

# APPORTIONMENT OF REPRESENTATIVES IN CONGRESS AMONG THE SEVERAL STATES pdf

1: [www.enganchecubano.com](http://www.enganchecubano.com) - A Brief History of Apportionment

*United States congressional apportionment is the process by which seats in the United States House of Representatives are distributed among the 50 states according to the most recent constitutionally mandated decennial census.*

After much political infighting, 9 more seats were added and the final apportionment did not agree with either method. Hayes became President based on the botched apportionment of The electoral college vote was for Hayes and for Tilden. Tilden would have won if the correct apportionment as required by law had been used. For , Colorado would get 2 seats. A provision was made to give Arizona and New Mexico each 1 seat if they were admitted to the union. Census Bureau, for only the second time since , allocated Defense Department overseas employees for apportionment purposes. This resulted in Massachusetts losing a seat to Washington. The Supreme Court upheld the method. Montana was upset because it lost a seat to Washington based on the results of the census. History of Apportionment Legislation The text below was excerpted from from U. Department of Commerce v. The number of Representatives shall not exceed one for every 30, persons; each State shall have at least one Representative; and district boundaries may not cross state lines. When Congress first confronted the task of apportionment after the census of and after Vermont and Kentucky had been admitted to the Union , it considered using the constitutional minimum of 30, persons as the size of each district. Dividing that number into the total population of 3,, indicated that the House of Representatives should contain members. When that number was divided into the population of individual States, each quotient was a whole number with a fractional remainder. Because each State must be represented by a whole number of legislators, it was necessary either to disregard fractional remainders entirely or to treat some or all of them as equal to a whole Representative. Although that method was supported by Alexander Hamilton, Thomas Jefferson persuaded President Washington to veto the bill, in part because its allocation of eight Representatives to Connecticut exceeded the constitutional limit of one for every 30, persons. To overcome the basis for the veto, the size of the House was reduced from to members, giving each Representative an approximate constituency of 33, instead of 30, persons. Although both the total number of Representatives and the size of their districts increased, [n. Instead of disregarding fractional remainders, Adams would have treated every fraction as a unit. Thus, using the former example as a hypothetical, both Connecticut and Rhode Island would have received one more Representative under the Adams method than they actually received under the Jefferson method. In , Congress abandoned the Jefferson method in favor of an approach supported by Senator Daniel Webster. In that year Congress also passed legislation that ultimately fixed the number of Representatives at The method of the harmonic mean, for example, yielded the fairest apportionment if the discrepancy was measured by the absolute difference between the number of persons per Representative. The committee apparently preferred this method for two reasons. First, the method of equal proportions minimized the relative difference both between the size of congressional districts and between the number of Representatives per person. Second, in comparison with the other four methods considered, this method occupied an intermediate position in terms of favoring small States over large States: The Constitution has prescribed that Representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill. The third apportionment established a ratio of 35,, which provided a House of Members. The apportionment Act increased the ratio to 40, and the size of the House to The apportionment Act provided for districts representing an average of 47, persons each. Act of May 22, , 4 Stat. Schmeckebier, Congressional Apportionment This ratio was then divided into the population of a State to establish its quota. Each State would receive the number of Representatives corresponding to the whole number of the quota ignoring the fractional remainders. The remaining seats necessary to bring the nationwide total to the proper size in would then be distributed to the States with the largest fractional remainders. In practice, the method was not strictly followed. Additional Representatives

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were also authorized when Alaska and Hawaii were admitted to the Union in , but the number thereafter reverted to , where it has remained ever since. That Act also made the reapportionment process self executing, eliminating the need for Congress to enact an apportionment Act after each decennial census: 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.

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## 2: Article I - The United States Constitution

*Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.*

Text[ edit ] After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons. Initially, delegates to the Constitutional Convention set the representation ratio at one representative for every 40, people. Upon the suggestion of George Washington , the ratio was changed to one representative for every 30, people. They feared that over time, if the size remained relatively small and the districts became more expansive, that only well-known individuals with reputations spanning wide geographic areas could secure election. It was also feared that those in Congress would, as a result, have an insufficient sense of sympathy with and connectedness to ordinary people in their district. If anything falls under this description, it is the number of the legislature. This reassurance was essential to the ratification of the new form of government. That in Article I, Section 2, Clause 3 , these words be struck out, to wit: The proposals next went to the Senate , which made 26 substantive alterations. On September 9, , the Senate approved a package of twelve proposed amendments. A comparison of the two versions of the amendment [14] The substitute Senate language and the affected House language are both in red. House version “ August 24, After the first enumeration, required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons. Senate version “ September 9, After the first enumeration, required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred; to which number one Representative shall be added for every subsequent increase of forty thousand, until the Representatives shall amount to two hundred, to which number one Representative shall be added for every subsequent increase of sixty thousand persons. On September 21, , a conference committee convened to resolve the numerous differences between the two Bill of Rights proposals. On September 24, , the committee issued its report that finalized 12 Constitutional amendments for the House and Senate to consider. Regarding the apportionment amendment, the House passed version prevailed with one change: This proposed amendment was placed first among the twelve and was ratified by the legislatures of the following states: November 20, Maryland:

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## 3: United States congressional apportionment - Wikipedia

*H.R. , A bill for an apportionment of Representatives among the several States according to the first enumeration, March 6, This bill lists the new number of representatives for each state. States with large (but non-voting) enslaved populations were awarded greater representation in Congress than states with equal numbers of white male.*

George Washington agreed that the original representation proposed during the Constitutional Convention one representative for every 40, was inadequate and supported an alteration to reduce that number to 30. He noted, however, I take for granted here what I shall, in answering the fourth objection, hereinafter show, that the number of representatives will be augmented from time to time in the manner provided by the Constitution. On a contrary supposition, I should admit the objection to have very great weight indeed. Madison argued against the assumption that more is better: Sixty or seventy men may be more properly trusted with a given degree of power than six or seven. But it does not follow that six or seven hundred would be proportionally a better depository. And if we carry on the supposition to six or seven thousand, the whole reasoning ought to be reversed. In all very numerous assemblies, of whatever character composed, passion never fails to wrest the scepter from reason. Department of Commerce[ edit ] Main article: Department of Commerce A lawsuit, *Clemons v. The intent of the plaintiff was to rectify the disparity of congressional district population sizes among the states that result from the present method of apportionment. Upon reaching the U. Supreme Court in December , the holdings of the lower district and appellate courts were vacated and the case remanded to the U. District Court from which the case originated with instructions that the district court dismiss the case for lack of jurisdiction. After the first enumeration required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred; after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons. Although a larger House size will generally result in the smallest and largest districts being proportionally closer in size, this is not always the case. Therefore, in some cases, the Wyoming Rule may actually result in an increase in the ratio of the sizes of the largest and smallest districts. The Wyoming Rule would have given a House size of in On May 21, , Rep. Alcee Hastings sent a dear colleague letter pointing out that U. It was passed by the House, but was tripped up by procedural hurdles in the Senate and withdrawn from consideration. An identical bill was reintroduced during the th Congress. In February the Senate adopted the measure In April , however, House leaders decided to shelve the proposal. No method of calculating a fair distribution of voting power across the various states was known until recently and five distinct apportionment methods have been used since the adoption of the Constitution , none of them producing fully proportional distribution of power among the states. The current method, known as the method of equal proportions, has been used since the Census. The Vinton or Hamilton method, used from to , was susceptible to what is known as the apportionment paradox or Alabama paradox. Huntington's Hill method The apportionment methodology currently used is the method of equal proportions, [1] [18] [19] [20] so called because it guarantees that no additional transfer of a seat from one state to another will reduce the ratio between the numbers of persons per representative in any two states. The remaining seats are allocated one at a time, to the state with the highest priority number. Thus, the 51st seat would go to the most populous state currently California. The formula for determining the priority of a state to be apportioned the next available seat defined by the method of equal proportions is A.*

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## 4: Department of Commerce v. United States House of Representatives, U.S. ()

*The founders designed the House of Representatives to represent the people rather than the states, which each send two Members to the U.S. Senate. Article I, Section II of the Constitution provides each state at least one U.S. Representative, while the size of a state's delegation to the House depends on its total population.*

Since American Indians are now taxed, they are counted for purposes of apportionment. The 17th Amendment provided for the direct popular election of Senators. The filling of vacancies was altered by the 17th amendment. The 20th Amendment changed the starting date for a session of Congress to noon on the 3d day of January This obsolete provision was designed to protect the slave trade from congressional restriction for a period of time. Section 2 The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen. Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three. When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies. The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment. Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies. No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen. The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States. The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. And no Person shall be convicted without the Concurrence of two thirds of the Members present. Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: Section 4 The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators. The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day. Section 5 Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn

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from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide. Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member. Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal. Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting. Section 6 The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place. No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office. Section 7 All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills. Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days Sundays excepted after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law. Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary except on a question of Adjournment shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill. No Bill of Attainder or ex post facto Law shall be passed. No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken. No Tax or Duty shall be laid on Articles exported from any State. No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time. No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State. No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay. Although the form of each government differed, most tended to elevate the legislature above the executive and judiciary, and made the legislature as responsive to majoritarian sentiments as possible. State legislatures began enacting laws to relieve debtors who were numerous of their debts, which undermined the rights of creditors who were few and the credit market. States also erected an assortment of trade barriers to protect their own businesses

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from competing firms in neighboring states. And, because state legislatures controlled their own commerce, the federal Congress was unable to enter into credible trade agreements with foreign powers to open markets for American goods, in part, by threatening to restrict foreign access to the American market. The result of all this was a nationwide economic downturn that, rightly or not, was blamed on ruinous policies enacted by democratically-elected legislatures. In , political dissatisfaction with the economic situation led to a convention convened in Philadelphia to remedy this state of affairs. The new Constitution it proposed, addressed debtor relief laws with the Contracts Clause of Article I, Section 10, which barred states from "impairing the obligation of contracts. The international commerce power also gave Congress the power to abolish the slave trade with other nations, which it did effective on January 1, , the very earliest date allowed by the Constitution. But, in the words of Chief Justice John Marshall, the "enumeration" of three distinct commerce powers in the Commerce Clause "presupposes something not enumerated, and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State. Ogden Marshall, C. So, for example, even when combined with the Necessary and Proper Clause giving Congress power to make all laws which shall be necessary and proper for carrying into execution its enumerated powers, the Commerce Clause did not give Congress power to touch slavery that was allowed by state governments within their borders. The text of the Commerce Clause raises at least three questions of interpretation: What is the meaning of "commerce"? What is the meaning of "among the several states"? And what is the meaning of "to regulate"? Some have claimed that each of these terms of the Commerce Power had, at the time of the founding, an expansive meaning in common discourse, while others claim the meaning was more limited. In addition to other pervasive evidence of the public meaning of these terms, the slavery issue helps clarify the original public meaning of these terms at the time of their enactment. Among the several states meant between one state and others, not within a state, where slavery existed as an economic activity. From the founding until today, the meaning of "commerce" has not been much changed. Perhaps its only expansion by the Supreme Court came in when the Court held that commerce included "a business such as insurance," which for a hundred years had been held to be solely a subject of internal state regulation. Darby , the "power of Congress over interstate commerce is not confined to the regulation of commerce among the states. But in McCulloch, Chief Justice Marshall insisted that "should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not entrusted to the government; it would become the painful duty of this tribunal. Thus, the Court expanded Congress power over interstate commerce in a way that gave it power over the national economy. In the s, the Rehnquist Court treated these New Deal cases as the high water mark of congressional power. In the cases of U. Lopez and U. Morrison , the Court confined this regulatory authority to intrastate economic activity. In addition, in a concurring opinion in Gonzales v. Raich , Justice Scalia maintained that, under Lopez, "Congress may regulate even noneconomic local activity if that regulation is a necessary part of a more general regulation of interstate commerce. Sebelius , in , a majority of the justices found that a mandate to compel a person to engage in the economic activity of buying health insurance was beyond the powers of Congress under both the Commerce and Necessary and Proper Clauses. The dispute over the breadth of the meaning of "commerce" turns, in large part, on the purposes one attributes to the clause, and to the Constitution as a whole, and what one thinks is the relevance of such purposes to the meaning of the text. At Philadelphia in , the Convention resolved that Congress could "legislate in all cases. Convention 21 Max Farrand ed. This was then translated by the Committee of Detail into the present enumeration of powers in Article I, Section 8, which was accepted as a functional equivalent by the Convention without much discussion. Proponents of an expansive reading claim that the power to regulate commerce should extend to any problem the states cannot separately solve. Those who support a narrower reading observe that the Constitution aims to constrain, as well as to empower, Congress, and the broadest reading of the Commerce power extends well beyond anything the framers imagined. As the dissenters in the health care case observed, "Article I contains no whatever-it-takes-to-solve-a-national-problem power. For contrasting views of evidence on the original public

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meaning of the terms in the Commerce Clause, compare Randy E. Balkin, *Living Originalism* ; Randy E. Barnett As Professor Koppelman and my jointly-authored essay shows, abundant evidence—including what we know about slavery at the time of the Founding—tells us that the original meaning of the Commerce Clause gave Congress the power to make regular, and even to prohibit, the trade, transportation or movement of persons and goods from one state to a foreign nation, to another state, or to an Indian tribe. It did not originally include the power to regulate the economic activities, like manufacturing or agriculture, that produced the goods to be traded or transported. We should follow the original meaning of this provision for the same reason we limit California to the same number of Senators as Delaware, notwithstanding the vast disparity between their populations, or limit the president to a person who is at least thirty-five years old, though some who are younger than thirty-five might make excellent presidents. A written constitution is the law that governs those who govern us. And those who govern us—whether the Congress, the president, or the courts—can no more properly change the law that governs them without going through the amendment process of Article V, than can the people can change the speed limits imposed on them without going through the legislative process. But such an oath would be meaningless if it was merely promising to obey whatever meaning a government official later wants the Constitution to mean. I agree with Professor Koppelman that the Founders attempted to distinguish the problems that were best handled at the national level from those best handled by the states. But they did so by drafting a specific list of such powers, rather than leave it to the national authority to decide the scope of its own power. Where later developments justify adding to these national powers, such expansion is properly handled by an Article V constitutional amendment, as the Constitution was once amended to give Congress the power to prohibit the intrastate economic activity of producing and selling alcohol. See the Eighteenth Amendment. Enforcing the original meaning of the Commerce Clause does not mean that other economic activities are free from any government regulation. It merely means that the power to regulate all intrastate economic activities resides with each of the fifty states. Where national uniformity and coordination between states are desirable, these goals can be achieved by the Interstate Compacts Clause of Article I, Section 8, by which states may enter into agreements or compacts with another state or states, provided they have the consent of Congress. Many such compacts exist. Read the full discussion here. I identify some of the key advantages of decentralizing most law-making at the state level in my statement on Federalism. Here is a summary of my analysis there: *Federalism Makes Regulatory Diversity Possible*.

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## 5: Congressional Apportionment Amendment - Wikipedia

*The Apportionment Act of (1 Stat. ) was an apportionment bill passed by the United States Congress on April 10, , and signed into law by President George Washington on April 14,*

The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. House of Representatives and the seats in the House are apportioned based on state population according to the constitutionally mandated Census. Representation based on population in the House was one of the most important components of the Federal Constitutional Convention of Origins The American Revolution was, in part, a contest about the very definition of representation. In England, the House of Commons represented every British subject regardless of whether the subject could actually vote for its membership. American colonists, who were used to controlling their local affairs in the directly-elected colonial legislatures, lacked a voice in Parliament and resented the British policies imposed on them. Thus, they rallied behind the now familiar motto: The Articles of Confederation created the first national congress to represent the interests of the states: Approved by the 39th Congress as H. The Constitutional Convention addressed multiple concerns in the process of designing the new Congress. The first was the relationship of the least populous states to the most populous. The battle between big and small states colored most of the Convention and nearly ended hopes of creating a national government. Pennsylvania Delegate Benjamin Franklin summed up the disagreement: If an equality of votes is to be put in its place, the large States say their money will be in danger. When a broad table is to be made, and the edges of planks do not fit the artist takes a little from both, and makes a good joint. The compromise enabled the Convention, teetering on the brink of dissolution, to continue. The Convention determined that a Census of the population conducted every 10 years would enable the House to adjust the distribution of its Membership on a regular basis. The method, however, proved controversial. Southern delegates argued that their slaves counted in the population, yielding them more Representatives. Northern delegates countered that slaves were property and should not be counted at all. Before federal income taxes or tariffs, the states contributed to the national government with local taxes, often flat poll taxes on each citizen. Since constitutional framers had to provide for the funding of the new government, they debated the proper relationship between representation and taxation. Several delegates argued that geographic size or useable farmland were better measures of state wealth than mere population. Delegates, however, settled on proportional contributions based on population and, by extension, the number of Members in the House of Representatives. Large states, with more human capital, should contribute more revenue to the national government and also have more seats in the legislature as a result. This fulfilled the promise of the American Revolution: The latter amendments, however, did not alter congressional apportionment. Current Practice Congress has capped the number of Representatives at since the Apportionment Act of except for a temporary increase to during the admission of Hawaii and Alaska as states in As a result, over the last century, congressional districts have more than tripled in size from an average of roughly , inhabitants after the Census to about , inhabitants following the Census. For Further Reading U. Congressional Reapportionment and Urban-Rural Conflict in the s. University of Georgia Press, The Records of the Federal Convention of New Haven and London: Yale University Press, University of Chicago Press, Black Faces in the Mirror: African Americans and Their Representatives in the U. Princeton University Press, Office of the Historian:

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## 6: Apportionment Act of - Wikipedia

*A bill for an apportionment of representatives among the several states, according to the first enumeration; and making provision for another enumeration, and an apportionment of representatives thereon, to compose, the House of representatives. Philadelphia,*

The Census Act, 13 U. That this authorization is constitutional is equally clear. Moreover, because I am satisfied that at least one of the plaintiffs in each of these cases has standing, I would reverse both District Court judgments. I The Census Act, as amended in , contains two provisions that relate to sampling. The first is an unlimited authorization; the second is a limited mandate. As its text plainly states, that section gives the Secretary of Commerce unqualified authority to use sampling procedures when taking the decennial census, the census used to apportion the House of Representatives. It reads as follows: That section commands the Secretary to use sampling, subject to two limitations: The command reads as follows: United States, U. In my judgment, however, the text of both provisions is perfectly clear: They authorize sampling in both the decennial and the mid-decade census, but they only command its use when the determination is not for apportionment purposes. A comparison of the text of these provisions with their predecessors in the Census Act further demonstrates that in Congress specifically intended to authorize the use of sampling for the purpose of apportioning the House of Representatives. Prior to , the Census Act contained neither an unlimited authorization to use sampling nor a limited mandate to do so. In other words, it contained a limited authorization that was coextensive with the present limited mandate. The amendments made two changes, each of which is significant. The primary purpose of the enactment was to provide for a mid-decade census to be used for various purposes other than apportionment. Section a , however, is concerned only with the decennial census. Given that there is only one decennial census, and that it is the only census that is used for apportionment purposes, the import of this comment in the Senate Re- port could not be more clear. Both before and after he could use sampling for any census-related purpose, other than apportionment. The plurality finds an omission in the legislative history of the enactment more probative of congressional intent than either the plain text of the statute itself or the pertinent comment in the Senate Report. For the plurality, it is incredible that such an important change in the law would not be discussed in the floor debates. See ante, at That the use of sampling has since become a partisan issue sheds no light on the views of the legislators who enacted the authorization to use sampling in Why, one must wonder, did Congress make this textual change in ? There is no merit to their argument. In , when the Constitution was being drafted, the Framers negotiated the number of Representatives allocated to each State because it was not feasible to conduct a census. The paramount constitutional principle codified in this clause was the rule of periodic reapportionment by means of a decennial census. The July debate over future reapportionment of seats in the House of Representatives did not include any dispute about proposed methods of determining the population. Rather, the key questions were whether the rule of reapportionment would be constitutionally fixed and whether subsequent allocations of seats would be based on population or property. See 1 Records of the Federal Convention of , pp. As we repeatedly emphasized in our recent decision in *Wisconsin v. City of New York*, U. For example, enumerators unable to gain entry to a large and clearly occupied apartment complex would be required to note zero occupants. As the District Court in No. Accordingly, I respectfully dissent in both cases. I would reverse both judgments on the merits. To its credit, and unlike the District Court, the Court does not rely on our reference to the watchdog that did not bark in *Chisom v.* In that case, unlike these cases, there was neither a change in the relevant text of the statute nor a reference to the purported change in the Committee Reports. The change in these cases is clearly identified in both the statutory text and the Senate Report. The only contentious issue in the floor debates involved the penalty provisions for noncompliance. Indeed, the Conference Report comparing the House and Senate bills and announcing the harmonized final version confirms that substitutions were only necessary with regard to penalties for failure to answer questions and to ensure that no one would be

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compelled to disclose information regarding religious affiliation. Many did object to the use of the mid-decade census statistics for congressional apportionment and districting. In a supplement to H. Supplemental Views on H. Ford on Signing H. Anderson, The American Census:

### 7: [USC07] 13 USC Population and other census information

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