

CHAP. VII.—*An Act for the admission of the State of Vermont into this Union.*

State of Vermont to be admitted into the Union, 4th March, 1791.

THE state of Vermont having petitioned the Congress to be admitted a member of the United States, *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared*, That on the fourth day of March, one thousand seven hundred and ninety-one, the said state, by the name and style of "The State of Vermont," shall be received and admitted into this Union, as a new and entire member of the United States of America.

APPROVED, February 18, 1791.

STATUTE III.
Feb. 18, 1791.

CHAP. VIII.—*An Act to continue in force, for a limited time, an act passed at the first Session of Congress, intituled "An act to regulate processes in the Courts of the United States."*(a)

[Repealed.] 1792, ch. 36.

Former act declared to be in force till the end of next session of Congress. 1789, ch. 21.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act passed on the twenty-ninth day of September, in the year one thousand seven hundred and eighty-nine, intituled, "An act to regulate processes in the courts of the United States," shall be, and the same hereby is continued in force, until the end of the next session of Congress, and no longer.

APPROVED, February 18, 1791.

STATUTE III.
Feb. 25, 1791.

CHAP. IX.—*An Act regulating the number of Representatives to be chosen by the States of Kentucky and Vermont.*

[Obsolete.]

Kentucky and Vermont entitled to two representatives. Act of April 14, 1792, ch. 23.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That until the Representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the states of Kentucky and Vermont shall each be entitled to choose two Representatives.

APPROVED, February 25, 1791.

STATUTE III.
Feb. 25, 1791.

CHAP. X.—*An Act to incorporate the subscribers to the Bank of the United States.*(b)

[Expired.]

Preamble.

WHEREAS it is conceived that the establishment of a bank for the United States, upon a foundation sufficiently extensive to answer the purposes intended thereby, and at the same time upon the principles which afford adequate security for an upright and prudent administration thereof, will be very conducive to the successful conducting of the national finances; will tend to give facility to the obtaining of loans, for the use of the government, in sudden emergencies; and will be productive of considerable advantages to trade and industry in general: Therefore,

Establishment of a Bank of the U. States, and amount and division of its stock, and time of subscribing.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a bank of the United States shall be established; the capital stock whereof shall not exceed ten millions of dollars, divided into twenty-five thousand shares, each share being four hundred dollars; and that subscriptions,

(a) Act of September 29, 1789; act of May 8, 1792, chap. 36, sec. 8.

(b) The acts relating to a Bank of the United States in addition to this act, have been: Act of March 2, 1791, chap. 11; act of June 27, 1798; act of March 23, 1804.

Authorizing the establishing of offices of discount and deposit in any of the territories of the United States: Act of March 23, 1804. See acts, 1812, chap. 43; act of April 10, 1816; act of March 3, 1817; act of March 3, 1819; act of April 11, 1820; act of April 20, 1836; act of June 15, 1836; act of June 23, 1836; resolution March 3, 1837.

"RIDER I – Document B" - "Act of April 14, 1792, Chapter XXIII" – "*An Act for apportioning Representatives among the several States according to the first enumeration.*"

mouth and Exeter alternately, beginning at the first. In Massachusetts district at Boston. In Rhode Island district at Newport and Providence alternately, beginning at the first. In Connecticut district at Hartford and New Haven alternately beginning at the last. And in New York district at the city of New York only.

Judges of supreme court at each session to determine the circuits they are respectively to attend, &c.

SEC. 3. *And be it enacted*, That at each session of the supreme court of the United States, or as soon after as may be, the judges of the supreme court attending at such session shall, in writing subscribed with their names (which writing shall be lodged with the clerk of the supreme court and safely kept in his office), assign to the said judges respectively the circuits which they are to attend at the ensuing sessions of the circuit courts; which assignment shall be made in such manner that no judge, unless by his own consent, shall have assigned to him any circuit which he hath already attended, until the same hath been afterwards attended by every other of the said judges. *Provided always*, That if the public service or the convenience of the judges shall at any time, in their opinion, require a different arrangement, the same may take place with the consent of any four of the judges of the supreme court.(*a*)

Session of Maine district, 1789, ch. 20, 1802, ch. 31, sec. 22.

SEC. 4. *And be it further enacted*, That the district court for the district of Maine, which, by the act, intituled "An act to establish the judicial courts of the United States," is holden on the first Tuesday of June, annually, at Portland, shall, from and after the passing of this act, be holden on the third Tuesday of June, annually, any thing in the act aforesaid to the contrary notwithstanding: and all writs and recognizances returnable, and suits and other proceedings, that were continued to the district court for the district of Maine on the first Tuesday of June next, shall now be returnable and held continued to the same court, on the third Tuesday of June next.

and of N. Carolina altered. 1797, ch. 27, sec. 2.

SEC. 5. *And be it further enacted*, That the stated district courts for the district of North Carolina shall, in future, be held at the towns of Newbern, Wilmington and Edenton in rotation, beginning at Newbern, as the said court now stands adjourned.

APPROVED, April 13, 1792.

STATUTE I.

April 14, 1792.

CHAP. XXIII.—*An Act for apportioning Representatives among the several States, according to the first enumeration.*

[Obsolete.] Apportionment of representatives to Congress according to first enumeration. 1791, ch. 9. 1802, ch. 1. 1811, ch. 9. 1822, ch. 10. 1832, ch. 91. 1842, ch. 47.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March one thousand seven hundred and ninety-three, the House of Representatives shall be composed of members elected agreeably to a ratio of one member for every thirty-three thousand persons in each state, computed according to the rule prescribed by the constitution; that is to say: Within the state of New Hampshire, four; within the state of Massachussetts, fourteen; within the state of Vermont, two; within the state of Rhode Island, two; within the state of Connecticut, seven; within the state of New York, ten; within the state of New Jersey, five; within the state of Pennsylvania, thirteen; within the state of Delaware, one; within the state of Maryland, eight; within the state of Virginia, nineteen; within the state of Kentucky, two; within the state of North Carolina, ten; within the state of South Carolina, six; and within the state of Georgia, two members.

APPROVED, April 14, 1792.

(*a*) The provisions of the acts of Congress relating to the assignment of the circuits to the justices of the Supreme Court, have been: Act of April 13, 1792, sec. 3; act of March 2, 1793; act of April 29, 1802, sec. 5; act of March 3, 1803; act of March 3, 1837.

Statute I. April 14, 1792.

CHAP. XXIV.—*An Act concerning Consuls and Vice-Consuls.*

For carrying into full effect the convention between the King of the French, and the United States of America, entered into for the purpose of defining and establishing the functions and privileges of their respective Consuls and Vice-Consuls;

Duty of Consuls and district judges concerning wrecks.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That where in the seventh article of the said convention, it is agreed that when there shall be no consul or vice-consul of the King of the French, to attend to the saving of the wreck of any French vessels stranded on the coasts of the United States, or that the residence of the said consul, or vice-consul (he not being at the place of the wreck) shall be more distant from the said place than that of the competent judge of the country, the latter shall immediately proceed to perform the office therein prescribed; the district judge of the United States of the district in which the wreck shall happen, shall proceed therein, according to the tenor of the said article. And in such cases it shall be the duty of the officers of the customs within whose districts such wrecks shall happen, to give notice thereof, as soon as may be, to the said judge, and to aid and assist him to perform the duties hereby assigned to him. The district judges of the United States shall also, within their respective districts be the competent judges, for the purposes expressed in the ninth article of the said convention, and it shall be incumbent on them to give aid to the consuls and vice-consuls of the King of the French, in arresting and securing deserters from vessels of the French nation according to the tenor of the said article.

Duty of Marshals.

And where by any article of the said convention, the consuls and vice-consuls of the King of the French, are entitled to the aid of the competent executive officers of the country, in the execution of any precept, the marshals of the United States and their deputies shall, within their respective districts, be the competent officers, and shall give their aid according to the tenor of the stipulations.

Where commitments shall be made.

And whenever commitments to the jails of the country shall become necessary in pursuance of any stipulation of the said convention, they shall be to such jails within the respective districts as other commitments under the authority of the United States are by law made.

(a) Act of July 6, 1797, chap. 12; act of February 28, 1803, chap. 9; act of February 28, 1811, chap. 23; act of March 3, 1813, chap. 42, sec. 6, 1810, ch. 39.

The decisions of the courts of the United States upon the powers, duties, and obligations of consuls, have been;

A foreign consul has a right to claim or institute a proceeding in rem where the rights of property of his fellow-citizens are in question, without a special procuration from those for whose benefit he acts. The Bello Corrunnes, 6 Wheat. 152; 5 Cond. Rep. 45.

A consul cannot receive actual restitution of the res in controversy, without a special authority. To watch over the rights and interests of their subjects, wherever the pursuits of commerce may draw them, or the vicissitudes of human affairs may force them, are the great objects for which consuls are deputed by their sovereigns. *Ibid.*

As an abstract question, it is difficult to understand on what ground a state can claim jurisdiction of civil suits against consuls. By the constitution, the judicial power of the courts of the United States, extends to all cases affecting ambassadors, other public ministers, and consuls, exclusive of the courts of the several states, and the judiciary act gives the district courts jurisdiction of all suits against consuls and vice consuls, except for certain offences enumerated in the act. Davis v. Packard, 7 Peters, 276.

Consuls are subject to indictment for misdemeanor in the courts of the United States. United States v. Ravara, 2 Dall. 297;

A consul is not personally answerable for a contract made in his official capacity on account of his government. Jones v. Le Tombe, 3 Dall. 384.

The advice of an American consul in a foreign port, gives to the master of a vessel no justification for an illegal act. Wilson v. The Mary, Gilpin's D. C. R. 31.

A consul's certificate of any fact is not evidence between third persons, unless expressly or impliedly made so by statute. Levy v. Burley, 2 Sumner's C. C. R. 356.

Under the consular act of 1803, the penalty of 500 dollars for not depositing the ship's register with the consul, on arrival at a foreign port, must be sued for within two years, the limitation prescribed by the act of 1790; it not being a revenue law within the meaning of the act of 1804. Parsons v. Hunter, 2 Summer's C. C. R. 419.

"RIDER I – Document C" - "Act of January 14, 1802, Chapter 1" – "*An Act for the apportionment of Representatives among the several States according to the second enumeration. (a)*"

ACTS OF THE SEVENTH CONGRESS

OF THE

UNITED STATES,

Passed at the first session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the seventh day of December, 1801, and ended on the third day of May, 1802.

THOMAS JEFFERSON, President; AARON BURR, Vice President of the United States, and President of the Senate; ABRAHAM BALDWIN, President of the Senate pro tempore, on the 14th of January, 1802, and from the 21st of April, 1802; NATHANIEL MACON, Speaker of the House of Representatives.

STATUTE I.

Jan. 14, 1802.

[Obsolete.] Apportionment of representatives.

One member to every thirty-three thousand persons in each state.
N. Hampshire 5.
Mas'chus'ts 17.
Vermont 4.
Rhode Island 2.
Connecticut 7.
New York 17.
New Jersey 6.
Pennsyl'a' 18.
Delaware 1.
Maryland 9.
Virginia 22.
N. Carolina 12.
S. Carolina 8.
Georgia 4.
Kentucky 6.
Tennessee 8.

CHAPTER I.—*An Act for the apportionment of Representatives among the several States, according to the second enumeration.*(a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, one thousand eight hundred and three, the House of Representatives shall be composed of members elected agreeably to a ratio of one member for every thirty-three thousand persons in each state, computed according to the rule prescribed by the constitution; that is to say: within the state of New Hampshire, five; within the state of Massachusetts, seventeen; within the state of Vermont, four; within the state of Rhode Island, two; within the state of Connecticut, seven; within the state of New York, seventeen; within the state of New Jersey, six; within the state of Pennsylvania, eighteen; within the state of Delaware, one; within the state of Maryland, nine; within the state of Virginia, twenty-two; within the state of North Carolina, twelve; within the state of South Carolina, eight; within the state of Georgia, four; within the state of Kentucky, six; and within the state of Tennessee, three members.

APPROVED, January 14, 1802.

STATUTE I.

Jan. 26, 1802.

CHAP. II.—*An Act concerning the Library for the use of both Houses of Congress.*(b)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the books and

(a) By the act of April 14, 1792, chap. 23, the ratio of representatives was one member to every thirty-three thousand persons in each state, after the first census.
By the act of January 14, 1802, chap. 1, the ratio of representatives was one member to every thirty-three thousand persons in each state, after the second census.
By the act of December 21, 1811, chap. 9, the ratio of representatives was one member to every thirty-five thousand persons in each state, after the third census.
By the act of March 7, 1822, chap. 10, the ratio of representatives was one member to every forty thousand persons in each state, after the fourth census.
By the act of May 22, 1832, chap. 91, the ratio of representatives was one member to every forty-seven thousand seven hundred persons in each state, after the fifth census.
By the act of June 25, 1842, chap. 47, the ratio of representatives was one member to every seventy thousand six hundred and eighty persons in each state, and one additional member to each state having a fraction greater than one moiety of that number of persons, according to the sixth census.

(b) The acts for the establishment and regulation of the Library of Congress, are: An act concerning

"RIDER I – Document D" - "Act of December 21, 1811, Chapter IX" – "*An Act for the apportionment of Representatives among the several States, according to the third enumeration. (a)*"

tory of Michigan, on the twenty-fifth day of November, one thousand eight hundred and eight.

Roads to be opened and made under the direction of the President.

SEC. 2. *And be it further enacted*, That the aforesaid roads shall be opened and made under the direction of the President of the United States, in such manner as he shall direct.

Compensation of the commissioners and assistants.

SEC. 3. *And be it further enacted*, That the said commissioners shall each be entitled to receive three dollars, and their necessary assistants one dollar and fifty cents, for each and every day which they shall be necessarily employed in the exploring, surveying and marking said roads; and for the purpose of compensating the aforesaid commissioners and their assistants, and for opening and making said roads, there shall be and hereby is appropriated the sum of six thousand dollars, to be paid out of any monies in the treasury not otherwise appropriated.

APPROVED, December 12, 1811.

STATUTE I.

Dec. 21, 1811.

[Obsolete.]

CHAP. IX.—*An Act for the apportionment of Representatives among the several States, according to the third enumeration.*(a)

Ratio of one representative to every thirty-five thousand.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, one thousand eight hundred and thirteen, the House of Representatives shall be composed of members elected agreeably to a ratio of one representative for every thirty-five thousand persons in each state, computed according to the rule prescribed by the constitution of the United States, that is to say: Within the state of New Hampshire, six; within the state of Massachusetts, twenty; within the state of Vermont, six; within the state of Rhode Island, two; within the state of Connecticut, seven; within the state of New York, twenty-seven; within the state of New Jersey, six; within the state of Pennsylvania, twenty-three; within the state of Delaware, two; within the state of Maryland, nine; within the state of Virginia, twenty-three; within the state of North Carolina, thirteen; within the state of South Carolina, nine; within the state of Georgia, six; within the state of Kentucky, ten; within the state of Ohio, six; within the state of Tennessee, six.

APPROVED, December 21, 1811

STATUTE I.

Dec. 24, 1811.

[Obsolete.]

Act of March 3, 1815, ch. 79.

CHAP. X.—*An Act for completing the existing Military Establishment.*

The military establishment to be completed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the military establishment, as now authorized by law, be immediately completed.

Pay and bounty to officers and men.

SEC. 2. *And be it further enacted*, That there be allowed and paid to each effective, able bodied man, recruited or re-enlisted for that service, for the term of five years, unless sooner discharged, the sum of sixteen dollars; but the payment of one half of the said bounty shall be deferred until he shall be mustered and have joined the corps in which he is to serve; and whenever any non-commissioned officer or soldier shall be discharged from the service, who shall have obtained from the commanding officer of his company, battalion or regiment a certificate that he had faithfully performed his duty whilst in service, he shall moreover be allowed and paid, in addition to the aforesaid bounty, three months' pay, and one hundred and sixty acres of land; and the heirs and representatives of those non-commissioned officers or soldiers, who may be killed in action, or die in the service of the United States, shall likewise be paid and allowed the said additional bounty of three months' pay, and one hundred and sixty acres of land, to be designated, surveyed and laid off

Non-commissioned officers and soldiers when discharged to have one hundred and sixty acres of land and additional bounty.

(a) See act of January 14, 1802, chap. 1, page 128, and note.

"RIDER I – Document E" - "Act of April 7, 1820, Chapter XXXIX" – "*An Act for apportioning of representatives in the Seventeenth Congress, to be elected in the State of Massachusetts and Maine, and for other purposes. (a)*" ***(Divides Massachusetts into States of Massachusetts and Maine, Apportions 13 Representatives to Massachusetts and 7 Representatives to Maine.)**

court by this act established, and entered on the docket of the same at its first session, in order that the said causes may be heard and decided therein, in the manner provided by the third section of this act.

Approved, March 30, 1820.

ferred to the circuit court of Maine.

Statute I.

March 30, 1820.

Chap. XXVIII.—*An Act further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon.*

Act of March 3, 1819, ch. 74.
Act of May 10, 1800, ch. 55.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the operation of the sixth condition of the fifth section of the act entitled "An act to amend the act entitled "An act providing for the sale of the lands of the United States north-west of the Ohio, and above the mouth of Kentucky river," be, and the same is hereby suspended until the thirty-first day of March, one thousand eight hundred and twenty-one, in favour of the purchasers of public lands, at any of the land offices of the United States: *Provided*, That the benefit of this act shall not be extended to any one purchaser for a greater quantity than six hundred and forty acres.

Forfeiture of lands for non-payment suspended till 31st March, 1821.

Proviso; benefit limited to purchasers within 640 acres.

Approved, March 30, 1820.

Statute I.

April 7, 1820.

Chap. XXXIX.—*An Act for apportioning the representatives in the seventeenth Congress, to be elected in the state of Massachusetts and Maine, and for other purposes.* (a)

Act of March 3, 1820, ch. 19.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, in the election of representatives in the seventeenth Congress, the state of Massachusetts shall be entitled to choose thirteen representatives only; and the state of Maine shall be entitled to choose seven representatives, according to the consent of the legislature of said state of Massachusetts, for this purpose given by their resolve passed on the twenty-fifth day of January last, and prior to the admission of the state of Maine into the Union.

Massachusetts to choose only 13 representatives in the 17th Congress.

And Maine, 7 representatives.

Sec. 2. *And be it further enacted*, That if the seat of any of the representatives in the present Congress, who were elected in and under the authority of the state of Massachusetts, and who are now inhabitants of the state of Maine, shall be vacated by death, resignation, or otherwise, such vacancy shall be supplied by a successor, who shall, at the time of his election, be an inhabitant of the state of Maine.

In case of the vacation of the seat of a representative in the 16th Congress, elected for Massachusetts, being an inhabitant of Maine, his successor to be an inhabitant of Maine also.

Approved, April 7, 1820.

Statute I.

April 11, 1820.

Chap. XL.—*An Act making appropriations for the support of government, for the year one thousand eight hundred and twenty.*

Sums appropriated, for—

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the following sums be, and the same are hereby, respectively, appropriated; that is to say:

Members of Congress, &c.

For compensation, granted by law to the members of the Senate and House of Representatives, their officers and attendants, three hundred and eighty-four thousand and ten dollars.

Contingent expenses.

For the expenses of stationery, fuel, printing, and all other contingent and incidental expenses, of both Houses of Congress, forty-five thousand dollars.

(a) See note to act of December 21, 1811, ch. 9, vol. ii. 669, referring to the acts apportioning the representatives in Congress according to the enumeration of the inhabitants of the United States, conforming to the returns of the census.

"RIDER I – Document F" - "Act of March 7, 1822, Chapter X" – "*An Act for the apportionment of representatives among the several States, according to the fourth census. (a)*"

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid out of any money in the treasury not otherwise appropriated.

Out of money in the treasury.

APPROVED, February 19, 1822.

STATUTE I.

Feb. 19, 1822.

CHAP. VIII.—*An Act authorizing the transfer of certain certificates of the funded debt of the United States.*

[Obsolete.] Certificates of the funded debt, issued to creditor states upon the assumption of their debts, made transferable.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the certificates of the funded debt of the United States, which, upon the assumption of the debts of the several creditor states, were issued in their favour, respectively, be, and hereby are, made transferable, according to the rules and forms instituted for the purpose of transfers of the public debt.

APPROVED, February 19, 1822.

STATUTE I.

Feb. 23, 1822.

CHAP. IX.—*An Act for the preservation of the timber of the United States in Florida.*

Act of March 1, 1817, ch. 22. The President may employ the land and naval forces to prevent the destruction of, or carrying away, public timber, &c.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and hereby is, authorized to employ so much of the land and naval forces of the United States as may be necessary effectually to prevent the felling, cutting down, or other destruction of the timber of the United States in Florida; and also to prevent the transportation or carrying away any such timber as may be already felled or cut down; and to take such other and further measures as may be deemed advisable for the preservation of the timber of the United States in Florida.

APPROVED, February 23, 1822.

STATUTE I.

March 7, 1822.

CHAP. X.—*An Act for the apportionment of representatives among the several states, according to the fourth census.* (a)

After the 3d of March, 1823, the House of Representatives to be composed of members elected agreeably to a ratio of one for every 40,000 persons, &c.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, from and after the third day of March, one thousand eight hundred and twenty-three, the House of Representatives shall be composed of members elected agreeably to a ratio of one representative for every forty thousand persons in each state, computed according to the rule prescribed by the constitution of the United States; that is to say: within the state of Maine, seven; within the state of New Hampshire, six; within the state of Massachusetts, thirteen; within the state of Rhode Island, two; within the state of Connecticut, six; within the state of Vermont, five; within the state of New York, thirty-four; within the state of New Jersey, six; within the state of Pennsylvania, twenty-six; within the state of Delaware, one; within the state of Maryland, nine; within the state of Virginia, twenty-two; within the state of North Carolina, thirteen; within the state of South Carolina, nine; within the state of Georgia, seven; within the state of Alabama, two; within the state of Mississippi, one; within the state of Louisiana, three; within the state of Tennessee, nine; within the state of Kentucky, twelve; within the state of Ohio, fourteen; within the state of Indiana, three; within the state of Illinois, one; and within the state of Missouri, one.

Number of members to which each state is entitled.

(a) See the acts relating to the apportionment of representatives among the several states, according to the census of the United States, vol. ii. 128.

Alabama to have three members, if it is made to appear, &c.

Sec. 2. *And be it further enacted*, That, as the returns of the marshal of the state of Alabama are not complete, in consequence of the death of the former marshal, who commenced the enumeration in said state, nothing in this act contained shall be construed to prevent the state of Alabama from having three representatives, if it shall be made to appear to Congress, at the next session, that the said state, at the time of passing this act, would have been entitled to that number, according to its population and the ratio hereby established, if the said returns had been complete.

Approved, March 7, 1822.

Statute I.

March 15, 1822.

[Obsolete.]

Chap. XI.—*An Act making appropriations for the military service of the United States for the year one thousand eight hundred and twenty-two, and towards the service of the year one thousand eight hundred and twenty-three.*

Sums appropriated for the military service of the United States of the year 1822.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the following sums be, and the same are hereby, respectively appropriated for the military service of the United States for the year one thousand eight hundred and twenty-two, to wit:

Pay and subsistence of officers.

For the pay of the army and subsistence of the officers, nine hundred and eighty-two thousand nine hundred and seventeen dollars, including the sum of eighty-six thousand nine hundred dollars for the pay and subsistence of the officers and cadets belonging to the military academy at West Point.

Subsistence in addition to an unexpended balance.

For subsistence, in addition to an unexpended balance of one hundred and twenty thousand eight hundred and sixty-three dollars and thirty-seven cents, the sum of one hundred and seventy-four thousand seven hundred and ninety-three dollars and sixty-three cents.

Forage.

For forage for officers, in addition to an unexpended balance of eleven thousand eight hundred and sixty-nine dollars, the sum of five thousand six hundred and seventy-five dollars.

Medical and hospital department.

For the medical and hospital department, in addition to an unexpended balance of twelve thousand one hundred and thirty-three dollars and forty-four cents, the sum of twenty-two thousand eight hundred and fifty-four dollars and fifty-six cents.

Purchasing department.

For the purchasing department, in addition to an unexpended balance of fifty-five thousand and eighty-nine dollars and forty cents, the sum of seventy-three thousand four hundred and thirty-three dollars; and for the purchase of woollens for the year one thousand eight hundred and twenty-three, the sum of seventy-five thousand dollars.

Quartermaster general's department.

For the quartermaster general's department, for regular supplies, transportation, rent, and repairs, postage, courts martial, fuel, and contingencies, and for extra pay to soldiers employed in the erection and repairs of barracks and other labour, three hundred and thirteen thousand two hundred and seventeen dollars.

Contingencies.

For the contingencies of the army, twenty thousand dollars.

Quartermaster's supplies, &c.

For quartermaster's supplies, transportation, mathematical instruments, books, and stationery, for the military academy, thirteen thousand nine hundred and seventy-nine dollars.

Pensions to invalids and others.

For the pensions to the invalids, to the commutation pensioners, and to the widows and orphans, in addition to an unexpended balance of twenty-seven thousand eight hundred and ninety-one dollars and five cents, the sum of three hundred and seventeen thousand one hundred and eight dollars.

Revolutionary pensioners.

For pensions to the revolutionary pensioners of the United States, including a deficiency in the appropriation of last year of four hundred and fifty-one thousand eight hundred and thirty-six dollars and fifty-seven

"RIDER I – Document G" - "Act of January 14, 1823, Chapter II" – "*An Act concerning the apportionment of representatives in the State of Alabama. (a)*" ***(Apportions 3 Representatives to Alabama.)**

ACTS OF THE SEVENTEENTH CONGRESS

OF THE

UNITED STATES,

Passed at the second session, which was begun and held at the City of Washington, in the District of Columbia, on Monday the second day of December, 1822, and ended on the third day of March, 1823.

JAMES MONROE, President; DANIEL D. TOMPKINS, Vice President of the United States, and President of the Senate; JOHN GAILLARD, President of the Senate pro tempore; PHILIP P. BARBOUR, Speaker of the House of Representatives.

STATUTE II.

Dec. 20, 1822.

CHAP. I.—*An Act authorizing an additional naval force for the suppression of piracy.*

President authorized to purchase or construct vessels, to fit, equip, and man them for immediate service, for repressing piracy, &c. Act of March 3, 1825, ch. 101, sec. 2.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he hereby is, authorized to purchase or construct a sufficient number of vessels, in addition to those now employed, of such burthen and construction as he may deem necessary, and to fit, equip, and man the same for immediate service, for the purpose of repressing piracy, and of affording effectual protection to the citizens and commerce of the United States in the Gulf of Mexico, and the seas and territories adjacent.

Appropriation for such expenditure.

SEC. 2. *And be it further enacted,* That the sum of one hundred and sixty thousand dollars be appropriated to meet the expenditure to be incurred as aforesaid, and paid out of any money in the treasury, not otherwise appropriated.

APPROVED, December 20, 1822.

STATUTE II.

Jan. 14, 1823.

CHAP. II.—*An Act concerning the apportionment of representatives in the state of Alabama.* (a)

[Obsolete.] From the 3d day of March next, the state of Alabama to have three members in the House of Representatives, agreeably to the act of March 7, 1822, ch. 10.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, from and after the third day of March, one thousand eight hundred and twenty-three, the state of Alabama shall have three members in the House of Representatives, in the Congress of the United States, it appearing, from the returns of the marshal of Alabama, deposited in the office of the Secretary of state of the United States, that the said state of Alabama at the passage of the act, entitled "An act for the apportionment of representatives among the several states, according to the fourth census," approved March seven, one thousand eight hundred and twenty-two, was entitled to the number of three representatives, according to the population of the said state, and the ratio established by the said act.

APPROVED, January 14, 1823.

(a) By the act of March 2, 1819, ch. 47, Alabama was authorized to form a state government for admission into the Union. By resolution of December 11, 1819, Alabama was admitted into the Union.

"RIDER I – Document H" - "Act of May 22, 1932, Chapter XCI" – "*An Act for the apportionment of representatives among the several States, according to the fifth census.*"

thorized, by proclamation, to suspend the operation of either or both of the provisions of this act, as the case may be, and to withhold any or all the privileges allowed, or to be allowed, to Colombian vessels or their cargoes.

Approved, May 19, 1832.

Statute I.

May 19, 1832.

CHAP. LXXX.—*An Act authorizing the revision and extension of the rules and regulations of the naval service.*

Board to be constituted, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to constitute a board of naval officers to be composed of the naval commissioners and two post captains to meet at the seat of government, whose duty it shall be, with the aid and assistance of the attorney general, carefully to revise and enlarge the rules and regulations governing the naval service, with the view to adapt them to the present and future exigencies of this important arm of national defence, which rules and regulations, when approved by him and sanctioned by Congress, shall have the force of law, and stand in lieu of all others heretofore enacted.

Approved, May 19, 1832.

Statute I.

May 23, 1832.

CHAP. XCI.—*An Act for the apportionment of representatives among the several states, according to the fifth census.*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the third day of March, one thousand eight hundred and thirty-three, the House of Representatives shall be composed of members, elected agreeably to a ratio of one representative for every forty-seven thousand and seven hundred persons in each state, computed according to the rule prescribed by the constitution of the United States, that is to say, within the state of Maine, eight; within the state of New Hampshire, five; within the state of Massachusetts, twelve; within the state of Rhode Island, two; within the state of Connecticut, six; within the state of Vermont, five; within the state of New York, forty; within the state of New Jersey, six; within the state of Pennsylvania, twenty-eight; within the state of Delaware, one; within the state of Maryland, eight; within the state of Virginia, twenty-one; within the state of North Carolina, thirteen; within the state of South Carolina, nine; within the state of Georgia, nine; within the state of Kentucky, thirteen; within the state of Tennessee, thirteen; within the state of Ohio, nineteen; within the state of Indiana, seven; within the state of Mississippi, two; within the state of Illinois, three; within the state of Louisiana, three; within the state of Missouri, two; and within the state of Alabama, five.

Maine,	8
NewHamp.	5
Mass.	12
R. Island,	2
Conn.	6
Vermont,	5
NewYork,	40
NewJersey,	6
Penn'a.	28
Delaware,	1
Maryland,	8
Virginia,	21
N.Carolina,	13
S.Carolina,	9
Georgia,	9
Kentucky,	13
Tennessee,	13
Ohio,	19
Indiana,	7
Mississippi,	2
Illinois,	3
Louisiana,	3
Missouri,	2
Alabama,	5

Approved, May 23, 1832.

Statute I.

May 23, 1832.

CHAP. XCII.—*An act to alter the time of holding the district court of the United States for the western district of Louisiana.* (a)

Court to be held 2d Monday in June.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the district court of the United States for the western district of Louisiana, shall be hereafter holden on the second Monday of June, in each year, instead of the third Monday of August, as is now required by law.

(a) See notes to the acts relating to the district court in Louisiana, vol. iii. p. 774.

"RIDER I – Document I" - "Act of June 25, 1842, Chapter XLVII" – "*An Act for the apportionment of Representatives among the several States according to the sixth census. (a)*"

have been offered at public sale within either of the land districts in said State of Mississippi, contiguous to said lands, within said State," ceded by the Chickasaws, be so amended that the said lands may be selected, under the direction of the Governor of said State of Mississippi, out of any public lands remaining unsold within either of the land districts in said State of Mississippi, contiguous to the lands in said State, ceded by the Chickasaw Indians.

APPROVED, June 13, 1842.

STATUTE II.

June 25, 1842.

CHAP. XLVII.—*An Act for the apportionment of Representatives among the several States according to the sixth census.* (a)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, one thousand eight hundred and forty-three, the House of Representatives shall be composed of members elected agreeably to a ratio of one Representative for every seventy thousand six hundred and eighty persons in each State, and of one additional representative for each State having a fraction greater than one moiety of the said ratio, computed according to the rule prescribed by the Constitution of the United States; that is to say: Within the State of Maine, seven; within the State of New Hampshire, four; within the State of Massachusetts, ten; within the State of Rhode Island, two; within the State of Connecticut, four; within the State of Vermont, four; within the State of New York, thirty-four; within the State of New Jersey, five; within the State of Pennsylvania, twenty-four; within the State of Delaware, one; within the State of Maryland, six; within the State of Virginia, fifteen; within the State of North Carolina, nine; within the State of South Carolina, seven; within the State of Georgia, eight; within the State of Alabama, seven; within the State of Louisiana, four; within the State of Mississippi, four; within the State of Tennessee, eleven; within the State of Kentucky, ten; within the State of Ohio, twenty-one; within the State of Indiana, ten; within the State of Illinois, seven; within the State of Missouri, five; within the State of Arkansas, one; and within the State of Michigan, three.

House of Representatives, how to be composed.

Ratio of Representation.

Number of Representatives to each State.

SEC. 2. *And be it further enacted*, That in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts composed of contiguous territory equal in number to the number of Representatives to which said State may be entitled, no one district electing more than one Representative.

Where a State is entitled to more than one representative, the election to be by districts, &c.

APPROVED, June 25, 1842.

STATUTE II.

July 5, 1842.

CHAP. L.—*An Act confirming certain land claims in Louisiana.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claims to lands within the land district of New Orleans, being numbers six, seven, eight, nine, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, thirty, thirty-four, thirty-five, thirty-eight, forty-seven, forty-eight, fifty-seven, fifty-nine, sixty, sixty-one, and sixty-two, of the two reports of the register and receiver of said land district, dated fourteenth of December, eighteen hundred and thirty-six, and second of November, eighteen hundred and thirty-seven, and made under the provisions of the act of the sixth of February, eighteen hundred and thirty-five, entitled "An act for the final adjustment of claims to lands in the State of Louisiana," be, and the same are

Certain land claims in New Orleans district confirmed.

(a) See notes of the acts for the apportionment of representatives among the several States, according to the first, second, third, fourth, fifth, and sixth census; act of Jan. 11, 1802, chap. 1.

"RIDER I – Document J" - "Act of May 23, 1850, Chapter XI" – "*An Act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the Number of the Members of the House of Representatives, and provide for the future Apportionment among the several States.*"

money in the treasury not otherwise appropriated.

fiscal year ending June thirtieth, eighteen hundred and fifty, and for the whole year ending June thirtieth, eighteen hundred and fifty-one, shall be paid out of any money in the treasury not otherwise appropriated.

APPROVED, May 15, 1850.

May 23, 1850.
1850, ch. 48.

CHAP. XI. — *An Act providing for the taking of the seventh and subsequent Censuses of the United States, and to fix the Number of the Members of the House of Representatives, and provide for their future Apportionment among the several States.*

I. — Of the Duties, Liabilities, and Compensation of Marshals.

Marshals to take a census.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the marshals of the several districts of the United States, including the District of Columbia and the Territories, are hereby required respectively to cause all the inhabitants to be enumerated, and to collect all the other statistical information within their respective districts, in the manner provided for in this act, and specified in the instructions which shall be given by the Secretary of the Interior, and in the tables annexed, and to return the same to the said Secretary on or before the first day of November next ensuing, omitting from the enumeration of the inhabitants Indians not taxed; also, at the discretion of said Secretary, any part or all the statistics of the Territories except those of population:

Proviso.

Provided, however, And if the time assigned for making the returns shall prove inadequate for the Territories, the said Secretary may extend the same;

Further proviso.

Provided, further, If there be any district or Territory of the United States in which there is no marshal of the United States, the President shall appoint some suitable person to discharge the duties assigned by this act to marshals.

Marshals required to swear or affirm.

SEC. 2. *And be it further enacted*, That each of said marshals shall, before entering upon his duties, take and subscribe the following oath, or affirmation, before any circuit or district judge of the United States, or before any judge of any State court, to wit:

Form of oath of affirmation.

I, , marshal of the district of , do solemnly swear (or affirm) that I will to the best of my ability enumerate, or cause to be enumerated, all the inhabitants of said district, and will collect, or cause to be collected, the other statistical information within the same, and will faithfully perform all the duties enjoined on me by the act providing for the taking of the seventh census.

And when duly authenticated by the said judge, he shall deposite a copy thereof, so authenticated, with the said Secretary of the Interior, and no marshal shall discharge any of the duties herein required, until he has taken and subscribed this oath, and forwarded a copy as aforesaid.

Each marshal is required to separate his district into subdivisions containing not exceeding 20,000 persons, &c.

SEC. 3. *And be it further enacted*, That each marshal shall separate his district into subdivisions containing not exceeding twenty thousand persons in each, unless the limitation to that number causes inconvenient boundaries, in which case the number may be larger; and shall also estimate, from the best sources of information which he is able to obtain, the number of square miles in each subdivision, and transmit the same to the Department of the Interior:

Proviso.

Provided, however, That in bounding such subdivisions, the limits thereof shall be known civil divisions, such as county, hundred, parish, township, town, city, ward or district lines, or highways, or natural boundaries, such as rivers, lakes, &c.

Each marshal to appoint and

SEC. 4. *And be it further enacted*, That each marshal shall appoint an assistant for each such subdivision, who is a resident

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therein, to whom he shall give a commission under his hand, authorizing him to perform the duties herein assigned to assistants, which commission shall set forth the boundaries of the subdivision, of which appointment so made, and the boundaries so specified, the marshal shall keep a true and faithful record. commission an assistant for each subdivision.

Marshals required to supply assistants with needful instructions, and blanks for the prosecution of their duties, &c.

Sec. 5. *And be it further enacted*, That each marshal shall seasonably supply each assistant with the instructions issued by the Department of the Interior, the blanks provided for the enumeration of the population, and the collection of other statistics, and give to him, from time to time, all such information and directions as may be necessary to enable him to discharge his duty. He shall carefully examine whether the return of each assistant marshal be made in conformity with the terms of this act, and, where discrepancies are detected, require the same to be corrected. He shall dispose of the two sets of the returns required from the assistant marshals as hereinafter provided for as follows: One set he shall transmit forthwith to the Secretary of the Interior; and the other copy thereof he shall transmit to the office of the Secretary of the State or Territory to which his district belongs. He shall classify and determine the rate of compensation to be paid to each assistant marshal according to the provisions of this act, subject to the final approval of the Secretary of the Interior. He shall, from time to time, make himself acquainted with the progress made by each assistant marshal in the discharge of his duties, and in case of inability or neglect arising from sickness, or otherwise, appoint a substitute. Marshal's duties defined.

Marshal forbidden to secure fee, reward, or compensation, from an assistant.

Penalty.

Sec. 6. *And be it further enacted*, That if any marshal shall, by any arrangement or understanding whatever, secure to himself any fee, reward, or compensation for the appointment of an assistant, or shall in any way secure to himself any part of the compensation provided by this act for the services of assistants, or if he shall knowingly neglect or refuse to perform the duties herein assigned to him, he shall, in any such case, be deemed guilty of a misdemeanor, and if convicted in any such case, shall, for such offence, forfeit and pay not less than one thousand dollars.

Marshal may appoint deputies.

Proviso.

Sec. 7. *And be it further enacted*, That any marshal of the United States may, for any purposes not inconsistent with the duties of the assistants herein provided for, appoint a deputy or deputies, to act in his behalf; but for all official acts of such deputy or deputies the marshal shall be responsible: *Provided, however*, An appointment to collect the social statistics shall not be deemed an interference with the duties of the assistants.

Marshal's fees.

Sec. 8. *And be it further enacted*, That whenever the population returned in any district shall exceed one million, the marshal thereof shall be entitled to receive as a compensation for all his services in executing this act, after the rate of one dollar for each thousand persons; but if the number returned shall be less than a million in any district, the marshal thereof shall be allowed for his services at the rate of one dollar and twenty-five cents for each thousand persons: *Provided, however*, That no marshal shall receive less than two hundred and fifty dollars; and when the compensation does not in the whole exceed the sum of five hundred dollars, a reasonable allowance for clerk hire shall be made, the amount whereof shall be determined by the Secretary of the Interior. *And provided, further*, That the marshal of any district may, at his discretion, perform the duties of an assistant in any subdivision in which he may reside; and when he shall personally perform the duties assigned by this act to assistants, he shall receive therefor the compensation allowed to assistants for like services. Further proviso.

II.— Of Assistants, their Duties, Liabilities, and Compensation.

Assistant to be commissioned by the marshal.

SEC. 9. *And be it further enacted*, That no assistant shall be deemed qualified to enter upon his duties, until he has received from the marshal, under his hand, such a commission as is provided for in this act, and shall take and subscribe the following oath, or affirmation, which shall be thereon endorsed, to wit:

Form of oath or affirmation.

I, , an assistant to the marshal of the district of , do solemnly swear (or affirm) that I will make a true and exact enumeration of all the inhabitants within the district assigned to me, and will also faithfully collect the other statistics therein, in the manner provided for in the act for taking the seventh census, and in conformity with all lawful instructions which I may receive, and will make due and correct returns thereof, as required in said act. (Signed.) Which said oath, or affirmation, may be administered by any judge of a court of record, or any justice of the peace empowered to administer oaths, and a copy thereof duly authenticated shall be forwarded to the marshal by such assistant before he proceeds to the business of the appointment.

Duties of assistants defined.

SEC. 10. *And be it further enacted*, That each assistant, when duly qualified in manner aforesaid, shall perform the service required of him, by a personal visit to each dwelling-house, and to each family, in the subdivision assigned to him, and shall ascertain, by inquiries made of some member of each family, if any one can be found capable of giving the information, but if not, then of the agent of such family, the name of each member thereof, the age and place of birth of each, and all the other particulars specified in this act, the tables thereto subjoined, and the instructions of the Secretary of the Interior; and shall also visit personally the farms, mills, shops, mines, and other places respecting which information is required, as above specified, in his district, and shall obtain all such information from the best and most reliable sources; and when, in either case, the information is obtained and entered on the tables, as obtained, till the same is complete, then such memoranda shall be immediately read to the person or persons furnishing the facts, to correct errors and supply omissions, if any shall exist.

Each assistant to furnish returns within one month after the time specified.

SEC. 11. *And be it further enacted*, That each assistant shall, within one month after the time specified for the completion of the enumeration, furnish the original census returns to the clerk of the county court of their respective counties, and two copies, duly compared and corrected, to the marshal of the district. He shall affix his signature to each page of the schedules before he returns them to his marshal, and, on the last page thereof, shall state the whole number of pages in each return, and certify that they were well and truly made according to the tenor of his oath of office.

Assistants' compensation for enumerating inhabitants.

SEC. 12. *And be it further enacted*, That each assistant shall be allowed, as compensation for his services, after the rate of two cents for each person enumerated, and ten cents a mile for necessary travel, to be ascertained by multiplying the square root of the number of dwelling-houses in the division by the square root of the number of square miles in each division, and the product shall be taken as the number of miles travelled for all purposes in taking this census.

Additional compensation for specified duties.

SEC. 13. *And be it further enacted*, That, in addition to the compensation allowed for the enumeration of the inhabitants, there shall be paid for each farm, fully returned, ten cents; for each establishment of productive industry, fully taken and returned, fifteen cents; for the social statistics, two per cent. upon the amount allowed for the enumeration of population, and for each name of a deceased person

returned, two cents: *Provided, however*, That, in making returns of farms and establishments of productive industry, the instructions given by the Secretary of the Interior must be strictly observed, and no allowance shall be made for any return not authorized by such instructions, or for any returns not limited to the year next preceding the first of June next. Proviso.

SEC. 14. *And be it further enacted*, That any assistant who, having accepted the appointment, shall, without justifiable cause, neglect or refuse to perform the duties enjoined on him by this act, shall be guilty of a misdemeanor, and, upon conviction, be liable to a forfeiture of five hundred dollars; or if he shall wilfully make a false oath, it shall be deemed perjury; or if he shall wilfully make a false certificate, it shall be deemed a misdemeanor, and if convicted or found guilty of either of the last-named offences, he shall forfeit and pay not exceeding five thousand dollars, and be imprisoned not less than two years. And each marshal shall be alike punishable for the two last-named offences when committed by him. Non-performance of duties declared a misdemeanor. Penalties on marshals and assistants, for false oaths and false certificates.

SEC. 15. *And be it further enacted*, That each and every free person more than twenty years of age, belonging to any family residing in any subdivision, and in case of the absence of the heads and other members of any such family, then any agent of such family shall be, and each of them hereby is, required, if thereto requested by the marshal or his assistant, to render a true account, to the best of his or her knowledge, of every person belonging to such family, in the various particulars required in and by this act, and the tables thereto subjoined, on pain of forfeiting thirty dollars, to be sued for and recovered in an action of debt by the assistant to the use of the United States. Persons refusing to give information, subject to a forfeit of thirty dollars.

SEC. 16. *And be it further enacted*, That all fines and penalties herein provided for may be enforced in the courts of the United States within the States or Territories where such offence shall have been committed, or forfeiture incurred. Fines and penalties to be enforced in the U. States courts.

SEC. 17. *And be it further enacted*, That the marshals and their assistants are hereby authorized to transmit, through the post-office, any papers or documents relating to the census, by writing thereon, "Official business, census," and subscribing the same with the addition to his name of marshal, or assistant, as the case may be; but this privilege shall extend to nothing but documents and papers relating to the census, which shall pass free; and the sum of twelve thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of covering the expense of transmitting the blanks and other matter through the mail, to be paid to the Post-Office Department. Marshals and assistants authorized to transmit papers and documents relating to the census through the Post-Office, free; for transmitting blanks, &c., an appropriation of $12,000 is made.

SEC. 18. *And be it further enacted*, That if, in any of the Territories or places where the population is sparse, the officers of the army, or any persons thereto belonging, can be usefully employed in taking the census, the Secretary of War is hereby directed to afford such aid, if it can be given without prejudice to the public service. Where the population is sparse, officers and others belonging to the army to give necessary aid.

SEC. 19. *And be it further enacted*, That the Secretary of the Interior is hereby required to carry into effect the provisions of this act, and to provide blanks and distribute the same among the marshals, so that the enumeration may commence on the first day of June next, and be taken with reference to that day in each and every district and subdivision of districts; to draw up and distribute, at the same time, printed instructions, defining and explaining the duties of such as collect the statistics, and the limits by which such duties are circumscribed, in a clear and intelligible manner; to see, also, that all due diligence is employed by the marshals and assistants to make return of their respective doings completed, at the times herein prescribed; and further, as the returns are so made, to cause the same to be classified and arranged in the best and most convenient manner for use, and lay The Secretary of the Interior required to provide blanks, and distribute them to the marshals.

To be laid before Congress.

the same before Congress at the next session thereof. And to enable him the better to discharge these duties, he is hereby authorized and required to appoint a suitable and competent person as superintending clerk, who shall, under his direction, have the general management of matters appertaining thereto, with the privilege of franking and receiving, free of charge, all official documents and letters connected therewith; and the said Secretary shall also appoint such clerks and other officers as may be necessary, from time to time, for the efficient management of said service. And the compensation to be allowed and paid to the officers connected with the census office, shall be as follows: For the superintending clerk, two thousand five hundred dollars per annum in full for his services; and for other assistants and clerks, the compensation usually paid for similar services, to be fixed and allowed by the Secretary of the Interior. *Provided*, That no salary to a subordinate clerk under this section shall exceed the sum of one thousand dollars per annum. The blanks and preparatory printing for taking the census shall be prepared and executed under the direction of the Census Board; the other printing hereafter to be executed as Congress shall direct.

Superintending clerk and other officers authorized.

Franking privilege.

Salaries.

Proviso.

Blanks and printing.

Appropriation.

SEC. 20. *And be it further enacted*, That for the purpose of carrying into effect this act, and defraying the preliminary expenses, there is hereby appropriated, out of any money in the treasury not otherwise appropriated, one hundred and fifty thousand dollars; out of which the said Secretary of the Interior may allow, to the person employed as secretary of the Census Board, a compensation after the rate of three thousand dollars per annum during the period he has been in their employ.

Salary of the Secretary of the Census Board.

The marshal to certify that the assistant has performed his duty.

SEC. 21. *And be it further enacted*, That whenever a marshal shall certify that an assistant has completed to his satisfaction, and made return of the subdivision confided to him, and shall also certify the amount of compensation to which, under the provisions of this act, such assistant is entitled, designating how much for each kind of service, the Secretary of the Interior shall thereupon cause one half of the sum so due to be paid to such assistant, and when the returns have been carefully examined for classification, if found executed in a manner satisfactory, then he shall also cause the other half to be paid. And he shall make payments in the manner and upon like conditions to the several marshals for their services.

Tables annexed part of the act.

SEC. 22. *And be it further enacted*, That the tables hereto annexed, and made part of this act, are numbered from one to six, inclusive.

If no other law be passed for the taking of the census before the 1st of January of any year, required by the Constitution of the U. S., then the census to be taken according to this act.

SEC. 23. *And be it further enacted*, That if no other law be passed providing for the taking of the eighth, or any subsequent census of the United States, on or before the first day of January of [illegible] year, when, by the Constitution of the United States, any future enumeration of the inhabitants thereof is required to be taken, such census shall, in all things, be taken and completed according to the provisions of this act.

House of Representatives to consist of two hundred and thirty-three members.

SEC. 24. *And be it further enacted*, That from and after the third day of March, one thousand eight hundred and fifty-three, the House of Representatives shall be composed of two hundred and thirty-three members, to be apportioned among the several States in the manner directed in the next section of this act.

Enumeration to be made, and apportionment declared, under the direction of the Secretary of the Interior.

SEC. 25. *And be it further enacted*, That so soon as the next and each subsequent enumeration of the inhabitants of the several States, directed by the Constitution of the United States to be taken, shall be completed and returned to the office of the Department of the Interior, it shall be the duty of the Secretary of the Interior to ascertain the aggregate representative population of the United States, by adding to the whole number of free persons in all the States, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons; which aggregate population he shall divide by the number two hundred and thirty-three, and the prod-

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SCHEDULE 1,
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uct of such division, rejecting any fraction of an unit, if any such happen to remain, shall be the ratio, or rule of apportionment, of representatives among the several States under such enumeration; and the said Secretary of the Department of the Interior shall then proceed, in the same manner, to ascertain the representative population of each State, and to divide the whole number of the representative population of each State by the ratio already determined by him as above directed; and the product of this last division shall be the number of representatives apportioned to such State under the then last enumeration: *Provided*, That the loss in the number of members caused by the fractions remaining in the several States, on the division of the population thereof, shall be compensated for by assigning to so many States having the largest fractions, one additional member each for its fraction as may be necessary to make the whole number of representatives two hundred and thirty-three. *And provided, also*, That if, after the apportionment of the representatives under the next, or any subsequent census, a new State or States shall be admitted into the Union, the representative or representatives assigned to such new State or States shall be in addition to the number of representatives herein above limited; which excess of representatives over two hundred and thirty-three shall only continue until the next succeeding apportionment of representatives under the next succeeding census.

Proviso.

Further proviso.

Sec. 26. *And be it further enacted*, That when the Department of the Interior shall have apportioned the representatives, in the manner above directed, among the several States under the next or any subsequent enumeration of the inhabitants of the United States, he shall, as soon as practicable, made out and transmit, under the seal of his office, to the House of Representatives, a certificate of the number of members apportioned to each State under the then last enumeration; and shall likewise make out and transmit, without delay, to the executive of each State, a certificate, under his seal of office, of the number of members apportioned to such State, under such last enumeration.

Certificate of the number of members apportioned to be sent to each State and H. of Rep.

Sec. 27. *And be it further enacted*, That the Secretary of the Interior, in his instructions to the marshals, shall direct that the statistics in regard to all other descriptions of hemp not embraced in the denomination of dew and water-rotted, shall be taken and estimated in the returns.

Statistics in regard to hemp, besides dew and water-rotted, to be taken in the returns.

SCHEDULE 1.—Free Inhabitants *in* , *enumerated by me, on the* *day of* , *in the County of* , 1850. , *State of* *Assistant.*

Dwelling-houses numbered in the order of visitation.	Families numbered in the order of visitation.	Name of every person whose usual place of abode on the first day of June, 1850, was in this family.	Description. Age.	Sex.	White, black, or mulatto.	Profession, occupation, or trade of each male person over 15 years of age.	Value of real estate owned.	Place of birth, naming the State, Territory, or country.	Married within the year.	Attended school within the year.	Persons over 20 years of age who cannot read and write.	Whether deaf and dumb, blind, insane, idiotic, pauper, or convict.
1	2	3	4	5	6	7	8	9	10	11	12	13
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SCHEDULE 2.—SLAVE INHABITANTS *in , enumerated by me, on the day of , in the County of , State of , 1850.* Assistant.

Name of slave owners.	Number of slaves.	DESCRIPTION. Age.	Sex.	Color.	Fugitives from the State.	Number manumitted.	Deaf and dumb, blind, insane, or idiotic.	REMARKS.
1	2	3	4	5	6	7	8	9
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SCHEDULE 3.—PRODUCTIONS OF AGRICULTURE *in in the County of , State of , during the year ending June 1st, 1850, as enumerated by me on the day of , 1850.*

Name of owner, agent, or manager of the farm.	Acres of land. Improved.	Unimproved.	Cash value of farm.	Value of farming implements and machinery.	Live stock on hand, June 1, 1850. Horses.	Mules and Asses.	Working Oxen.	Milch Cows.	Other Cattle.	Sheep.	Swine.	The value of live stock.	Produce during the year ending June 1st, 1850. The value of animals slaughtered during the year.	Wheat, bushels of.	Rye, bushels of.	Indian Corn, bushels of.	Oats, bushels of.	Rice, pounds of.	Tobacco, pounds of.	Ginned Cotton, bales of 400 lbs. each.	Wool, pounds of.	Beans and Peas, bushels of.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23

SCHEDULE 3.—Continued.

Produce during the year ending June 1, 1850.—Continued.

Buckwheat, bushels of.	Barley, bushels of.	Potatoes. Irish, bushels of.	Sweet, bushels of.	Value of orchard products in dollars.	Wine, gallons of.	Value of produce of market garden.	Butter, pounds of.	Cheese, pounds of.	Hay, tons of.	Clover seed, bushels of.	Other grass seeds, bushels of.	Hops, pounds of.	Hemp. Dew-rotted, tons of.	Water-rotted, tons of.	Flax, pounds of.	Flaxseed, bushels of.	Silk Cocoons, pounds of.	Maple Sugar, pounds of.	Cane Sugar, hhds. of — of 1,000 lbs.	Molasses, gallons of.	Honey and Beeswax, pounds of.	Value of home-made manufactures.
24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46

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st, 1850.

18	19	20	21	22	23
Uses, manufactures of.	Rice, pounds of.	Tobacco, pounds of.	Ginned Cotton, bales of 400 lbs. each.	Wool, pounds of.	Beans and Peas, bushels of.

ntinued.

43	44	45	46
Cane Sugar, hhds. of — of 1,000 lbs.	Molasses, gallons of.	Honey and Beeswax, pounds of.	Value of home-made manufactures.

SCHEDULE 4.—Products of Industry in *in the County of , State of , during the year ending June 1, 1850, as enumerated by me.*
Assistant.

Name of Corporation, Company, or Individual, producing articles to the annual value of $500.	Name of business, manufacture, or product.	Capital invested in real and personal estate in the business.	Raw material used, including fuel.			Kind of motive power, machinery, structure, or resource.	Average No. of hands employed.		Wages.		Annual product.		
			Quantities.	Kinds.	Values.		Male.	Female.	Average monthly cost of male labor.	Average monthly cost of female labor.	Quantities.	Kinds.	Values.
1	2	3	4	5	6	7	8	9	10	11	12	13	14

SCHEDULE 5.—Social Statistics *of , in the County of , and State of , compiled by me.*
Assistant.

Name of town, county, or city.	Aggregate valuation of real and personal estate.	Aggregate amount of taxes assessed.	Public schools.
	Real estate..$ Person'l estate Total...$ How valued? True valuat'n $	State.....$ County... Parish.... Town..... Total...$ Road tax $ How paid?	No. colleges. Do. academies. Do. free schools. Do. other schools. Do. school-houses. Amount of money raised by tax for schools last year, $ Raised in other ways for schools last year, $ Received from public funds for schools last year, $

SCHEDULE 5.—Continued.

	Public libraries.			Periodicals, including newspapers.				Seasons.
	No.	Vols.		Name.	Class.	How often published.	Number of circulation.	
Social, Colleges. Academies. Public schools. Sunday schools.								Has this season produced average crops? What crops are short? To what extent? What is the average per year?

SCHEDULE 5.—Continued.

Public paupers.	Criminals.	Cost of labor.	Religious worship.
Whole number of paupers supported during the past y'r.	Number convicted of crime during year ending June 1, '50.	Av'ge wages to farm hand per month, hired by the year and boarded, $	No. of churches.
Number supported on the 1st day of June.	In prison on the 1st June, 1850.	Average wages of a day laborer, without board, $	
Native { White. Black.	Native { White. Black.	With board, $	No. of persons each will accommodate.
		Average payment to a carpenter per day, without board, $	
Foreign.	Foreign.	Average wages to a female domestic per week, without board, $	
Cost of supporting paupers during last year.		Average price of board to a laboring man per week, $	Value of churches, $

SCHEDULE 6.—PERSONS WHO DIED *during the year ending 1st June, 1850, in the of , in the County of , and State of , enumerated by me, Assistant.*

Name of every person who died during the year ending 1st June, 1850, whose usual place of abode at the time of his death was in this family.	DESCRIPTION. Age.	Sex.	Color.—White, black, or mulatto.	Free or slave.	Married or widowed.	Place of birth, naming the State, Territory, or country.	The month in which the person died.	Profession, occupation, or trade.	Disease, or cause of death.
1	2	3	4	5	6	7	8	9	10

APPROVED, May 23, 1850.

May 23, 1850.
1887, ch. 8.

To enable the mint and branch mints to make returns to depositors, etc., the President is authorized to direct transfers of public money.

CHAP. XII.—*An Act supplementary to the Act entitled "An Act supplementary to the Act entitled 'An Act establishing a Mint, and regulating the Coins of the United States.'"*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of enabling the mint and branch mints of the United States to make returns to depositors with as little delay as possible, it shall be lawful for the President of the United States, when the state of the treasury shall admit thereof, to direct transfers to be made from time to time to the mint and branch mints for such sums of public money as he shall judge convenient and necessary, out of which those who bring bullion to the mint may be paid the value thereof, as soon as practicable after this value has been ascertained; that the bullion so deposited shall become the property of the United States; that no dis-

"RIDER I – Document K" - "Act of July 30,1852, Chapter LXXIV" – "*An Act supplementary to "An Act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the Members of the House of Representatives, and provide for the future Apportionment among the several States", approved twenty-third May eighteen hundred and fifty.*""

for the ports of entry for the collection districts of Puget's Sound and Umpqua, in the Territory of Oregon, upon receiving satisfactory information as to the best location for said ports, instead of the places now established by law in said districts respectively.

Pay of collector at Astoria.

SEC. 2. *And be it further enacted*, That the annual compensation of the collector at Astoria, in the collection district of Oregon, in said Territory, be, and the same is hereby fixed at the sum of three thousand dollars, including the fees of his office, commencing on the first day of July, in the year one thousand eight hundred and fifty; and in no event shall he be allowed a greater amount than said sum of three thousand dollars, so including the present fees of his office as aforesaid.

APPROVED, July 21, 1852.

July 30, 1852.

CHAP. LXXIV.—*An Act supplementary to "An Act providing for the taking of the seventh and subsequent Censuses of the United States, and to fix the number of the Members of the House of Representatives, and provide for their future Apportionment among the several States," approved twenty-third May, eighteen hundred and fifty.*

1850, ch. 11.

Apportionment of Representatives to Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior proceed forthwith to apportion two hundred thirty-three representatives among the several States, in accordance with the provisions contained in the twenty-fifth section of the act of twenty-third May, eighteen hundred and fifty, and according to the returns of population which have been completed and returned to the Census-Office in the Department of the Interior. And, it being made to appear that the returns of the population of California are incomplete, it is further enacted, that said State shall retain the number of representatives prescribed by the act of admission thereof into the Union until a new apportionment, and for this purpose the whole number of representatives is hereby increased to two hundred thirty-four until such apportionment.

Provision in case of loss, &c., of returns, for a new enumeration.

SEC. 2. *And be it further enacted*, That if, at any future decennial enumeration of the inhabitants of the United States, the census of any district or subdivision in the United States shall have been improperly taken, or if the returns of any district or subdivision shall be accidentally lost or destroyed, the Secretary of the Interior shall have power to order a new enumeration of such district or subdivision.

Act of 1850, ch. 11, sec. 20, amended.

SEC. 3. *And be it further enacted*, That the twentieth section of the said act be amended by striking out the words "has been" from the last line, and inserting the words "may necessarily be" in lieu thereof.

APPROVED, July 30, 1852.

July 30, 1852.

CHAP. LXXV.—*An Act to establish additional Land Districts in the State of Wisconsin.*

Stevens's Point land district, constituted in Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the public lands of the United States, in the State of Wisconsin, as lies within the following boundaries, to wit:—commencing at the southwest corner of township fifteen, north of range two, east of the fourth principal meridian, thence running due east to the southeast corner of township fifteen, north of range eleven, east of the fourth principal meridian, thence north along said range line to the north line of the State of Wisconsin, thence westerly along said north line to the line between ranges one and two, east of the fourth principal meridian, thence south to the place of beginning, shall be formed into a new land district, to be called the Stevens Point Land District, and for the sale of the public lands within the district hereby constituted, a land-office

Provisions for a land-office at Stevens's Point.

"RIDER I – Document L" - "Act of March 4, 1862, Chapter XXXVI" – "*An Act fixing the Number of the House of Representatives from and after the third of March, eighteen hundred and sixty three.*"

year from date or earlier, at the option of the Government, and shall bear interest at the rate of six per centum per annum.

APPROVED, March 1, 1862.

CHAP. XXXVI.—*An Act fixing the Number of the House of Representatives from and after the third March, eighteen hundred and sixty-three.* March 4, 1863.

Number of members of House of Representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, eighteen hundred and sixty-three, the number of members of the House of Representatives of the Congress of the United States shall be two hundred and forty-one; and the eight additional members shall be assigned one each to Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

APPROVED, March 4, 1863.

CHAP. XXXVII.—*An Act to provide for the Appointment of additional Clerks in the Office of the Assistant Treasurer at New York, and for other Purposes.* March 6, 1862.

Assistant Treasurer at New York may appoint additional clerks, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Assistant Treasurer of the United States at New York be, and he hereby is, authorized to appoint, from time to time, by and with the consent and approbation of the Secretary of the Treasury, such other clerks, messengers, and watchmen, in addition to those already employed by him, as the exigencies of the public business may require, at rates of compensation to be fixed by the Secretary of the Treasury: *Provided*, That such rates shall in no case exceed those now allowed by law for the several persons similarly employed in the office of the said Assistant Treasurer. The compensation for such additional clerks, messengers, and watchmen, for the current and next fiscal year, shall be paid out of any moneys in the Treasury not otherwise appropriated. Estimates for compensation for such additional clerks, messengers, and watchmen, after the next fiscal year, shall be submitted by the Secretary of the Treasury with his annual estimates.

Compensation.

Estimates.

Deputy Assistant Treasurer at New York.

Appointment.

Duties.

Compensation.

SEC. 2. *And be it further enacted*, That the said Assistant Treasurer of the United States at New York be, and he hereby is, further authorized to appoint, with the approbation of the Secretary of the Treasury, a competent person from among his clerks who shall be called the Deputy Assistant Treasurer of the United States. The said Deputy Assistant Treasurer, in addition to the duties performed by him and any others which he may be required to perform by the said Assistant Treasurer, is hereby authorized to witness the execution of any and all transfers of Government stock and powers of attorney, and sign all receipts for patent fees and bullion receipts, with like effect as if the same were witnessed and signed, respectively, by the said Assistant Treasurer in person. The said Deputy Assistant Treasurer shall receive an additional compensation of one thousand dollars per annum, to be paid out of any money in the Treasury not otherwise appropriated: *Provided*, That the total compensation received by him shall not exceed three thousand dollars per annum.

Appropriation for blank checks for Sub-treasury.

SEC. 3. *And be it further enacted*, That the sum of two thousand five hundred dollars be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purchase of blank checks for the use of the Sub-treasury.

APPROVED, March 6, 1862.

"RIDER I – Document M" - "Act of February 2, 1872, Chapter XI" – "*An Act for the Apportionment of Representatives to Congress among the several States according to the ninth Census.*"

See Post, p. 53.

September; at Harrisonburg, on the Tuesday after the second Monday of April and October; and at Abingdon, on the Tuesday after the fourth Monday of May and October. And all recognizances, indictments, or other proceedings, civil or criminal, now pending in either of said courts, shall be entered and have day in court, and be heard and tried according to the times of holding said court, as herein provided.

Pending process.

APPROVED, February 1, 1872.

February 2, 1872.

CHAP. XI.—*An Act for the Apportionment of Representatives to Congress among the several States according to the ninth Census.*

Number of members of the House of Representatives after March 3, 1873, and how apportioned; See 1872, ch. 289. Post, p. 192.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, eighteen hundred and seventy-three, the House of Representatives shall be composed of two hundred and eighty-three members, to be apportioned among the several States in accordance with the provisions of this act, that is to say: to the State of Maine, five; to the State of New Hampshire, two; to the State of Vermont, two; to the State of Massachusetts, eleven; to the State of Rhode Island, two; to the State of Connecticut, four; to the State of New York, thirty-two; to the State of New Jersey, seven; to the State of Pennsylvania, twenty-six; to the State of Delaware, one; to the State of Maryland, six; to the State of Virginia, nine; to the State of North Carolina, eight; to the State of South Carolina, five; to the State of Georgia, nine; to the State of Alabama, seven; to the State of Mississippi, six; to the State of Louisiana, five; to the State of Ohio, twenty; to the State of Kentucky, ten; to the State of Tennessee, nine; to the State of Indiana, twelve; to the State of Illinois, nineteen; to the State of Missouri, thirteen; to the State of Arkansas, four; to the State of Michigan, nine; to the State of Florida, one; to the State of Texas, six; to the State of Iowa, nine; to the State of Wisconsin, eight; to the State of California, four; to the State of Minnesota, three; to the State of Oregon, one; to the State of Kansas, three; to the State of West Virginia, three; to the State of Nevada, one; to the State of Nebraska, one: *Provided*, That if, after such apportionment shall have been made, any new State shall be admitted into the Union, the Representative or Representatives of such new State shall be additional to the number of two hundred and eighty-three herein limited.

In new States afterwards admitted. See 1872, ch. 189. Post, p. 61.

Election of members of the forty-third Congress, &c.;

SEC. 2. That in each State entitled under this law to more than one Representative, the number to which said States may be entitled in the forty-third, and each subsequent Congress, shall be elected by districts composed of contiguous territory, and containing as nearly as practicable an equal number of inhabitants, and equal in number to the number of Representatives to which said States may be entitled in Congress, no one district electing more than one Representative: *Provided*, That in the election of Representatives to the forty-third Congress in any State which by this law is given an increased number of Representatives, the additional Representative or Representatives allowed to such State may be elected by the State at large, and the other Representatives to which the State is entitled by the districts as now prescribed by law in said State, unless the legislature of said State shall otherwise provide before the time fixed by law for the election of Representatives therein.

of the additional representatives in States entitled thereto. 1872, ch. 253. Post, p. 195.

Day established for the election of representatives, &c., to the forty-fifth Congress;

SEC. 3. That the Tuesday next after the first Monday in November, in the year eighteen hundred and seventy-six, is hereby fixed and established as the day, in each of the States and Territories of the United States, for the election of Representatives and Delegates to the forty-fifth Congress; and the Tuesday next after the first Monday in November, in every second year thereafter, is hereby fixed and established as the day for the election, in each of said States and Territories, of Representatives and Delegates to the Congress commencing on the fourth day of March next thereafter.

to subsequent Congresses.

Elections to fill vacancies. See 1872, ch. 139. *Post*, p. 61.

SEC. 4. That if, upon trial, there shall be a failure to elect a Representative or Delegate in Congress in any State, District, or Territory, upon the day hereby fixed and established for such election, or if, after any such election, a vacancy shall occur in any such State, District, or Territory, from death, resignation, or otherwise, an election shall be held to fill any vacancy caused by such failure, resignation, death, or otherwise, at such time as is or may be provided by law for filling vacancies in the State or Territory in which the same may occur.

No State to be admitted to the Union without what population.

SEC. 5. That no State shall be hereafter admitted to the Union without having the necessary population to entitle it to at least one Representative according to the ratio of representation fixed by this bill.

Number of representatives apportioned to any State to be proportionally reduced, if the right to vote is denied or abridged, except, &c.

SEC. 6. That should any State, after the passage of this act, deny or abridge the right of any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, to vote at any election named in the amendments to the Constitution, article fourteen, section two, except for participation in the rebellion or other crime, the number of Representatives apportioned in this act to such State shall be reduced in the proportion which the number of such male citizens shall have to the whole number of male citizens twenty-one years of age in such State.

APPROVED, February 2, 1872.

CHAP. XII.—*An Act to authorize the Payment of duplicate Checks of disbursing Officers.* Feb. 2, 1872.

Duplicate checks may be issued by disbursing officers in place of original checks lost, &c., after, &c.: to be paid, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in place of original checks, when lost, stolen, or destroyed, disbursing officers and agents of the United States are hereby authorized, after the expiration of six months from the date of such checks, and within three years from such date, to issue duplicate checks, and the treasurer, assistant treasurers, and designated depositaries of the United States are directed to pay such checks, drawn in pursuance of law by such officers or agents, upon notice and proof of the loss of the original check or checks, under such regulations in regard to their issue and payment, and upon the execution of such bonds, with sureties, to indemnify the United States, as the Secretary of the Treasury shall prescribe: *Provided*, That this act shall not apply to any check exceeding in amount the sum of one thousand dollars.

Limit to amount.

Provision in case the officer issuing the check be dead or not in office.

SEC. 2. That in case the disbursing officer or agent by whom such lost, destroyed, or stolen original check was issued, be dead, or no longer in the service of the United States, it shall be the duty of the proper accounting officer, under such regulations as the Secretary of the Treasury shall prescribe, to state an account in favor of the owner of such original check for the amount thereof, and to charge such amount to the account of such officer or agent.

APPROVED, February 2, 1872.

CHAP. XIII.—*An Act to admit certain Machinery imported from foreign Countries free of Duty.* Feb. 2, 1872.

The Calcasieu sulphur, &c., company, may import free of duty certain machinery, &c., within one year.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Calcasieu sulphur and mining company of New Orleans be, and is hereby, permitted to import, free of duty, under such rules and regulations as the Secretary of the Treasury shall prescribe, certain machinery and accompanying implements for the purpose of, and to be used only in, making a series of experiments in mining for sulphur in the parish of Calcasieu, in the State of Louisiana: *Provided*, That the value of such importation shall not exceed the sum of seventy-five thousand dollars, and that said machinery and implements be imported within one year from and after the passage of this act.

Limit to value.

APPROVED, February 2, 1872.

"RIDER I – Document N" - "Act of May 30, 1872, Chapter CCXXXIX" – "*An Act supplemental to an Act entitled "An Act for the Apportionment of Representatives to Congress among the several States according to the ninth Census.""*

term to use, and vend to others to use, said improvement in horse-powers so constructed or used.

APPROVED, May 29, 1872.

May 29, 1872.

CHAP. CCXXXV.—*An Act to increase the capital Stock and to extend the Works of the Washington Gas-Light Company.*

Washington gas-light company may increase its capital stock.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the capital stock of the Washington Gas-Light Company be, and the same is hereby, increased two hundred thousand dollars, with the privilege of increasing it not exceeding one million dollars, as the same may be required from time to time, for extending their works in the District of Columbia east of Rock Creek:

Provisos.

Provided, however, That said increase of capital stock shall not be made from undivided profits of said company which have already accrued, or may hereafter accrue, but from capital actually paid in: *Provided also*, That said increased capital stock shall be subject to all the conditions of the charter of said Washington Gas-Light Company.

APPROVED, May 29, 1872.

May 30, 1872.

CHAP. CCXXXIX.—*An Act supplemental to an Act entitled "An Act for the Apportionment of Representatives to Congress among the several States according to the ninth Census."*

1872, ch. 10. *Ante*, p. 28.

One additional representative in Congress to each of certain States;

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of March, eighteen hundred and seventy-three, the following States shall be entitled to one representative each in the Congress of the United States in addition to the number apportioned to such States by the act entitled "An act for the apportionment of representatives to Congress among the several States according to the ninth census," approved February second, eighteen hundred and seventy-two, to wit: New Hampshire, Vermont, New York, Pennsylvania, Indiana, Tennessee, Louisiana, Alabama, and Florida, and be elected by separate districts, as in said act directed: *Provided*, That in the election of representatives to the forty-third Congress only, in any State which by this law is given an increased number of representatives, the additional representatives allowed to such State may be elected by the State at large, unless the legislature of said State shall otherwise provide before the time fixed by law for the election of representatives therein.

how may be elected to forty-third Congress.

APPROVED, May 30, 1872.

May 31, 1872.

CHAP. CCXL.—*An Act fixing the Rank of Professors of Mathematics in the United States Navy.*

Number and rank of professors of mathematics in the United States navy. 1871, ch. 117, § 9. Vol. xvi. p. 586.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the ninth section of the naval appropriation bill, approved March third, eighteen hundred and seventy-one, be amended by inserting, after the clause relating to the chaplains, the following clause:

There shall be three professors of mathematics, who shall have the relative rank of captain; four that of commander; and five that of lieutenant commander or lieutenant.

APPROVED, May 31, 1872.

May 31, 1872.

CHAP. CCXLI.—*An Act relating to the Creation of new Land Districts.*

When new land districts are made by, &c., business in original districts to

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter in case of the division of existing land districts by the erection of new ones, or by a change of boundaries by the President of the United States, all business in such original districts shall be entertained and transacted, without prej-

CHAP. 18.—An act in reference to the Trustees of the Lincoln Monument Association. Feb. 25, 1882.

Lincoln Monument Association, 15 Stat., 11.

Whereas, owing to the large number of Trustees named in the "Act to incorporate the Lincoln Monument Association" approved March thirtieth, eighteen hundred and sixty-seven, it proves to be impracticable for a majority of said Trustees to meet for the transaction of the business of said association: Therefore,

Five trustees a legal quorum.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter five of the Trustees of said association, whether named in said act, or subsequently appointed, shall constitute a legal quorum and may exercise all the powers conferred by law upon said association: *Provided*, That each of said trustees shall be notified by the President or Secretary twenty days in advance of any meeting of said trustees.

Proviso.

Approved, February 25, 1882.

CHAP. 19.—An act authorizing the Lancaster National Bank of Lancaster, Massachusetts, to change its location and name. Feb. 25, 1882.

Lancaster National Bank, Lancaster, Mass., to change name and location.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Lancaster National Bank of Lancaster, in the Commonwealth of Massachusetts, is hereby authorized to change its location to the town of Clinton, in the county of Worcester, in said Commonwealth, whenever the stockholders representing two-thirds of the capital stock of said bank, at a meeting for that purpose, determine to make such change; and the president and cashier shall execute a certificate, under the corporate seal of the bank, specifying such determination, and shall cause the same to be recorded in the office of the Comptroller of the Currency, and thereupon such change of location shall be effected, and the operations of discount and deposit of said bank shall be carried on in the said town of Clinton.

Liabilities, etc., not affected.

SEC. 2. That nothing in this act contained shall be so construed as in manner to release the said bank from any liabilities, or affect any action or proceeding in law in which said bank may be a party or interested; and when such change shall have been determined upon as aforesaid, notice thereof and of such change shall be published in two weekly papers in said county of Worcester not less than four weeks.

SEC. 3. That whenever the location of said bank shall have been changed from said town of Lancaster to said town of Clinton, in accordance with the first section of this act, its name shall be changed to the Lancaster National Bank of Clinton, Massachusetts, if the board of directors of said bank shall accept the new name by resolution of the board, and cause a copy of such resolution, duly authenticated, to be filed with the Comptroller of the Currency.

SEC. 4. That all the debts, demands, liabilities, rights, privileges, and powers of the Lancaster National Bank of Lancaster shall devolve upon the Lancaster National Bank of Clinton whenever such change of name is effected.

Approved, February 25, 1882.

CHAP. 20.—An act making an apportionment of Representatives in Congress among the several States under the tenth census. Feb. 25, 1882.

Apportionment of Representatives in Congress among the States under the tenth census.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the third of March, eighteen hundred and eighty-three, the House of Representatives shall be composed of three hundred and twenty-five members, to be apportioned among the several States as follows:

Alabama, eight.

Arkansas, five.

California, six.
Colorado, one.
Connecticut, four.
Delaware, one.
Florida, two.
Georgia, ten.
Illinois, twenty.
Indiana, thirteen.
Iowa, eleven.
Kansas, seven.
Kentucky, eleven.
Louisiana, six.
Maine, four.
Maryland, six.
Massachusetts, twelve.
Michigan, eleven.
Minnesota, five.
Mississippi, seven.
Missouri, fourteen.
Nebraska, three.
Nevada, one.
New Hampshire, two.
New Jersey, seven.
New York, thirty-four.
North Carolina, nine.
Ohio, twenty-one.
Oregon, one.
Pennsylvania, twenty-eight.
Rhode Island, two.
South Carolina, seven.
Tennessee, ten.
Texas, eleven.
Vermont, two.
Virginia, ten.
West Virginia, four.
Wisconsin, nine.

Assignment to new States to be in addition.

SECTION TWO.—That whenever a new State is admitted to the Union the Representative or Representatives assigned to it shall be in addition to the number three hundred and twenty-five.

SECTION THREE.—That in each State entitled under this apportionment the number to which such State may be entitled in the Forty-eighth and each subsequent Congress shall be elected by Districts composed of contiguous territory, and containing as nearly as practicable an equal number of inhabitants, and equal in number to the Representatives to which such State may be entitled in Congress, no one District electing more than one Representative: *Provided*, That unless the Legislature of such State shall otherwise provide before the election of such Representatives shall take place as provided by law, where no change shall be hereby made in the representation of a State, the Representatives thereof to the Forty-eighth Congress shall be elected therein as now provided by law. If the number as hereby provided for shall be larger than it was before this change, then the additional Representative or Representatives allowed to said State under this apportionment may be elected by the State at large, and the other Representatives to which the State is entitled by the Districts as now prescribed by law in said State; and if the number hereby provided for shall in any State be less than it was before the change hereby made, then the whole number to such State hereby provided for shall be elected at large, unless the Legislatures of said States have provided or shall otherwise provide before the time fixed by law for the next election of Representatives therein.

Proviso.

Election of Representatives at large, when.

All acts and parts of acts inconsistent herewith are hereby repealed.

Approved, February 25, 1882.

"RIDER I – Document P" - "Act of February 7, 1891, Chapter 116" – "*An act making an apportionment of Representatives in Congress among the several States under the Eleventh Census.*"

CHAP. 116.—An act making an apportionment of Representatives in Congress among the several States under the Eleventh Census. February 7, 1891.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the third of March, eighteen hundred and ninety-three, the House of Representatives shall be composed of three hundred and fifty-six members, to be apportioned among the several States as follows: Number and apportionment of Representatives in Congress.

Alabama, nine.
Arkansas, six.
California, seven.
Colorado, two.
Connecticut, four.
Delaware, one.
Florida, two.
Georgia, eleven.
Idaho, one.
Illinois, twenty-two.
Indiana, thirteen.
Iowa, eleven.
Kansas, eight.
Kentucky, eleven.
Louisiana, six.
Maine, four.
Maryland, six.
Massachusetts, thirteen.
Michigan, twelve.
Minnesota, seven.
Mississippi, seven.
Missouri, fifteen.
Montana, one.
Nebraska, six.
Nevada, one.
New Hampshire, two.
New Jersey, eight.
New York, thirty-four.
North Carolina, nine.
North Dakota, one.
Ohio, twenty-one.
Oregon, two.
Pennsylvania, thirty.
Rhode Island, two,
South Carolinia, seven.
South Dakota, two.
Tennessee, ten.
Texas, thirteen.
Vermont, two.
Virginia, ten.
Washington, two.
West Virginia, four.
Wisconsin, ten.
Wyoming, one.

SEC. 2. That whenever a new State is admitted to the Union the Representative or Representatives assigned to it shall be in addition to the number three hundred and fifty-six. Representatives assigned to new States.

SEC. 3. That in each State entitled under this apportionment the number to which such State may be entitled in the Fifty-third and each subsequent Congress shall be elected by districts composed of contiguous territory and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of the Representatives to which such State may be entitled in Congress, no one district electing more than one Representative. Election by districts, etc.

Election at large, of additional Representatives, etc.

SEC. 4. That in case of an increase in the number of Representatives which may be given to any State under this apportionment such additional Representative or Representatives shall be elected by the State at large, and the other Representatives by the districts now prescribed by law until the legislature of such State in the manner herein prescribed shall redistrict such State, and if there be no increase in the number of Representatives from a State the Representatives thereof shall be elected from the districts now prescribed by law until such State be redistricted as herein prescribed by the legislature of said State.

Repeal.

SEC. 5. That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved, February 7, 1891.

February 7, 1891.

CHAP. 117.—An act to prohibit the sale of tobacco to minors under sixteen years of age in the District of Columbia.

District of Columbia.
Sale, etc., of tobacco to minors under sixteen years, prohibited.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no person in the District of Columbia shall sell, give, or furnish any cigar, cigarette, or tobacco in any of its forms to any minor under sixteen years of age; and for each and every violation of this section the offender shall, on conviction, be fined not less than two dollars nor more than ten dollars, or be imprisoned for not less than five days nor more than twenty days.

Penalty.

Approved, February 7, 1891.

February 9, 1891.

CHAP. 121.—An act to authorize the Norfolk and Western Railroad Company to bridge the Tug Fork of the Big Sandy River at certain points, where the same forms the boundary line between the States of West Virginia and Kentucky.

Norfolk and Western Railroad Company may bridge Tug Fork of Big Sandy River, between West Virginia and Kentucky.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the Norfolk and Western Railroad Company, a corporation existing under the laws of Virginia and West Virginia, to construct and maintain bridges and approaches thereto across the Tug Fork of the Big Sandy River at such points where the same forms the boundary line between the States of West Virginia and Kentucky as the said company may deem suitable for the passage of its road over the said fork of the Big Sandy River, subject to the approval of the Secretary of War.

Location of bridges.

Lawful structures and post routes.

SEC. 2. That any bridge or bridges authorized to be constructed under this act shall be lawful structures, and shall be recognized and known as post routes, and they shall enjoy all the rights and privileges of other post roads in the United States, upon which also no higher charge shall be made for the transmission over the same of the mails, or for through passengers or freight passing over said bridge or bridges and approaches, than the rate per mile paid for transportation over the railroads leading to said bridge or bridges; and the United States shall have the right of way for postal telegraph and telephone purposes without charges therefor across said bridge or bridges and approaches.

Postal telegraph, etc.

Security of navigation.

Said bridge or bridges shall be built and located under and subject to such regulations for the security of navigation as the Secretary of War shall prescribe; and to secure that object the said company or corporation shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge or bridges and a map of the location or locations, giving, for the space of one

Maps, plans, etc.

"RIDER I – Document Q" - "Act of January 16, 1901, Chapter 93" – "*An Act Making an apportionment of Representatives in Congress among the several States under the Twelfth Census.*"

and sixty to eighteen hundred and ninety-six in the enforcement of law and order, the care of the deaf, dumb, blind, and insane, and generally for the protection of life, liberty, and property in said county, and the establishment and maintenance of a government for the inhabitants thereof, or a fair estimate of the same.

Employees.

SEC. 4. That to enable him to execute the provisions of this Act the Secretary of the Interior is authorized to employ such persons and adopt such measures as to him may seem proper and necessary. He is also authorized to receive and consider duly certified copies of patents, deeds, conveyances, transcripts of court records, and certificates from any department of the Government of the United States or the State of Texas, under the seal thereof as to official records therein. He may also receive and consider depositions of witnesses, and in such cases the United States shall be represented by the Attorney-General thereof, or some person designated by him, and the State of Texas shall be represented by the attorney-general thereof, or some person designated by him; and these officials may appear and represent their respective governments before the Secretary of the Interior in all other matters provided for by this Act. He may also receive and consider any testimony taken by either party in said cause entitled The United States against The State of Texas, in the Supreme Court of the United States, reported in One hundred and sixty-second United States, page one, and may receive and consider any testimony which he may consider to be pertinent to the subject of such inquiry.

Testimony, etc.

Expenses of inquiry.

SEC. 5. That the sum of seven thousand five hundred dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to properly care for the interests of the United States in making such investigation and in carrying out the purposes of this Act; and he shall report in detail to the Congress at the next session, or as soon thereafter as may be practicable: *Provided*, That the State of Texas shall defray the expenses of presenting its own case and claims.

Approved, January 15, 1901.

January 16, 1901.

CHAP. 92.—An Act To provide for the holding of the circuit and district courts of the United States for the eastern district of Arkansas.

Arkansas, eastern judicial district, Terms of court.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the regular terms of the circuit and district courts for the eastern district of Arkansas shall be held at the times and places as follows, to wit:

For the western division, at Little Rock on the first Monday in April and the third Monday in October;

For the eastern division, at Helena on the second Mondays in March and October;

For the northern division, at Batesville on the fourth Monday in May and the second Monday in December.

SEC. 2. That this Act shall take effect and be in force from and after its passage.

Approved, January 16, 1901.

January 16, 1901.

CHAP. 93.—An Act Making an apportionment of Representatives in Congress among the several States under the Twelfth Census.

House of Representatives to consist of 386 members.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the third day of March, nineteen hundred and three, the House of Representatives

—apportionment.

shall be composed of three hundred and eighty-six members, to be apportioned among the several States as follows: Alabama, nine; Arkansas, seven; California, eight; Colorado, three; Connecticut, five; Delaware, one; Florida, three; Georgia, eleven; Idaho, one; Illinois, twenty-five; Indiana, thirteen; Iowa, eleven; Kansas, eight; Kentucky, eleven; Louisiana, seven; Maine, four; Maryland, six; Massachusetts, fourteen; Michigan, twelve; Minnesota, nine; Mississippi, eight; Missouri, sixteen; Montana, one; Nebraska, six; Nevada, one; New Hampshire, two; New Jersey, ten; New York, thirty-seven; North Carolina, ten; North Dakota, two; Ohio, twenty-one; Oregon, two; Pennsylvania, thirty-two; Rhode Island, two; South Carolina, seven; South Dakota, two; Tennessee, ten; Texas, sixteen; Utah, one; Vermont, two; Virginia, ten; Washington, three; West Virginia, five; Wisconsin, eleven; and Wyoming, one.

Representatives from new States to be in addition.

SEC. 2. That whenever a new State is admitted to the Union the Representative or Representatives assigned to it shall be in addition to the number three hundred and eighty-six.

Districts.

SEC. 3. That in each State entitled under this apportionment, the number to which such State may be entitled in the Fifty-eighth and each subsequent Congress shall be elected by districts composed of contiguous and compact territory and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of the Representatives to which such State may be entitled in Congress, no one district electing more than one Representative.

Elections where increase of representatives under apportionment.

SEC. 4. That in case of an increase in the number of Representatives which may be given to any State under this apportionment such additional Representative or Representatives shall be elected by the State at large, and the other Representatives by the districts now prescribed by law until the legislature of such State in the manner herein prescribed, shall redistrict such State; and if there be no increase in the number of Representatives from a State the Representatives thereof shall be elected from the districts now prescribed by law until such State be redistricted as herein prescribed by the legislature of said State; and if the number hereby provided for shall in any State be less than it was before the change hereby made, then the whole number to such State hereby provided for shall be elected at large, unless the legislatures of said States have provided or shall otherwise provide before the time fixed by law for the next election of Representatives therein.

—no increase.

—diminished.

Repeal.

SEC. 5. That all Acts and parts of Acts inconsistent with this Act are hereby repealed.

Approved, January 16, 1901.

January 19, 1901.

CHAP. 101.—An Act Relating to the accounts of United States marshals and clerks of the district courts of the Territory of Utah.

Utah Territory. Clerks and marshals liable only for fees earned in United States cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States marshals and the clerks of the district courts of the Territory of Utah prior to its admission to the Union as a State shall be held accountable only for fees earned in United States cases, in accordance with a decision of the Attorney-General dated December second, eighteen hundred and ninety-one, and all unclosed accounts of such officers shall be settled and closed accordingly, and the fees earned in United States cases, and withheld from them, shall be paid to them out of any money not otherwise appropriated.

Approved, January 19, 1901.

"RIDER I – Document R" - "Act of August 8, 1911, Chapter 5" – "*An Act For the apportionment of Representative in Congress among the several States under the Thirteenth Census.*"

been made, the reimportation of which is hereby prohibited except upon payment of duties equal to the drawbacks allowed; or to any article manufactured in bonded warehouse and exported under any provision of law: *And provided further*, That when manufactured tobacco which has been exported without payment of internal-revenue tax shall be reimported it shall be retained in the custody of the collector of customs until internal-revenue stamps in payment of the legal duties shall be placed thereon: *And provided further*, That cattle, horses, sheep, and other domestic animals straying across the boundary line into any foreign country or driven across such boundary line by the owners for temporary pasturage purposes only, together with their offspring, shall be dutiable, unless brought back to the United States within six months, under regulations to be prescribed by the Secretary of the Treasury, in accordance with the provisions of paragraph four hundred and ninety-two."

Tobacco, to be taxed.

Animals temporarily crossing boundary.

Restriction.

Vol. 36, p. 72, amended.

Approved, July 27, 1911.

CHAP. 5.—An Act For the apportionment of Representatives in Congress among the several States under the Thirteenth Census.

August 8, 1911. [H. R. 2933.]

[Public, No. 5.]

Representatives in Congress.

Apportionment to States under Thirteenth Census.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the third day of March, nineteen hundred and thirteen, the House of Representatives shall be composed of four hundred and thirty-three Members, to be apportioned among the several States as follows:

Alabama, ten.
Arkansas, seven.
California, eleven.
Colorado, four.
Connecticut, five.
Delaware, one.
Florida, four.
Georgia, twelve.
Idaho, two.
Illinois, twenty-seven.
Indiana, thirteen.
Iowa, eleven.
Kansas, eight.
Kentucky, eleven.
Louisiana, eight.
Maine, four.
Maryland, six.
Massachusetts, sixteen.
Michigan, thirteen.
Minnesota, ten.
Mississippi, eight.
Missouri, sixteen.
Montana, two.
Nebraska, six.
Nevada, one.
New Hampshire, two.
New Jersey, twelve.
New York, forty-three.
North Carolina, ten.
North Dakota, three.
Ohio, twenty-two.
Oklahoma, eight.
Oregon, three.
Pennsylvania, thirty-six.

Rhode Island, three.
South Carolina, seven.
South Dakota, three.
Tennessee, ten.
Texas, eighteen.
Utah, two.
Vermont, two.
Virginia, ten.
Washington, five.
West Virginia, six.
Wisconsin, eleven.
Wyoming, one.

Arizona and New Mexico when admitted as States. Post, p. 89.

SEC. 2. That if the Territories of Arizona and New Mexico shall become States in the Union before the apportionment of Representatives under the next decennial census they shall have one Representative each, and if one of such Territories shall so become a State, such State shall have one Representative, which Representative or Representatives shall be in addition to the number four hundred and thirty-three, as provided in section one of this Act, and all laws and parts of laws in conflict with this section are to that extent hereby repealed.

Vol. 36, p. 561.

Assignment of districts.

SEC. 3. That in each State entitled under this apportionment to more than one Representative, the Representatives to the Sixty-third and each subsequent Congress shall be elected by districts composed of a contiguous and compact territory, and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of Representatives to which such State may be entitled in Congress, no district electing more than one Representative.

Elections. Additional Representatives at large.

SEC. 4. That in case of an increase in the number of Representatives in any State under this apportionment such additional Representative or Representatives shall be elected by the State at large and the other Representatives by the districts now prescribed by law until such State shall be redistricted in the manner provided by the laws thereof and in accordance with the rules enumerated in section three of this Act; and if there be no change in the number of Representatives from a State, the Representatives thereof shall be elected from the districts now prescribed by law until such State shall be redistricted as herein prescribed.

Present number.

Nominations for Representatives at large.

SEC. 5. That candidates for Representative or Representatives to be elected at large in any State shall be nominated in the same manner as candidates for governor, unless otherwise provided by the laws of such State.

Approved, August 8, 1911.

August 10, 1911. [S. 1149.]

[Public, No. 6.]

CHAP. 6.—An Act Permitting the Minneapolis, Saint Paul and Sault Sainte Marie Railway Company to construct, maintain, and operate a railroad bridge across the Saint Croix River between the States of Wisconsin and Minnesota.

Saint Croix River. Minneapolis, Saint Paul and Sault Sainte Marie Railway Company may bridge, between Burnett County, Wis., and Pine County, Minn.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the Minneapolis, Saint Paul and Sault Sainte Marie Railway Company, a railway corporation organized under the laws of the States of Wisconsin and Minnesota, to construct, maintain, and operate a railroad bridge and approaches thereto, across the Saint Croix River, at a point suitable to the interests of navigation, from a point on the south bank of said river in lot one, section twenty-one, township forty-one north, range sixteen west, in Burnett County, Wisconsin, to a point on the north bank of said river in lot one, section twenty-one, township forty-one north, range sixteen west, in Pine

"RIDER I – Document S" - "Act of June 18. 1929, Chapter 28" – "*An Act To provide for the fifteenth and subsequent decennial census and to provide for the apportionment of Representatives in Congress.*"

June 18, 1929.
[S. 312.]
[Public, No. 13.]

CHAP. 28.—An Act To provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress.

Fifteenth Census.
Census of population, etc., to be taken in 1930 and every ten years thereafter.
Territorial extent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a census of population, agriculture, irrigation, drainage, distribution, unemployment, and mines shall be taken by the Director of the Census in the year 1930 and every ten years thereafter. The census herein provided for shall include each State, the District of Columbia, Alaska, Hawaii, and Porto Rico. A census of Guam, Samoa, and the Virgin Islands shall be taken in the same year by the respective governors of said islands and a census of the Panama Canal Zone by the Governor of the Canal Zone, all in accordance with plans prescribed or approved by the Director of the Census.

Census periods designated.

SEC. 2. That the period of three years beginning the 1st day of January in the year 1930 and every tenth year thereafter shall be known as the decennial census period, and the reports upon the inquiries provided for in said section shall be completed within such period: *Provided*, That the tabulation of total population by States as required for the apportionment of Representatives shall be completed within eight months from the beginning of the enumeration and reported by the Director of the Census to the Secretary of Commerce and by him to the President of the United States.

Proviso.
Completion of population tabulation.

Additional executive force to be employed in the Bureau.

SEC. 3. That there may be employed in the Bureau of the Census, in addition to the force provided for by the appropriation Act for the fiscal year immediately preceding the decennial census period, two assistant directors, one of whom shall act as executive assistant to the director, performing, in addition, the duties usually assigned to the chief clerk, and the other, who must be a person of known and tried experience in statistical work, as technical and statistical advisor; these officials to be appointed by the Secretary of Commerce, upon the recommendation of the Director of the Census, in conformity with the civil service laws and rules.

Temporary employees in the District for census period.

In addition to the force hereinbefore provided for, there may be appointed by the Director of the Census, without regard to the provisions of the Classification Act, for any period not extending beyond the decennial census period, at rates of compensation to be fixed by him, as many temporary employees in the District of Columbia as may be necessary to meet the requirements of the work: *Provided*, That census employees who may be transferred to any such temporary positions shall not lose their permanent civil-service status by reason of such transfer: *Provided further*, That hereafter in making appointments to clerical and other positions in the executive branch of the Government in the District of Columbia or elsewhere preference shall be given to honorably discharged soldiers, sailors, and marines, and widows of such, and to the wives of injured soldiers, sailors, and marines, who themselves are not qualified, but whose wives are qualified, to hold such positions: *Provided further*, That all such temporary appointments shall be made in conformity with the civil service laws and rules: *Provided further*, That in making any appointments under this Act to positions in the District of Columbia or elsewhere, preference shall be given to persons discharged under honorable conditions from the military or naval forces of the United States who served in such forces during the time of war and were disabled in the line of duty, to their widows, and to their wives if the husband is not qualified to hold such positions.

Provisos.
Civil service status retained of regular employees transferred.

Preference for Army and Navy service in government clerical, etc., appointments.

Temporary appointments under civil service laws.

Preference to disabled military or naval war veterans, etc.

Appointment of special agents, supervisors, etc.
Vol. 32, p. 51.
Enumerators.

That special agents, supervisors, supervisors' clerks, enumerators, and interpreters may be appointed by the Director of the Census to carry out the provisions of this Act and of the Act to provide for a permanent Census Office, approved March 6, 1902, and Acts amendatory thereof or supplemental thereto, such appointments to be made without regard to the Civil Service laws or the Classification Act of 1923, as amended, except that such special agents shall be appointed in accordance with the Civil Service laws. The Director of the Census may delegate to the supervisors authority to appoint enumerators.

For Army, Navy, etc., posts.

The enlisted men and officers of the Army, Navy, and Marine Corps may be appointed and compensated for the enumeration of Army, Navy, Marine, and other military posts.

Field work by executive departments, etc., employees.

Employees of the Department of Commerce and other departments and independent offices of the Government may, with the consent of the head of the respective department or office, be employed and compensated for field work in connection with the Fifteenth Decennial Census.

Compensation of appointees.

The special agents, supervisors, supervisors' clerks, enumerators, and interpreters thus appointed shall receive compensation at rates to be fixed by the Director of the Census: *Provided*, That special agents appointed at a per diem rate shall not be paid in excess of $8 per diem except as hereinafter provided; and that the compensation on a piece-price basis may be fixed without limitation as to the amount earned per diem: *Provided further*, That during the decennial census period the Director of the Census may fix the compensation of not to exceed twenty-five special agents at an amount not to exceed $12 per diem:

Provisos.
Special agents.

Additional special agents during census period.

Provided further, That permanent employees of the Census Office and special agents may be detailed, when necessary, to act as supervisors or enumerators, such permanent employees and special agents to have like authority with and perform the same duties as the supervisors or enumerators in respect to the subjects committed to them under this Act.

Detail of permanent employees as supervisors or enumerators.

Inquiries restricted to designated subjects.

SEC. 4. That the fifteenth and subsequent censuses shall be restricted to inquiries relating to population, to agriculture, to irrigation, to drainage, to distribution, to unemployment, and to mines. The number, form, and subdivision of the inquiries in the schedules used to take the census shall be determined by the Director of the Census, with the approval of the Secretary of Commerce.

Schedules.

Duties of supervisors.

SEC. 5. That each supervisor shall perform such duties as may be imposed upon him by the Director of the Census in the enforcement of this Act, and the duties thus imposed shall be performed in any and all particulars in accordance with the orders and instructions of the Director of the Census; that each enumerator or other employee detailed to serve as enumerator shall be charged with the collection in his subdivision of the facts and statistics called for on the population and agricultural schedules, and such other schedules as the Director of the Census may determine shall be used by him in connection with the census. It shall be the duty of each enumerator to visit personally each dwelling house in his subdivision, and each family therein, and each individual living out of a family in any place of abode, and by inquiry made of the head of each family, or of the member thereof deemed most competent and trustworthy, or of such individual living out of a family, to obtain each and every item of information and all particulars required for the census; and in case no person shall be found at the usual place of abode of such family, or individual living out of a family, competent to answer the inquiries, then it shall be lawful for the census employee to obtain the required information as nearly as may be practicable from the family or families or person or persons living nearest to such place of abode who may be competent to answer such inquiries.

Duties of enumerators.

Personal visits, etc.

Census of population and agriculture to be taken as of April 1.

SEC. 6. That the census of the population and of agriculture required by section 1 of this Act shall be taken as of the 1st day of April, and it shall be the duty of each enumerator to commence the enumeration of his district on the day following unless the Director of the Census in his discretion shall change the date of commencement of the enumeration in said district by reason of climatic or other conditions which would materially interfere with the proper conduct of the work; but in any event it shall be the duty of each enumerator to prepare the returns hereinbefore required to be made and to forward the same to the supervisor of his district within thirty days from the commencement of the enumeration of his district: *Provided*, that in any city having two thousand five hundred inhabitants or more under the preceding census the enumeration of the population shall be completed within two weeks from the commencement thereof.

Returns in 30 days.

Proviso.
To be completed within two weeks, in certain cities.

Punishment for receiving fee, etc., to secure appointments.

SEC. 7. That if any person shall receive or secure to himself any fee, reward, or compensation as a consideration for the appointment or employment of any person as supervisor, enumerator, or clerk, or other employee, or shall in any way receive or secure to himself any part of the compensation paid to any supervisor, enumerator, clerk, or other employee, he shall be deemed guilty of a felony, and upon conviction thereof shall be fined not more than $3,000 or be imprisoned not more than five years, or both.

Punishable acts of census employees.

Refusal or neglect of duties.

SEC. 8. That any supervisor, supervisor's clerk, enumerator, interpreter, special agent, or other employee who, having taken and subscribed the oath of office, shall, without justifiable cause, neglect or refuse to perform the duties enjoined on him by this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding $500; or if he shall, without the authority of the Director of the Census, publish or communicate any information coming into his possession by reason of his employment under the provision of this Act, or the Act to provide for a permanent Census Office or Acts amendatory thereof or supplemental thereto, he shall be guilty of a felony and upon conviction thereof shall be fined not to exceed $1,000 or be imprisoned not to exceed two years, or both so fined and imprisoned in the discretion of the court; or if he shall willfully and knowingly swear or affirm falsely as to the truth of any statement required to be made or subscribed by him under oath by or under authority of this Act or of the Act to provide for a permanent Census Office or Acts amendatory thereof or supplemental thereto, he shall be deemed guilty of perjury, and upon conviction thereof shall be fined not exceeding $2,000 or imprisoned not exceeding five years, or both; or if he shall willfully and knowingly make a false certificate or a fictitious return he shall be guilty of a felony, and upon conviction of either of the last-named offenses he shall be fined not exceeding $2,000 or be imprisoned not exceeding five years, or both; or if any person who is or has been an enumerator shall knowingly or willfully furnish or cause to be furnished, directly or indirectly, to the Director of the Census or to any supervisor or other employee of the census any false statement or false information with reference to any inquiry for which he was authorized and required to collect information, he shall be guilty of a felony, and upon conviction thereof shall be fined not exceeding $2,000 or be imprisoned not exceeding five years, or both.

Unauthorized publishing information.

Swearing to false statements.

Making false certificates or fictitious returns.

Enumerators knowingly furnishing false information to Director, etc.

Correct answers to census schedules required of all persons.

SEC. 9. That it shall be the duty of all persons over eighteen years of age when requested by the Director of the Census, or by any supervisor, enumerator, or special agent, or other employee of the Census Office, acting under the instructions of the said director, to answer correctly, to the best of their knowledge, all questions on the census schedules applying to themselves and to the families to which they

belong or are related, and to the farm or farms of which they or their families are the occupants; and any person over eighteen years of age who, under the conditions hereinbefore stated, shall refuse or willfully neglect to answer any of these questions, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding $100 or be imprisoned not exceeding sixty days, or both, and any such person who shall willfully give answers that are false shall be fined not exceeding $500 or be imprisoned not exceeding one year, or both.

Punishment for refusal, etc.

Intentionally rendering inaccurate enumeration of population to census employees, unlawful.

And it is hereby made unlawful for any individual, committee, or other organization of any kind whatsoever, to offer or render to any supervisor, supervisor's clerk, enumerator, interpreter, special agent, or other officer or employee of the Census Office engaged in making an enumeration of population, either directly or indirectly, any suggestion, advice, or assistance of any kind, with the intent or purpose of causing an inaccurate enumeration of population to be made, either as to the number of persons resident in any district or community, or in any other respect; and any individual, or any officer or member of any committee or other organization of any kind whatsoever, who directly or indirectly offers or renders any such suggestion, advice, information, or assistance, with such unlawful intent or purpose, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding $1,000, or be imprisoned for not exceeding one year, or both.

Punishment for.

Hotels, etc., required to furnish names of all occupants.

Access to census representatives.

And it shall be the duty of every owner, proprietor, manager, superintendent, or agent of a hotel, apartment house, boarding or lodging house, tenement, or other building, when requested by the Director of the Census, or by any supervisor, enumerator, special agent, or other employee of the Census Office, acting under the instructions of the said director, to furnish the names of the occupants of said hotel, apartment house, boarding or lodging house, tenement, or other building, and to give thereto free ingress and egress therefrom to any duly accredited representative of the Census Office, so as to permit the collection of statistics for census purposes, including the proper and correct enumeration of all persons having their usual place of abode in said hotel, apartment house, boarding or lodging house, tenement, or other building; and any owner, proprietor, manager, superintendent, or agent of a hotel, apartment house, boarding or lodging house, tenement, or other building who shall refuse or willfully neglect to give such information or assistance under the conditions hereinbefore stated shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding $500.

Punishment for refusal, etc.

Officials of companies, etc., required to answer all questions in census schedules relating to business thereof, etc.

SEC. 10. That it shall be the duty of every owner, official, agent, person in charge, or assistant to the person in charge, of any company, business, institution, establishment, religious body, or organization of any nature whatsoever, to answer completely and correctly to the best of his knowledge all questions relating to his respective company, business, institution, establishment, religious body, or other organization, or to records or statistics in his official custody, contained on any census schedule prepared by the Director of the Census under the authority of this Act, or of the Act to provide for a permanent Census Office, approved March 6, 1902, or of Acts amendatory thereof or supplemental thereto; and any person violating the provisions of this section by refusing or willfully neglecting to answer any of said questions, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding $500, or imprisoned for a period not exceeding sixty days, or both so fined and imprisoned, and any person violating the provisions of this section by willfully giving answers that are false shall be fined not exceeding $10,000 or imprisoned for a period not exceeding one year, or both.

Punishment for willfully refusing, giving false answers, etc.

Use of information for statistical purposes only.

SEC. 11. That the information furnished under the provisions of this Act shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Census Office whereby the data furnished by any particular establishment or individual can be identified, nor shall the Director of the Census permit anyone other than the sworn employees of the Census Office to examine the individual reports.

Restriction on publication of data.

Enforcement of fines and penalties.

SEC. 12. That all fines and penalties imposed by this Act may be enforced by indictment or information in any court of competent jurisdiction.

Printing, etc., authorized.

SEC. 13. That the Director of the Census is hereby authorized to make requisition upon the Public Printer for such printing as may be necessary to carry out the provisions of this Act, to wit: Blanks, schedules, circulars, pamphlets, envelopes, work sheets, and other items of miscellaneous printing; that he is further authorized to have printed by the Public Printer, in such editions as the director may deem necessary, preliminary and other census bulletins, and final reports of the results of the several investigations authorized by this Act or by the Act to establish a permanent Census Office and Acts amendatory thereof or supplemental thereto and to publish and distribute said bulletins and reports.

Bulletins, etc.

Free transmission of mail on official business.
U. S. C., p. 1256.

SEC. 14. That all mail matter, of whatever class or weight, relating to the census and addressed to the Census Office, or to any official thereof, and indorsed "Official business, Census Office," shall be transmitted free of postage, and by registered mail if necessary, and so marked: *Provided*, That if any person shall make use of such indorsement to avoid the payment of postage or registry fee on his or her private letter, package, or other matter in the mail, the person so offending shall be guilty of a misdemeanor and subject to a fine of $300, to be prosecuted in any court of competent jurisdiction.

Proviso.
Penalty for private use.

Information from other Government departments, etc.

SEC. 15. That the Secretary of Commerce, whenever he may deem it advisable, on request of the Director of the Census, is hereby authorized to call upon any other department or office of the Government for information pertinent to the work herein provided for.

Census of agriculture and livestock in 1935, and every ten years thereafter.

SEC. 16. That there shall be in the year 1935, and once every ten years thereafter, a census of agriculture and livestock, which shall show the acreage of farm land, the acreage of the principal crops, and the number and value of domestic animals on the farms and ranges of the country. The schedule employed in this census shall be prepared by the Director of the Census. Such census shall be taken as of the 1st day of January and shall relate to the crop year. The Director of the Census may appoint enumerators or special agents for the purpose of this census in accordance with the provisions of the permanent census Act.

Time of taking.
Appointment of enumerators for.

Manufacturing statistics to be published biennially.

SEC. 17. That the Director of the Census be, and he is hereby, authorized and directed to collect and publish, for every second year after 1927, statistics of manufacturing industries; and the director is hereby authorized to prepare such schedules as in his judgment may be necessary.

Certified copies of population and agricultural returns to States, courts, etc.

SEC. 18. That the Director of the Census be, and he is hereby, authorized at his discretion, upon the written request of the governor of any State or Territory or of a court of record, to furnish such governor or court of record with certified copies of so much of the population or agricultural returns as may be requested, upon the payment of the actual cost of making such copies and $1 additional for certification; and that the Director of the Census is further authorized, in his discretion, to furnish to individuals such data from the population schedules as may be desired for genealogical or other proper purposes, upon payment of the actual cost of searching the

Genealogical, etc., data to individuals.

Statistical compilations.

records and $1 for supplying a certificate; and that the Director of the Census is authorized to furnish transcripts of tables and other records and to prepare special statistical compilations for State or local officials, private concerns, or individuals upon the payment of the actual cost of such work: *Provided, however*, That in no case shall information furnished under the authority of this Act be used to the detriment of the person or persons to whom such information relates. All moneys hereafter received by the Bureau of the Census in payment for labor and materials used in furnishing transcripts of census records or special statistical compilations from such records shall be deposited to the credit of the appropriation for collecting statistics.

Proviso. Restriction.

Use of receipts.

Allowance for traveling expenses, etc., of census employees.

SEC. 19. That the Director of the Census may authorize the expenditure of necessary sums for the actual and necessary traveling expenses of the officers and employees of the Census Office, including an allowance in lieu of subsistence not exceeding $6 per day during their necessary absence from the Census Office, or, instead of such an allowance, their actual subsistence expenses, not to exceed $7 per day: *Provided*, That employees of the bureau may be paid in lieu of all transportation expenses not to exceed 7 cents per mile for the use of their own automobiles or not to exceed 3 cents per mile for the use of their own motor cycles when used for necessary travel on official business.

Proviso. Allowance if using their own motor vehicles.

Sum authorized for expenses. Vol. 45, p. 1119. *Post*, pp. 100, 198.

SEC. 20. For the purpose of carrying out the provisions of this Act during the fifteenth decennial census period, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $39,593,000.

Modified former Act continued. Vol. 32, p. 51.

Fourteenth Census Act repealed. Vol. 40, p. 1291, repealed.

SEC. 21. That the Act establishing the permanent Census Office, approved March 6, 1902, and Acts amendatory thereof and supplemental thereto, except as are herein amended, shall remain in full force. That the Act entitled "An Act to provide for the fourteenth and subsequent decennial censuses," approved March 3, 1919, and all other laws and parts of laws inconsistent with the provisions of this Act are hereby repealed.

Apportionment of Representatives.

President to transmit to Congress a statement of total population of each State ascertained by decennial census, and apportionment thereto under existing number thereof.

SEC. 22. (a) On the first day, or within one week thereafter, of the second regular session of the Seventy-first Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the fifteenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives made in each of the following manners:

By method of last preceding apportionment.

(1) By apportioning the then existing number of Representatives among the several States according to the respective numbers of the several States as ascertained under such census, by the method used in the last preceding apportionment, no State to receive less than one Member;

By method of major fractions.

(2) By apportioning the then existing number of Representatives among the several States according to the respective numbers of the several States as ascertained under such census, by the method known as the method of major fractions, no State to receive less than one Member; and

By method of equal proportions.

(3) By apportioning the then existing number of Representatives among the several States according to the respective numbers of the several States as ascertained under such census, by the method known as the method of equal proportions, no State to receive less than one Member.

If no apportionment law be enacted each State to have its existing number.

(b) If the Congress to which the statement required by subdivision (a) of this section is transmitted, fails to enact a law appor-

tioning Representatives among the several States, then each State shall be entitled, in the second succeeding Congress and in each Congress thereafter until the taking effect of a reapportionment under this Act or subsequent statute, to the number of Representatives shown in the statement based upon the method used in the last preceding apportionment. It shall be the duty of the Clerk of the last House of Representatives forthwith to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section. In case of a vacancy in the office of Clerk, or of his absence or inability to discharge this duty, then such duty shall devolve upon the officer who, under section 32 or 33 of the Revised Statutes, is charged with the preparation of the roll of Representatives-elect.

Certificate thereof to State executives by the Clerk of the House.

R. S., secs. 32, 33, p. 6. U. S. C., p. 4.

(c) This section shall have no force and effect in respect of the apportionment to be made under any decennial census unless the statement required by subdivision (a) of this section in respect of such census is transmitted to the Congress within the time prescribed in subdivision (a).

Section not effective unless statement transmitted in prescribed time.

Ante, p. 26.

Approved, June 18, 1929.

June 18, 1929.
[S. 1462.]
[Public, No. 14.]

CHAP. 29.—An Act To authorize the State of West Virginia to acquire a bridge over the Kanawha River at Cabin Creek in said State and to acquire the right to construct a bridge over said river at Saint Albans in said State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of West Virginia, by its State bridge commission, be, and is hereby, authorized to acquire, maintain, and operate the bridge being erected over the Kanawha River at Cabin Creek and the approaches thereto in said State, and that said bridge shall be deemed a lawful structure if constructed in accordance with the plans and location approved by the Chief of Engineers and the Secretary of War under dates of April 20, 1928, and April 23, 1928, respectively, and in accordance with an Act approved May 1, 1928, authorizing the construction of said bridge by the Cabin Creek Kanawha Bridge Company, its successors and assigns.

Kanawha River, West Virginia may acquire bridge over, at Cabin Creek.

Vol. 45, p. 475.

SEC. 2. The State of West Virginia, by its State bridge commission, is authorized to acquire the right to construct, maintain, and operate a bridge over the Kanawha River at Saint Albans in said State and the approaches thereto under an Act approved May 1, 1928, authorizing the Saint Albans Nitro Bridge Company, its successors and assigns, to construct, maintain, and operate said bridge, and said bridge shall be a lawful structure if constructed in accordance with the plans and location approved by the Chief of Engineers and the Secretary of War under dates of May 14, 1928, and May 19, 1928, respectively, and in accordance with the last-mentioned Act.

Kanawha River, West Virginia may bridge at Saint Albans, Vol. 45, p. 473.

SEC. 3. Both of said bridges shall be subject to the conditions and limitations of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, other than those requiring the approval of plans, specifications, and location by the Chief of Engineers and the Secretary of War before the commencement of construction.

Construction. Vol. 34, p. 84.

SEC. 4. The times for commencing and completing the construction of the said bridge at or near Saint Albans are hereby extended one and three years, respectively, from the date of approval hereof.

Times for commencing and completing.

SEC. 5. If tolls are charged for the use of said bridges, the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridges under economical management and to provide a sinking fund suffi-

Rates of toll applied to operation, sinking fund, etc.

cient to amortize the amount paid by the State for the bridge at or near Cabin Creek and the cost to the State of constructing the bridge at or near Saint Albans, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed twenty-five years from the completion of the bridge at or near Saint Albans. After a sinking fund sufficient for such amortization shall have been so provided, the two bridges shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridges and their approaches under economical management.

Maintenance as free bridges, etc., after amortizing sinking fund.

Amendment.

SEC. 6. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, June 18, 1929.

June 18, 1929. [H. R. 4016.] [Public, No. 15.]

CHAP. 30.—An Act Making an appropriation to carry out the provisions of the "Agricultural Marketing Act," approved June 15, 1929.

Agricultural Marketing Act. Appropriation for expenditures. *Ante*, pp. 14, 17. *Post*, pp. 93, 1033.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for carrying into effect the provisions of the Act entitled the "Agricultural Marketing Act," approved June 15, 1929, including all necessary expenditures authorized therein, the sum of $151,500,000, to be immediately available, of which amount $150,000,000 shall constitute a revolving fund to be administered by the Federal Farm Board as provided in such Act, and $1,500,000 shall be available until June 30, 1930, for administrative expenses in executing the functions vested in the Federal Farm Board by such Act.

Administrative expenses.

Approved, June 18, 1929.

June 18, 1929. [S. J. Res. 50.] [Pub. Res., No. 16.]

CHAP. 31.—Joint Resolution To provide for the observance of the one hundred and fiftieth anniversary of the death of Brigadier General Casimir Pulaski.

General Casimir Pulaski. Preamble.

Whereas October 11, 1779, marks, in American history, the date of the heroic death of Brigadier General Casimir Pulaski, who died from wounds received on October 9, 1779, at the siege of Savannah, Georgia; and

Whereas the States of Indiana, Wisconsin, Michigan, Ohio, South Carolina, Pennsylvania, New York, Minnesota, Maryland, New Jersey, Illinois, and other States of the Union have, by legislative enactment, designated October 11, 1929, to be "General Pulaski's Memorial Day"; and

Whereas October 11, 1929, marks the one hundred and fiftieth anniversary of the death of General Pulaski, and it is but fitting that such date should be observed and commemorated with suitable patriotic exercises: Therefore be it

President to invite observance of one hundred and fiftieth anniversary of his death. *Ante*, p. 8. *Post*, p. 1627.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is requested, by proclamation, (1) to invite the people of the United States to observe October 11, 1929, as the one hundred and fiftieth anniversary of the death of Brigadier General Casimir Pulaski, Revolutionary War hero, by holding such exercises and ceremonies in schools, churches, or other suitable places as may be deemed appropriate in commemoration of the death of General

"RIDER I – Document T" - Under the "Act of June 18. 1929, Chapter 28", on December 4, 1930, President Herbert Hoover transmits the "1930 Census Statement of Apportionment" to Congress with Apportionment calculated using both the "Method of Major Fractions" and the "Method of Equal Proportions". Each Apportionment Method produces the identical results. Congress takes no action and as per the "Act of June 18. 1929, Chapter 28", the Apportionment as reflected in the chart under the "Method of Major Fractions" is adopted as 1930 Decennial Apportionment of Congress by virtue of Congress taking no action. The President's transmittal letter and the "1930 Census Statement of Apportionment" are printed by the Government Printing Office as "71st Congress, 3d Session, House of Representatives, House Document No. 664" and is not "Federal Law" within the meaning of 1 *U.S.C. sec.* 112 & 113, but the Court may take Judicial Notice of House Document No. 664 under *F.R.Evid.* 201.

71st Congress, 3d Session } HOUSE OF REPRESENTATIVES { Document No. 664

BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

STATEMENT PREPARED BY THE BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE, GIVING THE WHOLE NUMBER OF PERSONS IN EACH STATE, EXCLUSIVE OF INDIANS NOT TAXED, AS ASCERTAINED UNDER THE FIFTEENTH DECENNIAL CENSUS OF POPULATION

December 5, 1930.—Referred to the Committee on the Census and ordered to be printed

To the Congress of the United States:

In compliance with the provisions of section 22 (a) of the act approved June 18, 1929, I transmit herewith a statement prepared by the Bureau of the Census, Department of Commerce, giving the whole number of persons in each State, exclusive of Indians not taxed, as ascertained under the Fifteenth Decennial Census of population, and the number of Representatives to which each State would be entitled under an apportionment of the existing number of Representatives by the method known as the method of major fractions, which was the method used in the last preceding apportionment, and also by the method known as the method of equal proportions.

HERBERT HOOVER.

The White House,
December 4, 1930.

Apportionment of 435 Representatives by the method of major fractions, which was used in the last preceding apportionment, and by the method of equal proportions with total population of the several States, number of Indians not taxed, and population basis of apportionment

State	Population as enumerated Apr. 1, 1930	Indians not taxed	Population basis of apportionment	Apportionment of 435 Representatives by method of—	
				Major fractions used in last preceding apportionment	Equal proportions
Total	122,288,177	194,722	122,093,455	435	435
Alabama	2,646,248	6	2,646,242	9	9
Arizona	435,573	46,198	389,375	1	1
Arkansas	1,854,482	38	1,854,444	7	7
California	5,677,251	9,010	5,668,241	20	20
Colorado	1,035,791	942	1,034,849	4	4
Connecticut	1,606,903	6	1,606,897	6	6
Delaware	238,380	----------	238,380	1	1
Florida	1,468,211	20	1,468,191	5	5
Georgia	2,908,506	60	2,908,446	10	10
Idaho	445,032	3,496	441,536	2	2
Illinois	7,630,654	266	7,630,388	27	27
Indiana	3,238,503	23	3,238,480	12	12
Iowa	2,470,939	519	2,470,420	9	9
Kansas	1,880,999	1,501	1,879,498	7	7
Kentucky	2,614,589	14	2,614,575	9	9
Louisiana	2,101,593	----------	2,101,593	8	8
Maine	797,423	5	797,418	3	3
Maryland	1,631,526	4	1,631,522	6	6
Massachusetts	4,249,614	16	4,249,598	15	15
Michigan	4,842,325	273	4,842,052	17	17
Minnesota	2,563,953	12,370	2,551,583	9	9
Mississippi	2,009,821	1,667	2,008,154	7	7
Missouri	3,629,367	257	3,629,110	13	13
Montana	537,606	12,877	524,729	2	2
Nebraska	1,377,963	2,840	1,375,123	5	5
Nevada	91,058	4,668	86,390	1	1
New Hampshire	465,293	1	465,292	2	2
New Jersey	4,041,334	15	4,041,319	14	14
New Mexico	423,317	27,335	395,982	1	1
New York	12,588,066	99	12,587,967	45	45
North Carolina	3,170,276	3,002	3,167,274	11	11
North Dakota	680,845	7,505	673,340	2	2
Ohio	6,646,697	64	6,646,633	24	24
Oklahoma	2,396,040	13,818	2,382,222	9	9
Oregon	953,786	3,407	950,379	3	3
Pennsylvania	9,631,350	51	9,631,299	34	34
Rhode Island	687,497	----------	687,497	2	2
South Carolina	1,738,765	5	1,738,760	6	6
South Dakota	692,849	19,844	673,005	2	2
Tennessee	2,616,556	59	2,616,497	9	9
Texas	5,824,715	114	5,824,601	21	21
Utah	507,847	2,106	505,741	2	2
Vermont	359,011	----------	359,011	1	1
Virginia	2,421,851	22	2,421,829	9	9
Washington	1,563,396	10,973	1,552,423	6	6
West Virginia	1,729,205	6	1,729,199	6	6
Wisconsin	2,939,006	7,285	2,931,721	10	10
Wyoming	225,565	1,935	223,630	1	1

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"RIDER I – Document U" - "Act of April 25, 1940, Chapter 152" – "*AN ACT To amend an Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, approved June 18, 1929, so as to change the date of subsequent apportionment.*

subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia and in such other manner as the Commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine of not to exceed $100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than sixty days.

Penalties.

Approved, April 22, 1940.

[CHAPTER 152]

AN ACT

April 25, 1940
[S. 2605]
[Public, No. 481]

To amend an Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, approved June 18, 1929, so as to change the date of subsequent apportionments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, approved June 18, 1929, is hereby amended in the first sentence of section 22 (a) by striking out the words "second regular session of the Seventy-first Congress" and substituting the following words: "first regular session of the Seventy-seventh Congress", and by striking out "fifteenth" and inserting "sixteenth".

Fifteenth, etc., censuses.
Apportionment of Representatives in Congress.
46 Stat. 26.
2 U. S. C., § 2a.
Time for filing statement modified.

SEC. 2. The first sentence of section 22 (b) of such Act is amended to read as follows: "If the Congress to which the statement required by subdivision (a) of this section is transmitted has not, within sixty calendar days after such statement is transmitted, enacted a law apportioning Representatives among the several States, then each State shall be entitled, in the next Congress and in each Congress thereafter until the taking effect of a reapportionment under this Act or subsequent statute, to the number of Representatives shown in the statement based upon the method used in the last preceding apportionment.".

46 Stat. 26.
2 U. S. C., § 2a (b).
Number of Representatives if no new apportionment law enacted.

Approved, April 25, 1940.

[CHAPTER 153]

AN ACT

April 25, 1940
[S. 2599]
[Public, No. 482]

To amend the Naval Reserve Act of 1938 (Public, Numbered 732, 52 Stat. 1175).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206 of the Naval Reserve Act of June 25, 1938, is hereby amended by striking out the last two provisions and substituting therefor the following: "*Provided further*, That in the computation of service requisite for transfer of enlisted men of the Fleet Reserve to the retired list of the Regular Navy and for payment of allowances to which enlisted men on the retired list of the Regular Navy are entitled, service in the Army, Navy, Marine Corps, Coast Guard, Naval Reserve Force, Fleet Naval Reserve, Fleet Reserve, Marine Corps Reserve Force, and the Marine Corps Reserve, and on the retired list of the Regular Navy shall be included; *And provided further*, That such service as may heretofore have been authorized by law to be counted as double time shall be credited as double time in this computation.".

Naval Reserve Act of 1938, amendment.
52 Stat. 1179.
34 U. S. C., Supp. V, § 854e.
Transfer from Fleet Reserve to retired list, Regular Navy; payment of allowances.

Service included.

Double-time credit.

Approved, April 25, 1940.

"RIDER I – Document V" - "Act of November 15, 1941, Chapter 470" – "*AN ACT To provide for apportioning Representatives in Congress among the several States by the equal proportions method.*"

liquidation (pursuant to section 3 or section 4 of this Act) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of Saint Elizabeths Hospital, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The income from such investments shall be available for expenditure in the improvement, maintenance, or operation of Saint Elizabeths Hospital, subject to the same examination and audit as provided for appropriations made for Saint Elizabeths Hospital by Congress.

Intangible personal property, other than money.

SEC. 3. The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to the authority granted in section 1 of this Act shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them or may liquidate them whenever in his judgment the purposes of the gifts will be served thereby. The income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in section 2 of this Act.

Real property and tangible personal property.

SEC. 4. The Federal Security Administrator shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in section 1 of this Act and he shall permit such property to be used for the improvement, maintenance, or operation of Saint Elizabeths Hospital or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in section 2 of this Act: *Provided*, That the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Federal Security Administrator for the maintenance, preservation, or repair and insurance of such property and that any proceeds from insurance may be used to restore the property insured. Any such property when not required for the improvement or operation of the Saint Elizabeths Hospital may be liquidated by the Federal Security Administrator whenever in his judgment the purposes of the gifts will be served thereby.

Proviso. Use of income.

Approved, November 7, 1941.

[CHAPTER 470]

AN ACT

November 15, 1941 [H. R. 2665] [Public Law 291]

To provide for apportioning Representatives in Congress among the several States by the equal proportions method.

Apportionment of Representatives in Congress. 46 Stat. 26. 2 U. S. C. § 2a.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 18, 1929, as amended, is amended to read as follows:

Statement of number of persons in each State, etc.

"SEC. 22. (a) On the first day, or within one week thereafter, of the first regular session of the Eighty-second Congress and of each fifth Congress thereafter, the President shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the seventeenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled

under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member.

Number of Representatives to which each State entitled.

"(b) Each State shall be entitled, in the Eighty-third Congress and in each Congress thereafter until the taking effect of a reapportionment under this section or subsequent statute, to the number of Representatives shown in the statement required by subsection (a) of this section, no State to receive less than one Member. It shall be the duty of the Clerk of the House of Representatives, within fifteen calendar days after the receipt of such statement, to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section. In case of a vacancy in the office of Clerk, or of his absence or inability to discharge this duty, then such duty shall devolve upon the Sergeant at Arms of the House of Representatives; and in case of vacancies in the offices of both the Clerk and the Sergeant at Arms, or the absence or inability of both to act, such duty shall devolve upon the Doorkeeper of the House of Representatives.

Certificate.

Manner of election until State redistricted.

"(c) Until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner: (1) If there is no change in the number of Representatives, they shall be elected from the districts then prescribed by the law of such State, and if any of them are elected from the State at large they shall continue to be so elected; (2) if there is an increase in the number of Representatives, such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; (3) if there is a decrease in the number of Representatives but the number of districts in such State is equal to such decreased number of Representatives, they shall be elected from the districts then prescribed by the law of such State; (4) if there is a decrease in the number of Representatives but the number of districts in such State is less than such number of Representatives, the number of Representatives by which such number of districts is exceeded shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; or (5) if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large."

Number of Representatives in 78th Congress.

SEC. 2. (a) Each State shall be entitled, in the Seventy-eighth and in each Congress thereafter until the taking effect of a reapportionment under a subsequent statute or such section 22, as amended by this Act, to the number of Representatives shown in the statement transmitted to the Congress on January 8, 1941, based upon the method known as the method of equal proportions, no State to receive less than one Member.

New certificate.

(b) If before the enactment of this Act a certificate has been sent to the executive of any State under the provisions of such section 22, as in force before the enactment of this Act, the Clerk of the House of Representatives shall, within fifteen calendar days after the date of enactment of this Act, send a new certificate to such executive stating the number of Representatives to which such State is entitled under this section.

Approved, November 15, 1941.

[CHAPTER 471]

AN ACT

November 15, 1941
[H. R. 5463]
[Public Law 292]

Providing for the security of United States naval vessels, and for other purposes.

Control of shipping in U. S. territorial waters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to those duties now imposed by law on the Coast Guard by virtue of the Acts of March 4, 1915 (38 Stat. 1053; 33 U. S. C. 471), June 15, 1917 (40 Stat. 220; 50 U. S. C. 191), and June 22, 1936 (49 Stat. 1820; U. S. C., Supp. V, title 14, sec. 45), it shall be the duty of the captain of the port, Coast Guard district commander, or other officer of the Coast Guard designated by the Commandant thereof, or the Governor of the Panama Canal in the case of the territory and waters of the Canal Zone, to so control the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, as to insure the safety or security of such United States naval vessels as may be present in his jurisdiction: *Provided*, That in territorial waters of the United States where immediate action is required, or where representatives of the Coast Guard are not present, or not present in sufficient force to exercise effective control of shipping as provided herein, the senior naval officer present in command of any naval force may control the anchorage or movement of any vessel, foreign or domestic, to the extent deemed necessary to insure the safety and security of his command.

14 U. S. C. § 45.

Proviso.

When Coast Guard operates as part of Navy.
Ante, p. 585.

SEC. 2. When the Coast Guard operates as a part of the Navy pursuant to section 1 of the Act of January 28, 1915 (38 Stat. 800; U. S. C., title 14, sec. 1), as amended, the powers conferred on the Secretary of the Treasury by section 1, title II, of the Act of June 15, 1917 (40 Stat. 220; U. S. C., title 50, sec. 191), shall vest in and be exercised by the Secretary of the Navy.

Amendment.

SEC. 3. Section 2, title II, Act of June 15, 1917 (40 Stat. 220; U. S. C., title 50, sec. 192), is hereby amended by striking therefrom the words "by the Secretary of the Treasury or the Governor of the Panama Canal".

Control in Canal Zone waters.

SEC. 4. Nothing in this Act shall be construed as affecting the authority conferred upon the Governor of The Panama Canal by the second paragraph of section 1, title II, Act of June 15, 1917 (40 Stat. 220; U. S. C., title 50, sec. 191), notwithstanding the provisions of section 2 of this Act; nor shall anything in this Act be construed as affecting the powers and authority conferred by section 8 of title 2, Canal Zone Code, June 19, 1934 (37 Stat. 569, U. S. C., title 48, sec. 1306).

Approved, November 15, 1941.

[CHAPTER 472]

AN ACT

November 15, 1941
[S. 633]
[Public Law 293]

To amend the Criminal Code in respect to fires on the public domain or Indian lands or on certain lands owned or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States.

Criminal Code, amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 52 of the Criminal Code (Act of March 4, 1909, sec. 52; 35 Stat. 1098, United States Code, title 18, sec. 106) is hereby amended to read as follows:

Setting fire to timber, etc., on designated lands.

"SEC. 52. Whoever shall willfully and without authority so to do set on fire or cause to be set on fire any timber, underbrush, or grass or other inflammable material upon the public domain or upon any lands owned or leased by or under the partial, concurrent, or exclusive jurisdiction of the United States which are included in a park, forest, monument, historical park, military park, battlefield site,

"RIDER I – Document W" – Act of July 7, 1958, *Pub. L.* 85-508, Section 9, 72 *Stat.* 339 – AN ACT To provide for the admission of the State of Alaska into the Union." **(Alaska is admitted as a State and Apportioned 1 Representative, temporarily increasing the voting size of the House of Representatives to 436 which was then reduced back to 435 after the 1960 Decennial Census statutory "Automatic" Apportionment of Representatives.)**

Public Law 85-508

AN ACT

To provide for the admission of the State of Alaska into the Union.

July 7, 1958
[H. R. 7999]

Alaska, statehood.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 8 (c) of this Act, the State of Alaska is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Alaska entitled, "An Act to provide for the holding of a constitutional convention to prepare a constitution for the State of Alaska; to submit the constitution to the people for adoption or rejection; to prepare for the admission of Alaska as a State; to make an appropriation; and setting an effective date", approved March 19, 1955 (Chapter 46, Session Laws of Alaska, 1955), and adopted by a vote of the people of Alaska in the election held on April 24, 1956, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

Territory.

SEC. 2. The State of Alaska shall consist of all the territory, together with the territorial waters appurtenant thereto, now included in the Territory of Alaska.

Constitution.

SEC. 3. The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

Compact with U.S.

SEC. 4. As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property, belonging to the United States or which may belong to said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation: *Provided*, That nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by the laws of the United States applicable thereto; and nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any law applicable thereto authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act: *And provided further*, That no taxes shall be imposed by said State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation.

of the State, or as thereafter modified or changed by the legislature of the State. All of the laws of the United States shall have the same force and effect within said State as elsewhere within the United States. As used in this paragraph, the term "Territorial laws" includes (in addition to laws enacted by the Territorial Legislature of Alaska) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Alaska prior to the admission of the State of Alaska into the Union, and the term "laws of the United States" includes all laws or parts thereof enacted by the Congress that (1) apply to or within Alaska at the time of the admission of the State of Alaska into the Union, (2) are not "Territorial laws" as defined in this paragraph, and (3) are not in conflict with any other provisions of this Act.

Definitions.

SEC. 9. The State of Alaska upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law: *Provided*, That such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13) nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U. S. C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

House of Representatives, membership.

SEC. 10. (a) The President of the United States is hereby authorized to establish, by Executive order or proclamation, one or more special national defense withdrawals within the exterior boundaries of Alaska, which withdrawal or withdrawals may thereafter be terminated in whole or in part by the President.

National defense withdrawals.

(b) Special national defense withdrawals established under subsection (a) of this section shall be confined to those portions of Alaska that are situated to the north or west of the following line: Beginning at the point where the Porcupine River crosses the international boundary between Alaska and Canada; thence along a line parallel to, and five miles from, the right bank of the main channel of the Porcupine River to its confluence with the Yukon River; thence along a line parallel to, and five miles from, the right bank of the main channel of the Yukon River to its most southerly point of intersection with the meridian of longitude 160 degrees west of Greenwich; thence south to the intersection of said meridian with the Kuskokwim River; thence along a line parallel to, and five miles from the right bank of the Kuskokwim River to the mouth of said river; thence along the shoreline of Kuskokwim Bay to its intersection with the meridian of longitude 162 degrees 30 minutes west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 57 degrees 30 minutes north; thence east to the intersection of said parallel with the meridian of longitude 156 degrees west of Greenwich; thence south to the intersection of said meridian with the parallel of latitude 50 degrees north.

(c) Effective upon the issuance of such Executive order or proclamation, exclusive jurisdiction over all special national defense withdrawals established under this section is hereby reserved to the United States, which shall have sole legislative, judicial, and executive power within such withdrawals, except as provided hereinafter. The exclusive jurisdiction so established shall extend to all lands within the exterior boundaries of each such withdrawal, and shall remain in effect with respect to any particular tract or parcel of land only so long as such tract or parcel remains within the exterior boundaries of such a

Jurisdiction.

"RIDER I – Document X" – Act of March 18, 1959, *Pub. L.* 86-3, Section 8, 73 *Stat.* 4 – AN ACT To provide for the admission of the State of Hawaii into the Union." **(Hawaii is admitted as a State and Apportioned 1 Representative, temporarily increasing the voting size of the House of Representatives to 437 which was then reduced back to 435 after the 1960 Decennial Census statutory "Automatic" Apportionment of Representatives.)**

70 Stat. 512. 21 USC 342.

proviso of section 402(c) of the Federal Food, Drug, and Cosmetic Act is amended by striking out "March 1, 1959," and inserting in lieu thereof "May 1, 1959,".

(b) The third proviso of section 402(c) of such Act is amended to read as follows: "*And provided further*, That, without regard to the requirements of sections 406(b) and 701(e), the Secretary shall promptly establish, and may from time to time amend, regulations (1) prescribing the conditions (including quantitative tolerance limitations) under which the coal-tar color known as Citrus Red No. 2 (more particularly to be defined in such regulations) may be safely used in coloring the skins of oranges which are not intended or used for processing (or, if so used, are oranges designated in the trade as 'packing house elimination'), and which meet minimum maturity standards established by or under the laws of the States in which the oranges are grown, (2) providing for separately listing such color solely for such use on such oranges, and (3) providing for the certification of batches of such color, with or without harmless diluents, for such restricted use; and such oranges, if colored prior to September 1, 1961, and to the enactment by the Congress (subsequent to the date of enactment of this proviso) of general legislation for the listing and certification of food color additives under safe tolerances, in conformity with this proviso and such regulations, with Citrus Red No. 2 from a batch certified in accordance with such regulations, shall not be deemed to be adulterated within the meaning of this paragraph."

21 USC 346, 371.

Approved March 17, 1959.

Public Law 86-3

March 18, 1959 [S. 50]

AN ACT

To provide for the admission of the State of Hawaii into the Union.

Hawaii, statehood.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the provisions of this Act, and upon issuance of the proclamation required by section 7(c) of this Act, the State of Hawaii is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other States in all respects whatever, and the constitution formed pursuant to the provisions of the Act of the Territorial Legislature of Hawaii entitled "An Act to provide for a constitutional convention, the adoption of a State constitution, and the forwarding of the same to the Congress of the United States, and appropriating money therefor", approved May 20, 1949 (Act 334, Session Laws of Hawaii, 1949), and adopted by a vote of the people of Hawaii in the election held on November 7, 1950, is hereby found to be republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed.

Territory.

SEC. 2. The State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial waters, included in the Territory of Hawaii on the date of enactment of this Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters, but said State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island), or Kingman Reef, together with their appurtenant reefs and territorial waters.

on said propositions shall be made by the election officers directly to the Secretary of Hawaii, who shall certify the results of the submission to the Governor. The Governor shall certify the results of said submission, as so ascertained, to the President of the United States.

Proclamation by President.

(c) If the President shall find that the propositions set forth in the preceding subsection have been duly adopted by the people of Hawaii, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 6 of this Act, shall thereupon issue his proclamation announcing the results of said election as so ascertained. Upon the issuance of said proclamation by the President, the State of Hawaii shall be deemed admitted into the Union as provided in section 1 of this Act.

Until the said State is so admitted into the Union, the persons holding legislative, executive, and judicial office in, under, or by authority of the government of said Territory, and the Delegate in Congress thereof, shall continue to discharge the duties of their respective offices. Upon the issuance of said proclamation by the President of the United States and the admission of the State of Hawaii into the Union, the officers elected at said election, and qualified under the provisions of the constitution and laws of said State, shall proceed to exercise all the functions pertaining to their offices in, under, or by authority of the government of said State, and officers not required to be elected at said initial election shall be selected or continued in office as provided by the constitution and laws of said State. The Governor of said State shall certify the election of the Senators and Representative in the manner required by law, and the said Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

Representative.

SEC. 8. The State of Hawaii upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law: *Provided*, That such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives as prescribed in the Act of August 8, 1911 (37 Stat. 13), nor shall such temporary increase affect the basis of apportionment established by the Act of November 15, 1941 (55 Stat. 761; 2 U.S.C., sec. 2a), for the Eighty-third Congress and each Congress thereafter.

Judicial and criminal provisions.

SEC. 9. Effective upon the admission of the State of Hawaii into the Union—

(a) the United States District Court for the District of Hawaii established by and existing under title 28 of the United States Code shall thenceforth be a court of the United States with judicial power derived from article III, section 1, of the Constitution of the United States: *Provided, however*, That the terms of office of the district judges for the district of Hawaii then in office shall terminate upon the effective date of this section and the President, pursuant to sections 133 and 134 of title 28, United States Code, as amended by this Act, shall appoint, by and with the advice and consent of the Senate, two district judges for the said district who shall hold office during good behavior;

(b) the last paragraph of section 133 of title 28, United States Code, is repealed; and

(c) subsection (a) of section 134 of title 28, United States Code, is amended by striking out the words "Hawaii and". The second sentence of the same section is amended by striking out the words "Hawaii and", "six and", and "respectively".

"RIDER I – Document Y" - Act of August 20, 1996, *Pub. L.* 104-186, Title II, Section 201, 110 *Stat.* 1724 - *"House of Representatives Administrative Reform Technical Corrections Act."*

Public Law 104–186
104th Congress

An Act

Aug. 20, 1996
[H.R. 2739]

To provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

House of Representatives Administrative Reform Technical Corrections Act. 2 USC 31 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "House of Representatives Administrative Reform Technical Corrections Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—PROVISIONS RELATING TO ALLOWANCES AND ACCOUNTS IN THE HOUSE OF REPRESENTATIVES AND OTHER ADMINISTRATIVE MATTERS

SEC. 101. REPRESENTATIONAL ALLOWANCE FOR MEMBERS OF HOUSE OF REPRESENTATIVES. 2 USC 57b.

(a) IN GENERAL.—There is established for the House of Representatives a single allowance, to be known as the "Members' Representational Allowance", which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected.

(b) MERGER.—The Clerk Hire Allowance, the Official Expenses Allowance, and the Official Mail Allowance, as in effect on the day before the effective date of this section, are merged into the Members' Representational Allowance.

(c) DEFINITION.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(d) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(e) EFFECTIVE DATE.—This section shall take effect on September 1, 1995 and shall apply with respect to official and representational duties carried out on or after that date.

SEC. 102. ADJUSTMENT OF HOUSE OF REPRESENTATIVES ALLOWANCES BY COMMITTEE ON HOUSE OVERSIGHT.

House Resolution 457, Ninety-second Congress, agreed to July 21, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 57), is amended to read as follows:

"SECTION 1. ADJUSTMENT OF HOUSE OF REPRESENTATIVES ALLOWANCES BY COMMITTEE ON HOUSE OVERSIGHT.

"(a) IN GENERAL.—Subject to the provision of law specified in subsection (b), the Committee on House Oversight of the House of Representatives may, by order of the Committee, fix and adjust the amounts, terms, and conditions of, and other matters relating to, allowances of the House of Representatives within the following categories:

"(1) For Members of the House of Representatives, the Members' Representational Allowance, including all aspects of the Official Mail Allowance within the jurisdiction of the Committee under section 311 of the Legislative Branch Appropriations Act, 1991.

"(2) For committees, the Speaker, the Majority and Minority Leaders, the Clerk, the Sergeant at Arms, and the

Superior Court of the District of Columbia. Pursuant to that authority—

(A) the citation power described in subsection (b) of section 23–1110 of the District of Columbia Code shall be exercised by such member of the Capitol Police in the same manner as by an official of the Metropolitan Police Department; and

(B) paragraph (4) of subsection (b) of section 23–1110 of the District of Columbia Code, relating to failure to appear, shall apply with respect to citations under subparagraph (A) of this paragraph.

(2) The United States District Court for the District of Columbia shall have the power to authorize the member of the Capitol Police referred to in subsection (a) of this section to take bond from persons arrested upon writs and process from that court in criminal cases in the same manner as provided for with respect to an official of the Metropolitan Police Department of the District of Columbia under the third sentence of section 23–1110(a) of the District of Columbia Code.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS RELATING TO ADMINISTRATIVE REFORMS IN THE HOUSE OF REPRESENTATIVES

SEC. 201. PROVISIONS RELATING TO ELECTION OF REPRESENTATIVES.

The provisions of law relating to election of Representatives, as codified in chapter 1 of title 2, United States Code, are amended as follows:

The third sentence of section 22(b) of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 28, 1929 (2 U.S.C. 2a(b)), is amended by striking out the semicolon after "Representatives" the first place it appears and all that follows through the end of the sentence and inserting in lieu thereof a period.

SEC. 202. PROVISIONS RELATING TO ORGANIZATION OF CONGRESS.

The provisions of law relating to organization of Congress, as codified in chapter 2 of title 2, United States Code, are amended as follows:

(1) Section 204(a) of the District of Columbia Delegate Act (2 U.S.C. 25b) is repealed.

(2) Section 33 of the Revised Statutes of the United States (2 U.S.C. 26, third sentence) is repealed.

(3) Section 2(c) of Public Law 94–551 (2 U.S.C. 28c(c)) is amended—

(A) in paragraph (2), by striking out "Representives" and inserting in lieu thereof "Representatives"; and

(B) in paragraph (5), by striking out ", to the Sergeant" and all that follows through the end of the paragraph and inserting in lieu thereof "and to the Sergeant at Arms of the House of Representatives, each two sets;".