

exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

#### AMENDMENT XIV.<sup>5</sup>

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the

§ 225. Citizenship:  
security and equal  
protection of citizens.

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February 8, 1865); Kentucky, March 30, 1865 (after hearing rejected the amendment on February 24, 1865). The amendment was rejected by Mississippi, December 4, 1865, but subsequently ratified on March 16, 1866.

<sup>5</sup>The 14th amendment to the Constitution of the United States was proposed to the legislatures of the several States by the 39th Congress, on June 15, 1866. On July 20, 1868, the Secretary of State issued a proclamation that the 14th amendment was a part of the Constitution if withdrawals of ratification were ineffective. On July 21, 1868, Congress adopted and transmitted to the Department of State a concurrent resolution declaring that “the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, New Hampshire, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore *Resolved*, That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State.” The Secretary of State accordingly issued a proclamation, dated July 28, 1868, declaring that the proposed 14th amendment had been ratified, in the manner hereafter mentioned, by the legislatures of 28 States. The dates of ratification were: Connecticut, June 30, 1866; New Hampshire, July 6, 1866; Tennessee, July 18, 1866; New Jersey, September 11, 1866 (subsequently, on February 20, 1868, the legislature rescinded its ratification, and on March 24, 1868, readopted its resolution of rescission over the Governor’s veto, and on April 23, 2003, revoked the resolution of rescission); Oregon, September 19, 1866 (subsequently rescinded its ratification on October 16, 1868, and ratified on April 25, 1973); New York, January 10, 1867; Ohio,

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State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. 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. 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

§ 226. Apportionment of representation.

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January 11, 1867 (subsequently rescinded its ratification on January 13, 1868, and ratified on March 12, 2003); Illinois, January 15, 1867; West Virginia, January 16, 1867; Michigan, January 16, 1867; Minnesota, January 16, 1867; Kansas, January 17, 1867; Maine, January 19, 1867; Nevada, January 22, 1867; Indiana, January 23, 1867; Missouri, January 25, 1867; Pennsylvania, February 6, 1867; Rhode Island, February 7, 1867; Wisconsin, February 13, 1867; Massachusetts, March 20, 1867; Nebraska, June 15, 1867; Iowa, March 16, 1868; Arkansas, April 6, 1868; Florida, June 9, 1868; North Carolina, July 4, 1868 (after having rejected the amendment December 14, 1866); Louisiana, July 9, 1868 (after having rejected the amendment February 6, 1867); South Carolina, July 9, 1868 (after having rejected the amendment December 20, 1866). Ratification was completed on July 9, 1868. The amendment was subsequently ratified by Alabama, July 13, 1868; Georgia, July 21, 1868 (after having rejected it on November 9, 1866); Virginia, October 8, 1869 (after having rejected it on January 9, 1867); Mississippi, January 17, 1870; Texas, February 18, 1870 (after having rejected it on October 27, 1866); Delaware, February 12, 1901 (after having rejected it on February 8, 1867); Maryland, April 4, 1959 (after having rejected it on March 23, 1867); California, May 6, 1959; Kentucky, March 30, 1976 (after having rejected it on January 10, 1867).

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.

There has been a readjustment of House representation each 10 years except during the period 1911 to 1929 (VI, 41, footnote).  
§ 227. Law governing the establishment of districts. From March 4, 1913, permanent House membership has remained fixed at 435 (VI, 40, 41; 37 Stat. 13). Upon admission of Alaska and Hawaii to statehood, total membership was temporarily increased to 437 until the next reapportionment (72 Stat. 339, 345; 73 Stat. 8). Congress has by law provided for automatic apportionment of the 435 Representatives among the States according to each census including and after that of 1950 (2 U.S.C. 2a). The Apportionment Act formerly provided that the districts in a State were to be composed of contiguous and compact territory containing as nearly as practicable an equal number of inhabitants (I, 303; VI, 44); but subsequent apportionment Acts, those of 1929 (46 Stat. 26) and 1941 (55 Stat. 761), omitted such provisions. See *Wood v. Broom*, 287 U.S. 1 (1932).

Congress has by law provided that for the 91st and subsequent Congresses each State entitled to more than one Representative shall establish a number of districts equal to the number of such Representatives, and that Representatives shall be elected only from the single-Member districts so established. (Hawaii and New Mexico were excepted from the operation of this statute for the elections to the 91st Congress by Public Law 90-196; see 2 U.S.C. 2c). After any apportionment, until a State is redistricted in a manner provided by its own law and in compliance with the congressional mandate, the question of whether its Representatives shall be elected by districts, at large, or by a combination of both, is determined by the Apportionment Act of 1941 (2 U.S.C. 2a).

Under the Apportionment Act, a statistical model known as the “method of equal proportions” is used to determine the number of Representatives to which each State is entitled. Although other methods for apportioning House seats may be permitted, the equal proportions method chosen by Congress has been upheld under the Constitution and was plainly intended to reach as close as practicable the goal of “one person, one vote.” *Massachusetts v. Mosbacher*, 785 F. Supp. 230 (D. Mass. 1992), *rev’d* on other grounds *Franklin v. Massachusetts*, 505 U.S. 788 (1992). The courts also

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have recently upheld under Federal law and the Constitution a counting methodology used by the Census Bureau in a decennial census. This method, known as “imputation,” was held to be different than “sampling,” a method prohibited under section 195 of title 13, United States Code. *Utah v. Evans*, 536 U.S. 452 (2002). The method of apportioning the seats in the House is vested exclusively in Congress, and neither States nor courts may direct greater or lesser representation than that allocated by statute (Deschler, ch 8 § 1). See Deschler, ch. 8 for apportionment and districting.

The House has always seated Members elected at large in the States, although the law required election by districts (I, 310, 519). Questions have arisen from time to time when a vacancy has occurred soon after a change in districts, with the resulting question whether the vacancy should be filled by election in the old or new district (I, 311, 312, 327). The House has declined to interfere with the act of a State in changing the boundaries of a district after the apportionment has been made (I, 313).

The Supreme Court has ruled that congressional districts must be as equally populated as practicable. *Wesberry v. Sanders*, 376 U.S. 1 (1964); *Kirkpatrick v. Preisler*, 385 U.S. 450 (1967). The Court has made clear that variances in population among congressional districts within a State may be considered *de minimis* only if they cannot practicably be avoided. If such variances, no matter how mathematically miniscule, could have been reduced or eliminated by a good faith effort, then they may be justified only on the basis of a consistent, rational State policy. *Karcher v. Daggett*, 462 U.S. 725 (1983). The Court also has made evident that it will take judicial review of a claim that apportionment schemes lack consistent, rational bases. *Davis v. Bandemer*, 478 U.S. 109 (1986) (holding political gerrymandering complaint justiciable under equal protection clause).

**SECTION 3.** No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid

§ 230. Loyalty as a qualification of Senators and Representatives.

or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

§ 231. Removal of disabilities and questions as to seating a Member-elect. Congress has by law removed generally the disabilities arising from the Civil War (30 Stat. 432). Soon after the war various questions arose under this section (I, 386, 393, 455, 456). For disloyalty to the United States, for giving aid and comfort to a public enemy, for publication of expressions hostile to the Government a Member-elect was denied a seat in the House (VI, 56, 58). As to the meaning of the words "aid or comfort" as used in the 14th amendment (VI, 57).

§ 232. Validity of the national debt, etc. SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 233. Enforcement of the 14th amendment. SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Congress may legislate under this section to protect voting rights by preempting discriminatory State qualifications for electors (*Katzenbach v. Morgan*, 384 U.S. 641 (1966)), and may lower the voting age in Federal (but not State) elections (*Oregon v. Mitchell*, 400 U.S. 112 (1970)).