

University of North Dakota UND Scholarly Commons

Theses and Dissertations

Theses, Dissertations, and Senior Projects

12-1-1992

Sectionalism and the Representation Debate, 1787-1792

John E. Grenier

Follow this and additional works at: https://commons.und.edu/theses

Recommended Citation

Grenier, John E., "Sectionalism and the Representation Debate, 1787-1792" (1992). *Theses and Dissertations*. 1202. https://commons.und.edu/theses/1202

This Thesis is brought to you for free and open access by the Theses, Dissertations, and Senior Projects at UND Scholarly Commons. It has been accepted for inclusion in Theses and Dissertations by an authorized administrator of UND Scholarly Commons. For more information, please contact zeinebyousif@library.und.edu.

SECTIONALISM AND THE REPRESENTATION DEBATE, 1787-1792

by

John E. Grenier Bachelor of Arts, Colorado State University, 1988

A Thesis

Submitted to the Graduate Faculty

of the

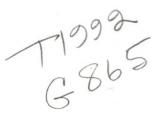
University of North Dakota

in partial fulfillment of the requirements

for the degree of

Master of Arts

Grand Forks, North Dakota December 1992



This thesis, submitted by John E. Grenier in partial fulfillment of the requirements for the Degree of Master of Arts from the University of North Dakota, has been read by the Faculty Advisory Committee under whom the work has been done and is hereby approved.

(Chairperson)

This thesis meets the standards for appearance, conforms to the style and format requirements of the Graduate School of the University of North Dakota, and is hereby approved.

Harvey Knull Dean of the Graduate School 12-2-92

PERMISSION

Title

Sectionalism and the Representation Debate, 1787-1792

Department History

Degree Master of Arts

In presenting this thesis in partial fulfillment of the requirements for a graduate degree from the University of North Dakota, I agree that the library of this University shall make it freely available for inspection. I further agree that permission for extensive copying for scholarly purposes may be granted by the professor who supervised my thesis work or, in his absence, by the Chairperson of the department or the Dean of the Graduate School. It is understood that any copying or publication or other use of this thesis or part thereof for financial gain shall not be allowed without my written permission. It is also understood that due recognition shall be given to me and to the University of North Dakota in any scholarly use which may be made of any material in my thesis.

Signature

2 NOV 9

Date

TABLE OF CONTENTS

| LIST O | F TABLES v | | | | |
|--------|---|--|--|--|--|
| ACKNOW | LEDGEMENTS vi | | | | |
| ABSTRA | CT vii | | | | |
| CHAPTE | CHAPTER | | | | |
| 1. | INTRODUCTION 1 | | | | |
| | THE REPRESENTATION DEBATE IN THE CONSTITUTIONAL CONVENTION | | | | |
| 3. | PUBLIC ARGUMENTS AND THE REPRESENTATION DEBATE 25 | | | | |
| | THE APPORTIONMENT AMENDMENT AND THE FIRST CONGRESS | | | | |
| 5. | THE REPRESENTATION DEBATE IN THE SECOND CONGRESS 59 | | | | |
| 6. | ANALYSIS OF THE ROLL CALL RECORD | | | | |
| 7. | CONCLUSION 104 | | | | |
| APPEND | DICES 111 | | | | |
| BIBLIO | GRAPHY | | | | |

LIST OF TABLES

| Page | | | | ge |
|------|----|---|---|----|
| | 1. | Representatives Apportioned under the Constitution and Proposed H.R. 147 | | 61 |
| | 2. | Representatives Apportioned under Each Proposed Representation Ratio | | 63 |
| | 3. | Number of Persons Unrepresented under Each Proposed Representation Ratio | | 74 |
| | 4. | Representatives Apportioned under the Constitution H.R. 147, and the Senate Bill | | 77 |
| | 5. | Representation Ratios in H.R. 179 | • | 81 |
| | 6. | Distribution of Southern Representatives in Southern Bloc and Fringe | • | 88 |
| | 7. | Distribution of New England Representatives in New England Bloc and Fringe | • | 93 |
| | 8. | Distribution of Mid-Atlantic Representatives in Mid-Atlantic Bloc and Fringe | | 96 |
| | 9. | Distribution and Percentage of Representatives in East and West Blocs and Fringes | | 01 |

ACKNOWLEDGEMENTS

The author expresses thanks to the Inter-University Consortium on Political and Social Research (ICPSR). The ICPSR provided the legislative roll call data that made this project complete. In addition, special thanks are due Dr. Richard Beringer, chairman of my graduate committee, for his time and patience in the preparation of this manuscript. The author is also grateful to John Alspaugh for his valuable assistance on matters of computer operations.

ABSTRACT

From 1787 until 1792 the issue of the apportionment of representatives in the House of Representatives was the focus of spirited debate in American politics. The central issue at stake was the size and influence of each of the sections in future Congresses. The representation issue was first debated during the Constitutional Convention in 1787. After a temporary settlement of the representation question in the Convention, the First Congress re-opened the apportionment debate. The result was a constitutional amendment that would have significantly increased the size of the House of Representatives. After that amendment failed to pass the states, the Second Congress finally passed in 1792 an apportionment bill that increased the House in size in time for the convening of the Third Congress in March 1793.

No historian that I know of has addressed the representation debate after the Constitutional Convention. Therefore, the details of the debate over the apportionment amendment remained unexamined. Additionally, the contest in the Second House to increase the size of the House has been virtually ignored.

This paper therefore addresses the representation debate from 1787 to 1792. Starting with the Constitutional

vii

Convention of 1787, I have traced the representation question through the First Congress and the failed apportionment amendment to the debate's conclusion in the Second Congress.

Both primary and secondary sources were used in the research of this paper. Additionally, legislative roll call analysis was used to determine the degree of sectionalism surrounding the representation debate in the Second Congress.

The conclusion of my research is that North-South sectionalism played a significant role in the apportionment debate. The question of slavery's place in the apportionment of representatives was central to the debate in the Constitutional Convention. Although the slavery question was settled by the "three-fifths compromise," the North and the South, after the Convention, divided along sectional lines on the question of how large of an increase in the size of the House of Representatives was necessary. By the Second Congress the South had split with the North on that issue. But within the North, two distinct voting blocs emerged. The New England and the Mid-Atlantic states fractured over the details of limiting the increase in the number of representatives in the House. Thus, by 1792, a distinct North-South sectionalism over the size and make-up of the House of Representatives was present in American politics.

viii

CHAPTER 1

INTRODUCTION

A quandary faced American statesmen in 1787 when they attempted to establish the new American government. With a tradition of opposition to the royal government's perceived abuses of power, the founding fathers put their hopes for the United States' future in the separation of powers. In their Novus Ordo Seclorum the legislature would predominate. But there was no acceptable precedent for apportionment of representation among the states in the national legislature so that the Congress neither dominated the polity nor was subject to the majority's whims and caprices. Thus, James Madison's dictum that "You must first enable the government to control the governed; and in the next place, oblige it to control itself,"¹ became the benchmark of a protracted and complex debate surrounding the apportionment of

The apportionment issue was first debated at the meeting of the First Continental Congress. Virginia, with 20 percent of the country's population, unsuccessfully

¹Publius, <u>The Federalist 51</u>, from <u>New York Independent</u> <u>Journal</u>, 6 February 1788, John P. Kaminski et al., eds., <u>Commentaries on the Constitution: Public and Private</u>, vols. 13-16 of <u>The Documentary History of the Ratification of the</u> <u>Constitution</u>, 16 vols., ed. Merrill Jensen (Madison: State Historical Society of Wisconsin, 1976-1986), 16:44 (hereinafter cited as <u>Commentaries</u>).

argued for proportional representation in the national legislature. In 1776 Virginia, with the assistance of Pennsylvania and Massachusetts, again unsuccessfully demanded that proportional representation should be the basis for representation in the national legislature.² When the Continental Congress ratified the Articles of Confederation in 1777, the debate surrounding the apportionment of representation was temporarily settled. In lieu of proportional representation, each state was given an equal vote in the national legislature.³ Not until 1789 and the ratification of the Federal Constitution was the apportionment of representation in the Congress significantly altered.

Although the public debate on the apportionment of representatives appeared negligible throughout the Confederation period, certain key points of the later debate did emerge. By 1781 and the states' ratification of the Articles of Confederation, the North and the South were convinced that distinct social, economic, and political differences existed between them.⁴ The apportionment issue

³Act of Confederation of the United States of America, ibid., 1: 87. Article V of the Article of Confederation guaranteed each state an equal vote in the national legislature.

⁴<u>Documents</u>, 1: 240.

²Merrill Jensen, ed., <u>Constitutional Documents and</u> <u>Records, 1776-1787</u>, vol. 1, <u>The Documentary History of the</u> <u>Ratification of the Constitution</u>, 16 vols. (Madison: State Historical Society of Wisconsin, 1976-1986), 1: 240 (hereinafter cited as <u>Documents</u>).

was clearly linked to those differences, and none more markedly than slavery. If, for example, the apportionment of representatives in the national legislature was to be based on population, were slaves to count as citizens? If apportionment were to be based on property and tax quotas, should slaves be counted as taxable property? If for taxation purposes the national government's expenses were to be divided among the states based on their respective numbers in the national legislature, where did slaves fit into the determination of each state's representation?

When the Constitutional Convention convened in May 1787, the issue of the apportionment of representatives in the national legislature again entered American politics at the national level. Delegates to the Constitutional Convention vigorously debated the apportionment of representatives in the future Congress. Alexander Hamilton noted,

the small states, seeing themselves embraced by the Confederation on equal terms, wished to retain the advantages which they already possessed. The large states, on the contrary, thought it improper that Rhode Island and Delaware should enjoy an equal suffrage with themselves. From these sources of conflict a delicate and difficult contest arose. It became necessary, therefore, to compromise, or the Convention would have dissolved without effecting any thing.⁵

⁵That compromise entailed equal representation in the Senate and proportional representation on the House of Representatives. Alexander Hamilton to the New York Convention, 20 June 1788, Max Farrand, ed., <u>The Records of</u> <u>the Federal Convention of 1787</u> (New Haven: Yale University Press, 1911-37, 4 vols.; reprint, New Haven: Yale University Press, 1966), 4 vols., 3: 337 (page references are to reprint edition, hereinafter cited as Farrand, <u>Records</u>).

However, the compromise reached in the Constitutional Convention was short lived. During the ratification contest in the states, the apportionment issue again became the focus of debate. But the issues surrounding the apportionment of representatives to the House of Representatives had changed. Rather than focusing on slavery's role in apportionment calculations, which had been effectively settled by the noted three-fifths compromise, the debate following the Constitution's ratification centered on the size of the increase in the House of Representatives. Coupled with the arguments surrounding the costs of maintaining the Congress, the apportionment debate increasingly divided Northerners and Southerners.

Although by 1789 nine states had ratified the Constitution, it was clear that many individuals within those same states found the Constitution's apportionment clause inadequate. The First Congress therefore debated an apportionment amendment to the Constitution. The result was an amendment that would have significantly increased the number of representatives in future Congresses. Additionally, the First Congress also submitted an amendment to the states prohibiting the Congress from granting itself a mid-term pay raise. When the apportionment amendment failed to pass the states in 1791, the Second Congress, after extended debate, codified and passed an apportionment law incorporating a representatives.

Although the question of the apportionment of representatives in the Congress was a central issue in American politics from 1787 to 1792, the details and significance of that debate have yet to be the focus of an in-depth historical analysis. Many questions surrounding that debate remained unanswered. For example, why was the apportionment issue so vigorously contested? What were the public and private arguments presented during the debate? What voting blocs and coalitions emerged throughout the course of the debate? Did Northerners align against Southerners on the apportionment issue, or did the sections fracture into coalitions of divergent interests?

Contemporaries understood the significance of the debate surrounding the apportionment of representatives in the Congress. The <u>Pennsylvania Gazette</u> on 5 March 1788 noted that "The American seems to be duly impressed with the propriety and duty of making the voice of the majority the law of the land."⁶ An opponent of the Constitution noted that the essential parts of free and good government "are a full and equal representation of the people in the legislature. . . ."⁷ Madison, in <u>The Federalist 55</u>, wrote,

The number of which the House of Representatives is to consist forms another, and a very interesting point of view under which this branch of the federal legislature

⁶<u>Pennsylvania Gazette</u>, 5 March 1788, <u>Commentaries</u>, 16: 321.

⁷Federal Farmer, Letters to the Republican, 9 October 1787, ibid., 14: 25-26.

may be contemplated. Scarce any article indeed in the whole constitution seems to be rendered more worthy of attention, by the weight of character and the apparent force of argument, with which it has been assailed.⁸

Yet, few historians have considered the apportionment debate from 1787 to 1792. Most historians of the Confederation and early Federalist periods have focused on aspects other than the apportionment issue. But the historical debates surrounding the social, economic, and ideological divisions in American society are germane. One can discern distinct divisions in American politics on a wide range of issues. Perhaps the apportionment issue was one such issue.

One school of historians has taken notice of the divisions in American politics at the time of the convening of the Constitutional Convention in May 1787. Charles A. Beard, in <u>An Economic Interpretation of the Constitution of</u> <u>the United States</u>, spoke of the economic divisions within the Convention. Forrest McDonald, in <u>We the People</u>, stated that the Convention was the product of several conflicting interests and elements. David Smith likewise noted the ideological and economic cleavage in the American polity by 1789, in <u>The Convention and the Constitution</u>. Orin Libby, in <u>The Geographical Distribution of the Vote of the Thirteen</u> <u>States on the Federal Constitution</u>, <u>1787-8</u>, contended that

⁸Publius, <u>The Federalist 55</u>, from <u>New York Independent</u> <u>Journal</u>, 13 February 1788, ibid., 16: 111.

"the areas of intercourse and wealth carried the Constitution."⁹

Conversely, John P. Roche, in "The Convention as a Case Study in Democratic Politics," wrote of the Convention delegates' political unity. He claimed that the Constitutional Convention can be viewed as a nationalist reform caucus without the presence of clear-cut ideological divisions among the delegates. Robert E. Brown's <u>Charles A.</u> <u>Beard and the Constitution: A Critical Analysis of "An</u> <u>Economic Interpretation of the Constitution"</u> contended the delegates to the Convention were in fact a homogeneous group with little class conflict.¹⁰

A North-South sectionalism has been many historians' theme when discussing the Constitutional Convention. Lance Banning, in <u>The Jeffersonian Persuasion</u>, wrote that by 1787 profound economic and social differences were present

¹⁰John P. Roche, "The Convention as a Case Study in Democratic Politics" in Leonard W. Levy, ed., <u>Essays on the</u> <u>Making of the Constitution</u> (New York: Oxford University Press, 1969), 179; Robert E. Brown, <u>Charles A. Beard and the</u> <u>Constitution: A Critical Analysis of "An Economic</u> <u>Interpretation of the Constitution"</u> (Princeton: Princeton University Press, 1956), 20-21.

⁹Charles A. Beard, <u>An Economic Interpretation of the</u> <u>Constitution of the United States</u> (New York: The Macmilliam Company, 1913), 324-25; Forrest McDonald, <u>We the People: The</u> <u>Economic Origins of the Constitution</u> (Chicago: The University of Chicago Press, 1958), 416; David G. Smith, <u>The</u> <u>Convention and the Constitution: The Political Ideals of the</u> <u>Founding Fathers</u> (New York: St. Martin's Press, 1965), 58; Orin G. Libby, <u>The Geographical Distribution of the Vote of</u> <u>the Thirteen States on the Federal Constitution, 1787-8</u> (Madison: University of Wisconsin, 1894; reprint, New York: Burt Franklin, 1969), 49 (page references are to reprint edition).

between the democratic oriented North and the aristocratic South and the commercial East and the agricultural West. Andrew C. McLauglin's <u>A Constitutional History of the United</u> <u>States</u> also noted that a distinct sectionalism between both the East and the West and the North and the South was indeed present in the Convention. Charles Warren, in <u>The Making of</u> <u>the Constitution</u>, considered the relationship between the apportionment issue and sectionalism. He wrote that the struggle surrounding apportionment was between the South, Pennsylvania, and Massachusetts on one side and the rest of the Union on the other. Staughton Lynd stated, in <u>Class</u> <u>Conflict</u>, <u>Slavery</u>, and the United States Constitution, that conflict between the North and the South preceded the Convention. North-South sectionalism subsequently played a dividing role in the convention.¹¹

Max Farrand's <u>The Framing of the Constitution of the</u> <u>United States</u> noted different interests within the Convention. He stated that the major divisions surrounding the apportionment issue were between the small states and the large states. Catherine Drinker Bowen, in <u>Miracle at</u> <u>Philadelphia</u>, seconded Farrand's interpretation of the small

¹¹Lance Banning, The Jeffersonian Persuasion: Evolution of a Party Ideology (Ithaca: Cornell University Press, 1978), 107; Andrew C. McLaughlin, <u>A Constitutional History</u> of the United States (New York: D. Appleton-Century Company, 1935), 186; Charles Warren, <u>The Making of the Constitution</u> (Boston: Little, Brown and Company, 1937), 246; Staughton Lynd, <u>Class Conflict</u>, Slavery, and the United States <u>Constitution</u> (New York: The Bobbs-Merril Company, 1967), 14.

states opposed to the large states, not the South aligned against the North or the East against the West.¹²

Only one historian that I know of has directly addressed sectionalism's role in the specifics of the apportionment debate during the Constitutional Convention. Calvin Jillson, in <u>Constitution Making</u>, noted that the apportionment issue was one of the clearest North-South confrontations in the Convention. Kenneth R. Bowling's "Politics in the First Congress, 1789-1791" took the issue of sectionalism one step further. He wrote that sectional interests dominated debates during the First Congress.¹³ Unfortunately, no historian has yet discussed the dual issues of apportionment and sectionalism in the Second Congress.

While there is paucity of secondary sources on the debate from 1787 to 1792 over the apportionment of representatives in the House of Representatives, it is possible to present that debate's public and private details and progression. Research utilizing both contemporary commentaries and legislative roll call analysis indicates

¹²Max Farrand, <u>The Framing of the Constitution of the</u> <u>United States</u> (New Haven: Yale University Press, 1912), 82; Catherine Drinker Bowen, <u>Miracle at Philadelphia: The Story</u> <u>of the Constitutional Convention May to September 1787</u> (Boston: Little, Brown and Company, 1966), 186.

¹³Calvin C. Jillson, <u>Constitution Making: Conflict and</u> <u>Consensus in the Federal Convention</u> (New York: Agatha Press, 1988), 94: Kenneth R. Bowling, "Politics in the First Congress, 1789-91" (Ph.D. diss., University of Wisconsin, 1968), 244.

clearly that by the end of the First Session of the Second Congress there was a division between the North and the South on the apportionment issue. Additionally, the Northern states divided between the New England states and the Mid-Atlantic states over the apportionment issue. Thus, my hypotheses are that by 1792 Northerners and Southerners had divided in the House of Representatives along sectional lines on the issue of the apportionment of representatives in the House of Representatives, with Northerners favoring a limited number of representatives in the House and Southerners favoring an increase in that body's size. Additionally, within the North two voting blocs emerged: a New England bloc that stuck to the extreme Northern view and a Mid-Atlantic bloc that occupied something of a middle position between New England and the South. These hypotheses will be approached through utilization of contemporary documents, public debates, private journals, and legislative roll call analysis of the House of Representatives of the Second Congress.

CHAPTER 2

THE REPRESENTATION DEBATE IN THE CONSTITUTIONAL CONVENTION

When the Constitutional Convention convened in Philadelphia in May 1787, the debate on the apportionment of representation in future Congresses was thrust to the fore of American politics. Few issues were the subject of more debate in the Convention than the question of the states' representation in future Congresses. Delegates to the Convention struggled throughout the summer with the apportionment issue. The North and the South's concerns over their influence in the new Congress and slavery's role in apportionment complicated plans to apportion representation. Only after protracted debate and eventual compromise did the Convention temporarily settle the apportionment issue.

The apportionment debate began almost immediately with the convening of the Constitutional Convention. On 29 May Edmund Randolph of Virginia submitted fifteen proposals for consideration to the Convention. Randolph's second proposition dealt specifically with how to apportion representation in the new Congress. It read that the

rights of suffrage in the national legislature ought to be proportional to the quotas of contribution or to the

number of free inhabitants, as the one or the other rule may seem best in different cases.1

On 11 June the Committee of the Whole was prepared to debate the details of Randolph's second proposition. The Convention had previously agreed on a bicameral legislature with a House of Representatives directly elected by the people.² Now the delegates to the Convention had the opportunity to elucidate their concerns over the apportionment of representatives in that Congress. John Rutledge of South Carolina expressed the Southern position. He stated that he preferred to see representation apportioned according to the states' comparative wealth, therefore implying that slave populations would be included in all determinations of apportionment. James Wilson of Pennsylvania likewise stressed that the Southern states deserved additional representatives to account for their slave populations. Benjamin Franklin, also of Pennsylvania,

¹A complete copy of Randolph's fifteen propositions, also known as the Virginia Resolutions, can be found in Merrill Jensen, ed., <u>Constitutional Documents and Records</u>, <u>1776-1787</u>, vol. 1, <u>The Documentary History of the</u> <u>Ratification of the Constitution</u>, 16 vols. (Madison: State Historical Society of Wisconsin, 1976-1986), 1: 243 (hereinafter cited as <u>Documents</u>).

²⁰n 31 May 1787 the Constitutional Convention agreed on a House of Representatives directly elected by the people. On 9 June the Convention voted in favor of a bicameral legislature. Max Farrand, ed., <u>The Records of the Federal</u> <u>Convention of 1787</u> (New Haven: Yale University Press, 1911-37, 4 vols.; reprint, New Haven: Yale University Press, 1966), 4 vols., 1: 46, 176 (page references are to reprint edition, hereinafter cited as Farrand, <u>Records</u>).

argued the apportionment of representatives should be in proportion to each states' number of inhabitants.3

As the first order of business, Rufus King of Massachusetts submitted a resolution to amend Randolph's second proposition. King's resolution ruled out apportioning representation equally among the states. Unlike the Articles of Confederation's fifth article, apportionment in future Congresses would be based on proportional representation.⁴ David Brearley of New Jersey, speaking in opposition to King, noted that any provision denving the states equal representation in the Congress would lead to despotism. He flippantly proposed a "new division so that each state is equal--then a government on the present system will be just."5 Brearley feared that if the states were not guaranteed equal representation in the Congress, two divergent coalitions of states would emerge: the first consisting of Massachusetts, Pennsylvania, and Virginia and the second comprised of the ten other states. He noted that the total votes of the smaller ten states, based on wealth and population, failed to equal the voting power of the three most populous states combined.6

3Ibid., 1: 204, 205, 197.

⁴Ibid., 1: 192. For the one vote per state provisions of the Articles of Confederation, see <u>Documents</u>, 1: 86.

⁵Farrand, <u>Records</u>, 1: 181-82.

6Ibid., 1: 184.

Following the passage of King's resolution, Rutledge moved to add to it a clause that would have based apportionment in the Congress on tax quotas. Rutledge's resolution came under attack from the smaller states. William Patterson of New Jersey found the new clause particularly onerous and asked, "Is a man, for example, possessing a property of £4000 to have 40 votes to one possessing £100?"7 Unable to reach a consensus on Rutledge's resolution, the Committee of the Whole postponed consideration of it to take up debate on the other major issue of controversy surrounding apportionment--slavery.

James Wilson, seconded by C.C. Pinckney of South Carolina, introduced an amendment to Rutledge's resolution basing representation

in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition, including those bound to a servitude for a term of years, and three-fifths of all other persons.⁸

7Ibid., 1: 182

⁸Ibid., 1: 193. Wilson based his provision on the precedent established during debate of the Articles of Confederation in 1783. At that time, it was agreed that all expenses incurred for the defense and general welfare of the United States would be defrayed from the treasury. The treasury would be supported by the states in proportion to the whole number of white and other free citizens, including indentured servants, and "three-fifths of all other persons not comprehended in the foregoing description. . . "; see also, Jonathan Elliot, ed., <u>The Debates in the Several State</u> <u>Conventions on the Adoption of the Federal Constitution</u>, 2nd ed., 5 vols. (Washington: Taylor & Maury, 1866), 1: 95 (hereinafter cited as Elliot, <u>Debates</u>).

On 18 April 1783 the Continental Congress had agreed to the "three-fifths" compromise. That clause had settled the Congress's argument over slavery's role in the apportionment of taxes. Wilson hoped that in 1787 the three-fifths clause would again settle a divisive issue.9

Randolph's original resolution had been significantly altered by 13 June when Virginia's delegation to the Convention introduced the Virginia Plan--its model of the new government. Resolution 7 of the Virginia Plan dealt specifically with the House of Representatives. It encompassed the earlier changes to Randolph's resolution to include a statement that representation in the new Congress would not be based on the Articles of Confederation's model of one vote per state. The Virginia Plan additionally incorporated the three-fifths clause and allowed inclusion of the South's slave population in the apportionment of representatives.10

The delegates from the smaller states and many Northerners viewed the Virginia Plan with alarm. The provisions providing for proportional representation in the Congress and the related three-fifths clause were seen as attempts to establish a Southern dominated legislature. Luther Martin of Maryland, an eventual opponent of the Constitution, echoed Brearley's earlier statement and noted,

9<u>Documents</u>, 1: 86; Elliot, <u>Debates</u>, 1: 95.
10Farrand, <u>Records</u>, 1: 227; <u>Documents</u>, 1: 249.

Out of the number 90, Virginia has 16 votes, Massachusetts 14, Pennsylvania 12-- in all 42. Add to this a state having four votes, and it gives a majority in the general legislature. Consequently, a combination of these states will govern the remaining nine or ten states.11

The delegates from Connecticut, New York, New Jersey, and Delaware therefore formulated their own plan of government. William Patterson of New Jersey presented it to the Convention on 15 June. The New Jersey Plan, as it came to be known, was based on the model of the Articles of Confederation.¹² It called for an equal representation among the states in a unicameral Congress. Although the New Jersey Plan failed to pass the Convention, it did succeed in expressing some of the Northern and smaller states' opposition to the Virginia Plan. Thereafter, the debate on the apportionment issue became increasingly focused on attempts to reconcile demands of the South and the large states for a legislature based on proportional representation with the small states' insistence on a legislature in which all states had an equal voice.

The critics of the New Jersey Plan remained committed to the Virginia Plan. By mid-June the Convention had divided into two factions. The supporters of the New Jersey Plan stressed the threats of the large states' dictating to the Congress. Meanwhile, Alexander Hamilton, speaking for

11Farrand, Records, 1: 440.

12<u>Documents</u>, 1: 250; Farrand, <u>Records</u>, 3: 612.

the supporters of the Virginia Plan and against his fellow delegates from New York, noted,

Another destructive ingredient in the [New Jersey] plan, is that equality of suffrage which is so much desired by the small States. It is not in human nature that Va. & the large states should consent to it, of if they did that they shd. long abide by it. It shocks too much the ideas of Justice, and every human feeling.13

The Virginia and New Jersey Plans reached a vote on 19 June. By a vote of seven states in favor, three against, and one divided, the Convention agreed not to accept the provisions of the New Jersey Plan and instead to continue debate on the Virginia Plan. As a result, the provisions of the Virginia Plan once again had to be put before the Committee of the Whole. The Convention repeated its earlier vote in favor of a bicameral legislature in which the Senate was elected by the state legislatures. Additionally, on 29 June it voted in favor of establishing a different suffrage from that of the Articles of Confederation, which provided only one vote per state.14

By 1 July the Convention was deadlocked on the representation issue. In an attempt to reach some common ground, the Convention had postponed future debate on representation in the House and instead focused on representation in the Senate. On 2 July, in a close vote, the Convention voted five states for, five against, and one divided on a proposal for equal representation in the

13Ibid., 1: 286.

14Ibid., 1: 313, 353-54, 397, 461.

Senate. Realizing that the question of the apportionment of representatives in the Congress had brought the Convention's proceedings to a standstill, the Committee of the Whole agreed to submit the representation question to a committee comprised of one member from each state.15

The Grand Committee convened on 2 July. The central question facing it was how the larger states would be prevented from dictating the government without being subjugated to the will of the smaller states. Three days later the Grand Committee submitted its report to the Committee of the Whole. Its recommendation called for an equal representation of all the states in the Senate and proportional representation in the House based on a representation of one representative for every forty thousand persons of each state. Additionally, each state would have at least one member in the House of Representatives if its total population were below forty thousand.16

Although the principle seemed sound, the Convention could not agree on the Grand Committee's suggestion of a representation ratio of one to forty thousand. Rutledege

16Ibid., 1: 542.

¹⁵The Grand Committee consisted of Elbridge Gerry of Massachusetts, Oliver Ellsworth of Connecticut, Robert Yates of New York, William Patterson of New Jersey, Benjamin Franklin of Pennsylvania, Gunning Bedford of Delaware, Luther Martin of Maryland, George Mason of Virginia, William Richardson Davie of North Carolina, John Rutledge of South Carolina, and Abraham Baldwin of Georgia. Ibid., 1: 509.

proposed a change to the Grand Committee's report that would have fixed apportionment on each state's proportional contribution to taxes rather than on population. On 6 July, after it became clear that debate on the representation ratio had brought the Convention's proceedings to yet another standstill, the representation ratio was submitted to another special committee. That committee, comprised of Robert Morris of Pennsylvania, Nathaniel Gorham of Massachusetts, Randolph, Rutledge, and King, was to debate the representation ratio specifically. Meanwhile, on 7 July, while Morris's committee debated, the Convention once again agreed on equal representation in the Senate.17

Although the Convention had agreed to equal representation in the Senate, the central issue of the representation debate remained unsettled. The Convention was unable to reach a consensus on how to apportion representation in the House of Representatives. On both 9 and 10 July Morris's committee submitted proposals to the Committee of the Whole. Both those plans involved setting the number of representatives in the First House at a fixed number and called for a census to provide information for an apportionment of representatives at a later date. After motions by the North Carolina, South Carolina, and Georgia delegates to increase the respective apportionment in the

¹⁷Elliot, <u>Debates</u>, 1: 194; Farrand, <u>Records</u>, 1: 538, 549.

new Congress failed, the Convention took up the census as its new focus of debate.18

The representation ratio debate was therefore preempted by the census debate for two days. On 11 and 12 July the Convention debated the frequency of the census. From the Morris committee's original proposal of a census in fifteen years, the Convention finally agreed to conducting one within six years of the government's formation and one every ten years thereafter. Representation, meanwhile, would be apportioned in accordance with a constitutional mandate prior to the first census. The significant provision of the census compromise was to base the census on both the states' free inhabitants and slave population, utilizing the three-fifths clause.19

After the census debate the representation issue again appeared stuck at a standstill. The Committee of the Whole agreed to reconsider the Grand Committee's original report. But before that report could be read, Elbridge Gerry of Massachusetts offered a new resolution to the Convention. Hoping to alert the Convention to the political threat poised by the country's rapidly increasing western population, he submitted the following proposition:

That to secure the liberties of the States already Confederated, the number of representatives in the first branch from the States which shall hereafter be established, shall never exceed the representatives from

18Ibid., 1: 557, 563.

19Ibid., 1: 576, 590; Elliot, <u>Debates</u>, 1: 91.

such of the thirteen United States as shall acceded to this Confederation.20

Although Gerry's proposition was defeated, it was indicative of the Eastern states' concerns that under a system of proportional representation their influence in the national government would eventually be surpassed by the rapidly expanding population on the frontier.

By mid July it was understood among the delegates that the Convention's work was nearly complete except for an agreement on the apportionment issue. Rumblings were even heard that if an acceptable compromise on the representation issue could not be reached it would become necessary to dissolve the Convention. Realizing the imminent threat to the Constitution's future, the Committee of the Whole, on 16 July, reached a quasi-compromise. The Grand Committee's report was amended to include a provision to provide for sixty-five members in the First Congress and to conduct a census within six years of the Congress's convening. Representation would subsequently be apportioned according to that census. Additionally, the three-fifths clause would be incorporated into the Constitution for apportionment and taxation purposes.²¹

The compromise of 16 July was no breakthrough; no issues were actually settled. It was merely a postponement of the apportionment debate until it could be settled in the

20Farrand, <u>Records</u>, 2: 1.

21Elliot, <u>Debates</u>, 1: 205-06; Farrand, <u>Records</u>, 2: 7, 14-15.

Committee of Detail, the body directly responsible for the writing of the Constitution.

The Committee of Detail, consisting of Rutledge, Wilson, Randolph, Gorham, and Oliver Ellsworth of Connecticut presented its first Draft Constitution to the Convention on 6 August. It set the number of representatives in the First House at sixty-five members and established a representation ratio of one representative for each forty thousand persons on which to apportion representation when the country's population increased. However, it contained neither provisions for the threefifths clause nor the specifics of a census on which to apportion representation at a later date.²²

On 8 August the Convention debated the Draft Constitution. Provisions to allow each state at least one representative were immediately added to the proposed Constitution. An attempt to insert a clause allowing only free citizens to be counted for apportionment purposes and therefore negating the three-fifths clause was defeated. But more importantly, it was agreed that representation would be allotted according to taxation. On 9 August the Committee of the Whole agreed to the above changes to the Draft Constitution.23

22Ibid., 4: 221; Elliot, <u>Debates</u>, 1: 224; Farrand, <u>Records</u>, 2: 78; <u>Documents</u>, 1: 261.

23Elliot, <u>Debates</u>, 5: 388.

The debate over the apportionment issue temporarily ended when the amendments to the Draft Constitution were submitted to the Committee of Detail. From 9 August until 14 September the Convention debated the Draft Constitution's other provisions. But on 14 September the apportionment debate was revived. Hugh Williamson of North Carolina submitted a motion to increase the number of Representatives in the House to over one hundred and to therefore guarantee the smaller states at least two representatives. After that motion failed, another was submitted on 15 September to increase North Carolina's share of representation in the First Congress. When that motion failed, the Convention undertook discussion of the revised Draft Constitution.24

On 17 September the Committee of Detail submitted a significantly altered Draft Constitution to the Convention for its approval. The revised Constitution incorporated all the points of the debate enumerated during the Convention. In a quid-pro-quo for the small states' equal representation in the Senate, it provided for proportional representation in the House of Representatives. That proportional representation, along with taxes, would be based on the states' free populations and three-fifths of their slave populations. The new Constitution also called for a census within three years of the first meeting of the Congress. After that census, representation would be apportioned in

24Ibid., 5: 541, 547.

the House at a ratio of not more than one representative for each thirty thousand inhabitants of each state--an increase in the total number of representatives from the original proposal of one representative for each forty thousand persons. Additionally, each state was also guaranteed at least one representative out of a total of sixty-five in the First House.25

On 17 September all the remaining members of the Convention, except Randolph, Mason, and Gerry, agreed to and signed the Constitution.²⁶ From there, the Constitution and the apportionment issue went to the states for debate and ratification.

25Documents, 1: 286.

26Elliot, Debates, 5: 559-65.

CHAPTER 3

PUBLIC ARGUMENTS AND THE REPRESENTATION DEBATE

After the Convention approved the Constitution, the representation debate was centered in the states. The Constitution had established a representation ratio of not more than one representative for each thirty thousand persons until an apportionment could be made following the first census. Until that apportionment could be completed, the Congress would consists of sixty-five members.1 Leading up to and during the state ratification conventions, the size of the House of Representatives became the topic of

¹<u>Constitution</u>, art. I, sec. 2. The actual apportionment provisions of the Constitution read:

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 the whole Number of free Persons, including those bound to a 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.

spirited public debate between the supporters and the critics of the Constitution.

The Anti-Federalist critics of the Constitution used its apportionment clause to question the validity of the entire Constitution. They argued first that sixty-five members in the House inadequately represented the mass of the American people, and second, a representation ratio of not more than one to thirty thousand would lead to too few representatives after the apportionment. They warned that if the House membership remained small, it would evolve quickly into a corruptible ruling aristocracy. And as a final caveat, they contended that the United States was too large a nation to have only one representative for each thirty thousand persons in the national legislature.

The Constitution's supporters, particularly James Madison and Alexander Hamilton, answered the Anti-Federalists in <u>The Federalist Papers</u>. The Federalists contended that a limited representation in the House of Representatives was the best guarantee of American republicanism and liberties. They noted that the history of republics, particularly Athens and Rome, showed that as representative bodies grew in size, the more unwieldily they became. As those bodies increased, they were ruled by demagogues supported by the "tyranny of the majority." Therefore, if the number of representatives were increased, the House of Representatives would use its influence with

the masses to usurp the powers of the executive and judiciary.

Both the Federalists and the Anti-Federalists understood that the representation issue would be a deciding factor in the Constitution's ratification. They agreed that "the object of every free government is the public good, and all lesser interests yield to it."² They determined that the proper size of the House of Representatives should therefore be settled in the ratifying conventions. James Madison, in <u>The Federalist 55</u>, wrote, "The true question to be decided then is whether the smallness of the number, as a temporary regulation, be dangerous to the public liberty."³

The Anti-Federalists began their attacks on the Constitution's apportionment clause almost immediately after the Constitutional Convention's adjournment. They noted that the Convention had intended the House of Representatives to serve as the vox populi. However, it was too restricted in size to serve the people's interests adequately. As one opponent of the Constitution noted, for

^{2&}quot;Brutus IV," 29 November 1787, in Herbert J. Storing, ed., <u>The Complete Anti-Federalist</u>, 7 vols. (Chicago: University of Chicago Press, 1981), 2: 382 (hereinafter cited as <u>Anti-Federalist</u>).

^{3&}quot;Strictures on the Proposed Constitution" from <u>Philadelphia Freeman's Journal</u>, 26 September 1787, John P. Kaminski and others, eds., <u>Commentaries on the Constitution:</u> <u>Public and Private</u>, vols. 13-16 of <u>The Documentary History</u> <u>of the Ratification of the Constitution</u>, 16 vols., ed. Merrill Jensen (Madison: State Historical Society of Wisconsin, 1976-1986), 13: 244 (hereinafter cited as <u>Commentaries</u>); Publius, The <u>Federalist 55</u>, from <u>New York</u> <u>Independent Journal</u>, 13 February 1788, ibid., 16: 113.

government to serve the people, the people must have a voice in the body responsible for making the laws by which they were to be governed.⁴ Other Anti-Federalists argued that the lower classes, particularly farmers, laborers, and small merchants, would be unrepresented in the Congress. "Cato" suggested to his readers that few of them would have the opportunity to serve in the House of Representatives. Thomas Tudor Tucker wrote to St. George Tucker that the House of Representatives would offer only a nominal representation of the people, while "Brutus" wrote that

The great body of yeoman of the country cannot expect any of their order in the assembly, . . . there is no probability that a farmer, however respectable, will be chosen--the mechanicks of every branch must expect to be excluded from a seat in this Body.⁵

However, the Federalist authors of the Constitution argued that the House of Representatives adequately represented the people. One Federalist described the House of Representatives as a "truly popular assembly."⁶ Another

4"Brutus IV," 29 November 1787, <u>Anti-Federalist</u>, 2: 382.

5"The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to their Constituents" from <u>Pennsylvania Packet</u>, 18 December 1787, <u>Commentaries</u>, 15: 26-27; "Cato V," <u>Anti-Federalist</u>, 2: 119; Thomas Tudor Tucker to St. George Tucker, 28 December 1787, <u>Commentaries</u>, 15: 144; "Brutus III," 15 November 1787, <u>Anti-Federalist</u>, 2: 381.

6"An American Citizen III: On the Federal Government" from <u>Philadelphia Independent Gazetteer</u>, 29 September 1787, <u>Commentaries</u>, 13: 272; see also Edmund Pendelton to James Madison, 8 October 1787, William T. Hutchinson and others, eds., <u>The Papers of James Madison</u>, 17 vols. (Charlottesville: University Press of Virginia, 1962-), 10: 354 (hereinafter cited as <u>Madison</u>). Federalist contended that the House of Representatives would "especially resemble the great body of the people."7 In <u>The</u> <u>Federalist 57</u>, Madison argued that the Constitution's provisions requiring that members of the House be elected every two years tied each representative closely to his constituents' interests. "Who," he asked, "are to be the electors of the Federal Representatives? . . . The electors are to be the great body of the people of the United States."⁸

Alexander Hamilton was an ardent supporter of the Constitution's apportionment provisions. In <u>The Federalist</u> <u>35</u> he wrote,

The idea of an actual representation of all classes of the people by persons of each class is altogether visionary. Mechanicks and manufacturers will always be inclined with few exceptions to give their votes to merchants in preference to persons of their own professions or trades.9

The leaders of the new government, the landed gentry, merchants, and educated professionals, would therefore have the masses' sanction to represent them in the Congress. Madison acknowledged that the upper classes' interests would not necessarily coincide with those of the lower classes, but "a coalition of a majority of the whole society could

7Publius, <u>The Federalist 22</u>, from <u>New York Packet</u>, 14 December 1787, <u>Commentaries</u>, 14: 444.

⁸Publius, <u>The Federalist 57</u>, from <u>New York Packet</u>, 19 February 1788, ibid., 16: 145.

9Publius, <u>The Federalist 35</u>, from <u>New York Independent</u> Journal, 5 January 1788, ibid., 15: 270. seldom take place on any other principle than those of justice and the general good."10

Other arguments were offered against a dramatic increase in the size of the House of Representatives. One Federalist suggested that an increase in the number of representatives would place too heavy of a tax burden on the common man. Additionally, in <u>The Federalist 58</u>, Madison questioned if the rewards of demanding that more representatives serve in the House were worth the costs. He wrote: "the larger the number, the greater will be the proportion of members limited in information and of weak capacities."11

Both the supporters of the Constitution and its critics argued that the American people demanded men possessing virtue and integrity as their representatives. However, the Anti-Federalist doubted that such a sense of noblesse oblige was present in most American statesmen. They feared that if the size of the House of Representatives were not increased, an aristocratic clique would emerge in the Congress that would combine with the executive and judiciary to enrich themselves at the people's expense. One Anti-Federalist

10Publius, <u>The Federalist 36</u>, from <u>New York Packet</u>, 8 January 1788, ibid., 15: 302; Publius, <u>The Federalist 51</u>, from <u>New York Independent Journal</u>, 6 February 1788, ibid., 16: 46.

11"A Landholder IV" from <u>Connecticut Courant</u>, 26 December 1787, ibid., 14: 253; Publius, <u>The Federalist 58</u>, from <u>New York Independent Journal</u>, 20 February 1788, ibid., 16: 157.

wrote: "In every civilized community, even those of the most democratic kind, there are principles which lead to an aristocracy--there are superior talents, fortunes and employments.¹² It was therefore the founding fathers' responsibility to assure that the legislature was incapable of becoming a guasi House of Lords.

The Anti-Federalist claimed an increase in the number of representatives in the House would arrest the growth of an aristocracy. They assumed a legislature limited in size to only sixty-five members was bound to become corrupted by aristocrats. And although those same Anti-Federalists anticipated significant growth in the country's population over time and the admission of new states, they feared that the limited size of the First House still poised the threat of an aristocracy. Richard Henry Lee therefore proposed to Edmund Randolph that if the number of representatives were increased in the first few Congresses, corruption in the House would be controlled. In "Brutus'" estimation, "The firmest [sic] security against this kind of improper and dangerous influence, as well as all other, is a strong and numerous representation. . . . "13

13Richard Henry Lee to Edmund Randolph, 6 December 1787, ibid., 14: 368; "Brutus IV" from ibid., 14: 298-99.

^{12&}quot;Foreign Spectator" from <u>Pennsylvania Independent</u> <u>Gazetteer</u>, 2 October 1787, ibid., 13: 291; "George Mason, Objections to the Constitution," 7 October 1787, ibid., 13: 348; "Cato IV" from <u>New York Journal</u>, 13 December 1787, ibid., 14: 431.

The Federalist supporters of the Constitution argued differently. For the Federalists, the most basic threat to republican government was not an aristocratic clique, but the tumult of the masses. In <u>The Federalist 55</u>, Madison wrote,

In all very numerous assemblies, of whatever characters composed, passion never fails to unrest the scepter from reason. Had every Athenian been a Socrates; every Athenian assembly would still have been a mob.14

In both <u>The Federalist 51</u> and <u>The Federalist 49</u>, Madison and Hamilton warned that republican government must not only guard against oppression by tyrannical rulers, but also against the tyranny of the majority. An increase in the size of the House would only lead to a demagogic Congress that usurped the power of the executive and the judiciary. Madison, in <u>The Federalist 48</u>, warned that "the legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex."15

Although several Anti-Federalists saw a plot to create an aristocracy, Federalist authors doubted that those elected to the House of Representatives would desire to

14Publius, <u>The Federalist 55</u>, from <u>New York Independent</u> Journal, 13 February 1788, ibid., 16: 112.

15Publius, <u>The Federalist 51</u>, from <u>New York Independent</u> <u>Journal</u>, 6 February 1788, ibid., 16: 46; Publius, <u>The</u> <u>Federalist 49</u>, from <u>New York Independent Journal</u>, 2 February 1788, ibid., 16: 18; Publius, <u>The Federalist 48</u> from <u>New</u> <u>York Packet</u>, 1 February 1788, ibid., 16: 4; see also Edmund Pendleton to James Madison, 8 October 1787, <u>Madison</u>, 10: 188.

create a ruling elite dedicated to oppressing the masses. In <u>The Federalist 55</u>, Madison contended that it was unlikely that the American people "will chuse, and every second year repeat the choice of sixty-five or an hundred men, who would be disposed to form and pursue a scheme of tyranny or treachery."16

The Federalists prided themselves on their understanding of man's political nature. And while they acknowledged that there were factors in human nature that led to inequalities in men's abilities, those factors also suggested that some men were more capable of ruling than others. As such, the Anti-Federalist Mercy Otis Warren inadvertently described the Federalist position when she wrote:

Every age has its Bruiti and its Decii, as well as its Caesars and Sejani . . . America may yet produce characters who have a genius and capacity sufficient to form the manners and correct the morals of the people, and virtue enough to lead their country to freedom.17

The Anti-Federalist also contended that the size of the United States should have an impact on the number of Representatives apportioned in the House. They argued that republicanism could not survive in a country as large as the United States. As students of Montesquieu's <u>Spirit of the</u> <u>Laws</u>, they assumed that it was natural for a republic to

16Publius, <u>The Federalist 55</u>, from <u>New York Independent</u> Journal, 13 February 1788, ibid., 16: 113.

17"A Columbian Patriot: Observations of the Constitution" ibid., 16: 288.

flourish only in a small territory. "Brutus" argued that a free republic could not succeed in a country as large as the United States. He contended that to limit the size of the House of Representatives would only lead to a widely spread populace without proper representation. He argued that no practical number of representatives could be found to represent adequately the interests and sentiments of the citizens of such a vast continent. "An Old Whig IV" stated: "The continent of the North-America can no more be governed by one Republic, than the fabled Atlas could support the heavens."18

Luther Martin was a vocal critic of the Constitution. He stated that the people of the United States were too separated by large distances for republicanism to extend to them. With only sixty-five members in the House of Representatives, it was unlikely that all the varying interests would have a voice in the Congress. Mercy Otis Warren similarly noted,

The difficulty, if not impracticability of exercising the equal and equitable powers of government by a single legislature over an extent of territory . . . is a

18"Cato III" from <u>New York Independent Journal</u>, 25 October 1787, ibid., 13: 474; "Letters from the Federal Farmer to the Republican," 8 October 1787, <u>Anti-Federalist</u>, 2: 230; "Centinel III" from <u>Pennsylvania Independent</u> <u>Gazetteer</u>, 8 November 1787, <u>Commentaries</u>, 14: 61; "Brutus III" from <u>New York Journal</u>, 15 November 1787, ibid., 14: 119; "The Dissent of the Minority of the Pennsylvania Convention" from <u>Pennsylvania Packet</u>, 18 December 1787, ibid., 15: 26; "Curtipolis" from <u>New York Daily Advertiser</u>, 18 January 1788, ibid., 15: 400; "An Old Whig IV" from <u>Pennsylvania Independent Gazetteer</u>, 27 October 1787, ibid., 13: 500.

inseparable objection to the adoption of the new system.19

Madison, in The Federalist 56, answered the Anti-Federalist argument that the United States was too large a nation for republicanism to reach all its citizens. He argued that the common body of representatives would have access to the knowledge of each district's representatives: "Whilst a few representatives therefore from each state may bring with them a due knowledge of their own state, every representative will have much information to acquire concerning all the other states."20 However, to insist that each representative be knowledgeable of every minute detail concerning each group's interests was unreasonable. In the same essay, Madison wrote that "an ignorance of minute and particular objects, which do not lie within the compass of legislation, is consistent with every attribute necessary to a due performance of the legislative truths."²¹

The debate surrounding the size of the House of Representatives would continue even after the Constitution's ratification in 1788. The critics of the apportionment clause refused to accept that the number of representatives in the House would remain small. Even Madison, after he had

19"Luther Martin: Genuine Information XI" from Baltimore Maryland Gazette, 5 February 1788, ibid., 16: 40; "A Columbian Patriot: Observation of the Constitution" ibid., 16: 282.

20Publius, <u>The Federalist 56</u>, in <u>New York Independent</u> Journal, 16 February 1788, ibid., 16: 131.

²¹Publius, <u>The Federalist 56</u>, in <u>New York Independent</u> <u>Journal</u>, 16 February 1788, ibid., 16: 130.

helped secure the Constitution's ratification through the authorship of <u>The Federalist Papers</u>, abandoned Hamilton and argued for an immediate increase in the size of the House. Madison's efforts to placate the Anti-Federalists' arguments against a House of Representatives limited in size virtually assured that the representation issue would be debated in the First Congress.

CHAPTER 4

THE FIRST CONGRESS AND THE APPORTIONMENT AMENDMENT

The ratification debates in the states indicated that many Americans were opposed to the Constitution. One particular point of contention was the Constitution's clause apportioning representation in the House of Representatives. And while opposition to that clause was not significant enough to prevent ratification of the Constitution, it became the subject of several proposed constitutional amendments in the state ratifying conventions.

Pennsylvania's ratifying convention was the first body to suggest that the Constitution's apportionment clause was flawed. The Pennsylvania convention voted to ratify the Constitution on 12 December 1787 by a vote of forty-six to twenty-three. However, the convention's sizable minority suggested fifteen amendments in "The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to Their Constitution, 1787." Those amendments were intended to provide the American people with a bill of rights guaranteeing their liberties. The tenth amendment dealt specifically with the apportionment of representatives in the House of Representatives. In a guarantee that the selection of representatives would remain free, the Pennsylvania minority's amendment read, "That the house of

representatives be properly increased in number."1 The Pennsylvania minority argued that the sixty-five members scheduled to comprise the House under the Constitution were inadequate. They contended that the American people's liberties, interests, and happiness would be dependent upon the views of a body of representatives too small to represent them fully and too prone to the chief executive's influence.2

There was also opposition to the Constitution's apportionment clause in the Massachusetts ratifying convention. While it is not known whether the Massachusetts delegates were directly influenced by the Pennsylvania minority, nine amendments were proposed to the Constitution in the convention's notification of ratification on 6 February 1788. Like the Pennsylvania minority's tenth amendment, the Massachusetts convention's second amendment referred to the apportionment of representatives in the House. In an effort to increase the size of the House, Massachusetts proposed "That there shall be one representative to every thirty thousand persons, according

1"The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to their Constituents" from <u>Pennsylvania Packet</u>, 18 December 1787, John P. Kaminski and others, eds., <u>Commentaries on the</u> <u>Constitution: Public and Private</u>, vols. 13-16 of <u>The</u> <u>Documentary History of the Ratification of the Constitution</u>, 16 vols., ed. Merrill Jensen (Madison: State Historical Society of Wisconsin, 1976-1986), 15: 26 (hereinafter cited as <u>Commentaries</u>).

2Ibid.

to the census mentioned in the Constitution, until the whole number of representatives amounts to two hundred."3

Four months later, the New Hampshire convention ratified the Constitution. As the ninth state to do so, it brought the Constitution into effect according to the terms of the seventh article. But in its ratification message of 21 June 1788, the convention submitted twelve Constitutional amendments. The first nine were taken almost verbatim from those of Massachusetts. In the New Hampshire list the second amendment was an apportionment proposal that was identical to the one submitted by Massachusetts.4

Although the Constitution came into effect with New Hampshire's ratification, the largest and most influential state, Virginia, had failed to ratify it. Like their counterparts in Pennsylvania, Massachusetts, and New Hampshire, the opponents of the Constitution in Virginia demanded that it be amended to provide the people with a bill of rights. On 27 June the Virginia convention acquiesced to those demands and agreed to propose twenty constitutional amendments, including an apportionment amendment. Whereas the Pennsylvania minority's amendment had called for an increase in the number of representatives

4New Hampshire Proposed Amendments, 1788, ibid., 2: 760.

³Massachusetts Convention Debates, 1788, Bernard Schwartz and others, eds., <u>The Bill of Rights: A Documentary</u> <u>History</u>, 2 vols. (New York: Chelsa House Publishing, 1971), 2: 713 (hereinafter cited as <u>Bill of Rights</u>).

in the House, and Massachusetts and New Hampshire suggested a representation ratio of one to thirty thousand until the number of representatives reached two hundred, Virginia's second amendment combined both those suggestions into one proposal. It read:

That there shall be one representative for every thirty thousand according to the enumeration or census in the Constitution until the whole number of representatives amounts to two hundred; after which, the number shall be continued or increased, as Congress shall direct, upon the principle fixed in the Constitution, by apportioning representatives of each state to some greater number, from time to time, as population increases.5

Opposition to the Constitution's apportionment clause continued in the New York ratifying convention. In its ratification message of 26 July 1788, the New York convention proposed an apportionment amendment as the first of thirty-two possible amendments. George Mason claimed that New York's amendments were modeled on those he had helped draft in the Virginia convention, and as evidence of his claim, the two proposals were almost verbatim, with only one minor difference. New York's amendment stated that once the number of representatives was increased, that number "shall be continued or encreased but not diminished."⁶

The North Carolina ratification convention assembled in July 1788. That convention voted neither to ratify nor reject the Constitution. However, in keeping with the other

5Virginia Ratifying Convention, 1788, ibid., 2: 842-43.

⁶For reference to Mason's letter, see ibid., 2: 855; New York Proposed Amendments, 1788, ibid., 2: 915.

opponents of the Constitution, it issued a "Declaration of Rights" and suggested twenty-six amendments to be added to the Constitution when eventually ratified. Virginia's amendments had an obvious influence on those of North Carolina. In fact, North Carolina's second amendment was an exact copy of Virginia's apportionment amendment.7

Before the First Congress convened in March 1789, James Madison considered the significance of the amendments proposed in the state ratifying conventions. Pennsylvania, Massachusetts, Maryland, South Carolina, New Hampshire, Virginia, New York, and North Carolina had all proposed amendments to the Constitution. Of those states, six, Pennsylvania, Massachusetts, New Hampshire, Virginia, New York, and North Carolina, had proposed apportionment amendments. Madison determined that a list of constitutional amendments should therefore be proposed in the First Congress. In a tract composed for his campaign for election to the House of Representatives, Madison stated:

It is my wish, particularly, to see specific provision made on the subject of the Rights of Conscience, the Freedom of the Press, Trials by Jury, Exemption from General Warrants, &c, to see effective provision made also for the periodical increase of the representatives, until the number shall amount to the fullest security.⁸

7North Carolina Convention Debates, 1788, ibid., 2: 915.

⁸James Madison to a Resident of Spotslyvania County, 27 January, William T. Hutchinson and others, eds., <u>The Papers</u> <u>of James Madison</u>, 17 vols. (Charlotesville: University Press of Virginia, 1962-), 11: 428 (hereinafter cited as <u>Madison</u>).

To Thomas Mann Randolph he suggested that the Constitution should be amended to include the Anti-Federalist position that the number of representatives should be increased, and to secure the Federalist argument that the total number of representatives would eventually be limited. He wrote:

I think also that periodical increase of the House of Representatives, until it attains a certain number, ought to be expressly provided for, instead of being left to the direction of the government.⁹

Madison realized that the burden of submitting those amendments to the Constitution would rest on him. More pressing issues would face the First Congress when it convened; the United States had no machinery for the collection of taxes, no federal judiciary, and virtually no army. But after sifting through a collection of the two hundred plus proposed amendments submitted by the states, he wrote to Thomas Jefferson on 17 October 1789 that he had completed a list of amendments declaring the most basic rights.10

Madison got the opportunity to prepare the House of Representatives to receive those amendments. George Washington asked him to assist in the writing of the first

⁹James Madison to Thomas Mann Randolph, 13 January 1789, ibid., 11: 416; Madison also wrote to George Eve on 2 January 1789 that "the Constitution ought to be revised, and that the first Congress meeting under it ought to prepare and recommend to the states for ratification, the most satisfactory provisions for all essential rights. . . ." ibid., 11: 405.

10James Madison to Thomas Jefferson, 17 October 1789, ibid., 11: 297.

inaugural address. In that address, on 30 April 1789, the President reminded the Congress that several state ratifying conventions had called for amendments to the Constitution. But, the President noted, "Instead of undertaking particular recommendations on this subject . . . I shall give way to my entire confidence in your [the Congress's] discernment and pursuit of the public good."11

Madison also drafted the House reply to Washington's inaugural address. In response to Washington's suggestion that the Congress prepare a list of amendments to the Constitution, Madison wrote that

the question arising out of the fifth article of the Constitution, will receive all the attention demanded by its importance; and will, we trust, be decided, under the influence of all the consideration to which you allude.12

On 25 May 1789, the day the First House had scheduled to begin discussion of amendments, the Committee of the Whole agreed to postpone consideration of any constitutional amendments until 8 June. Madison noted that prior to 25 May very little had been mentioned privately or publicly in the Congress regarding amendments to the Constitution. Research in contemporary newspapers also showed that the topic of proposed constitutional amendments received virtually no mention. From April through late May the members of the

¹¹James D. Richardson, <u>A Compilation of the Messages</u> and the Papers of the Presidents, 1789-1897, 20 vols. (Washington: GPO, 1897), 1: 53.

¹²Gazette of the United States, 2 May 1789.

House had focused on what they considered to be the more pressing issues of establishing a means of revenue for the federal government and the organization of the executive branch.13

Finally, on 8 June, Madison submitted his nineteen amendments to the Committee of the Whole. Twelve days earlier he had written to Jefferson to tell him that a "Bill of rights, incorporated perhaps into the Constitution will be proposed, with few alterations most called for by the opponents of the Government and least objectionable to its friends."14

Madison's reasons for submitting the amendments to the Constitution were based on more than politics. Although he had originally been one of the Constitution's most ardent supporters, he realized that it was not a perfect document. And although his primary purpose was to prove that the Federalist supporters of the Constitution were friends of liberty, he hoped the amendments would also remove those sections of the Constitution he felt to be iniquitous-namely the lack of a Bill of Rights. Additionally, by

13Ibid., 27 May 1789.

14James Madison to Thomas Jefferson, 13 Jun 1789, <u>Madison</u>, 12: 218; Madison wrote several associates to tell them of his plan to submit a list of amendments to The Constitution. He noted in all those letters that he was not proposing any amendment that was too controversial to pass two-thirds of the Congress and three-fourths of the states. See James Madison to Edmund Pendleton, 21 June 1789, ibid., 12: 272; James Madison to George Nicholas, 5 July 1789, ibid., 12: 282.

amending the Constitution, Madison hoped to encourage Rhode Island and North Carolina to ratify and join the Union. And last, and his most significant contribution to the constitutional debate, he felt that his nineteen amendments would strengthen the Constitution for later generations.15

Madison's second amendment dealt specifically with the Constitution's representation ratio. The Constitution's first article, second section, third clause, established a representation ratio of not more than one representative for every thirty thousand persons until a reapportionment could be made following the Census of 1790. Madison proposed. amending that clause to read:

After the first actual enumeration, there shall be one Representative for every thirty thousand, until the number amounts to _____, after which the proportion shall be so regulated that the number shall never be less than _____, nor more than _____, but each State shall, after the first enumeration, have at least two Representatives; and prior thereto.16

He assumed that during debate the Committee of the Whole would insert the number in the blanks acceptable to most representatives.

The nation's press duly reported the submission of Madison's amendments. But unfortunately, no analysis of those amendments was offered. However, we must remember that the apportionment amendment was just one of many

¹⁵Notes for Speech in Congress, ca. 8 June 1789, ibid., 12: 193-95.

^{16&}lt;u>Debates and Proceedings of the Congress of the United</u> <u>States</u>, 1789-1824 (Washington: Gales and Seaton, 1834-56), 42 vols. 1: 434 (hereinafter cited as <u>Annals of Congress</u>).

amendments. Perhaps it was felt that there were too many amendments to discuss in the press or that they were best left in the care of the House of Representatives.

The House returned to Madison's apportionment proposal on 21 July. On 15 June, Madison had written to Edmund Randolph to note, "The article which I fear most for is that which respects representation."17 And while debate in the House had focused on the whole range of Madison's eighteen other amendments, no finalized version of those amendments had been agreed to in the House. The Committee of the Whole therefore formed a committee comprised of one member from each state to prepare a final list of amendments for submittal to the states. The Committee of Eleven, as it became known, consisted of Madison, John Vining of Delaware, Abraham Baldwin of Georgia, Roger Sherman of Connecticut, Aedanus Burke of South Carolina, Nicholas Gilman of New Hampshire, George Clymer of Pennsylvania, Egbert Benson of New York, Benjamin Goodhue of Massachusetts, Elias Boudinot of New Jersey, and George Gale of Maryland. Seven days later the committee made its report to the Committee of the Whole,18

On 14 August the House considered the Committee of Eleven's amendments to the Constitution. The committee had proposed seventeen amendments; the second was an

17James Madison to Edmund Pendleton, 15 June 1789, Madison, 12: 219.

18Gazette of the United States, 19 August 1789.

apportionment amendment. Similar to Madison's original proposal, it would have revised the Constitution's representation ratio to read,

after the first enumeration, 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 the number of representatives shall never be less than one hundred, nor more than one hundred and seventy five; but each state shall always have at least one representative.¹⁹

The committee's apportionment amendment incorporated all the suggestions of the apportionment amendments proposed by the states. Virginia and North Carolina's amendments can been seen as the logical model for the new amendment. It included the Anti-Federalist and the Pennsylvania minority's suggestion that the number of representatives in the House be increased. As for the Federalists, the amendment included Massachusetts and New Hampshire's recommendation that the number of representatives should be limited at a fixed number. New York's suggestion that once the increase in the number of representatives was made that at no point should it be decreased was also incorporated into the new amendment.

The committee's amendment, like Madison's earlier amendment, would have significantly increased the number of representatives in the House. Although the First Census had yet to be completed, it was assumed that the House, if the amendment passed, would be increased to over one hundred

^{19&}lt;u>Annals of Congress</u>, 1: 719.

members. As early as the Confederation period, it was acknowledged that the population of the United States was over three million persons. With three million inhabitants, representation in the House would be increased and reapportioned among the states.

In a preview of later debate in the Second Congress, the Committee of the Whole took that increase and reapportionment as the focus of its debate. Vining, one of the leaders of the apportionment debate in both the First and Second Congresses, unsuccessfully moved to guarantee each state at least two representatives if its total population amounted to forty-five thousand persons.20 Fisher Ames of Massachusetts then proposed increasing the representation ratio in the amendment to one representative for each forty thousand persons.

Ames hoped that by increasing the representation ratio he could limit the increase in the size of the House. Although that increase was inevitable, the Federalists still hoped to control its size. Ames therefore presented three arguments against a radical increase in the number of representatives in the House. First, limiting the membership in the House of Representatives would save the people approximately \$450,000, by Ames's estimation, resulting from an increase of the size the committee had proposed. Second, Ames contented "that, in proportion as

20Ibid., 1: 719-20.

you increase the number of Representatives, the body degenerates; you diminish the individual usefulness."21 And third, an increase in the number of representatives would lead to "an excitement of or fermentation in the representative body. Numerous assemblies are supposed to be less under the guidance of reason than smaller ones."22

Ames's arguments failed to convince either Michael Stone of Maryland or the Committee of the Whole. Stone contended that a ratio of one representatives for every thirty thousand persons was needed to guarantee the people's liberties; the more representatives, the better. He noted that in a population of three million persons, a ratio of one to thirty thousand would permit only one hundred representatives -- a dangerously small number. Of that one hundred, fifty-one members formed a quorum and twenty-six comprised a majority of that quorum. Combined with the seven Senators needed for a majority in that body, Stone contended that a mere thirty-three individuals could decide the United States' future. The Committee of the Whole agreed with Stone that the American republic could not afford to reduce its future number of representatives by one-forth and hope to remain free. It therefore overwhelmingly rejected Ames's proposal.23

21Ibid., 1: 720. 22Ibid. 23Ibid., 1: 725.

Following Stone's comments, Theodore Sedgwick of Massachusetts successfully moved to substitute two hundred for one hundred seventy-five in the amendment as the maximum number of representatives allowed in the House. He believed that a House of Representatives of only one hundred seventyfive members would be a body too small to represent properly the divergent interests throughout the United States. It is no surprise that Sedgwick submitted his proposal. The apportionment amendment proposed by the Massachusetts ratifying convention called for two hundred representatives in the House. Sedgwick, who served as a delegate from Berkshire County to his state's ratifying convention, surely found his inspiration for his proposal in that convention's proposed constitutional amendments.²⁴

Samuel Livermore of New Hampshire stated that he was not satisfied with the apportionment amendment. As the amendment was written, it contained no provisions for the periodic increase of representatives in the House. Taking the Virginia, New York, and Madison amendments as his model, Livermore proposed to add a clause to Congress's amendment stating that as the United States' population increased, so would representation in the House. As the last order of business for the day, Livermore's proposal was incorporated into the House version of the apportionment amendment.²⁵

24Ibid.; Bill of Rights, 2: 721.

25Annals of Congress, 1: 726.

Before the House could take its vote on the Committee of Eleven's other amendments, Roger Sherman, on 19 August, successfully moved that the amendments be added to the Constitution as separate articles, not as changes to the Constitution's existing text.26 Five days later the House sent its finalized list of seventeen amendments to the Senate for its concurrence. The first of those amendments was the apportionment amendment. It read:

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 Representatives for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which there shall not be less than two hundred Representatives, nor less than one Representatives for every fifty thousand persons.²⁷

One will note that the House version of the apportionment amendment sent to the Senate on 24 August is significantly different from the amendment discussed and passed by the Committee of the Whole on 14 August. But the records of the discussion of amendments in the Committee of the Whole made no mention of a ratio of one representative to forty thousand inhabitants until the number of representatives in the Congress reached two hundred, or a

26Ibid., 1: 766.

27<u>The Journal of the Senate Including the Journal of</u> <u>the Executive Proceedings of the Senate</u> (New York: Thomas Greenleaf, 1789; reprint, 9 vols., Martin P. Claussen, ed., Wilmington, Del.: Michael Glazier, Inc., 1977), 1: 104 (page references are to reprint edition; hereinafter cited as Senate Journal).

ratio of not less than one to fifty thousand after the number. Unfortunately, neither the House <u>Journal</u> nor the <u>Annals of Congress</u> mention the proceedings in which the amendment was altered. Additionally, no contemporary newspapers reported the proceedings that changed the amendment. Therefore, there is a ten day period, from 14 August to 24 August 1789, during which significant changes were made to the apportionment amendment. However, the details of the debate surrounding those changes were not recorded in any available contemporary source.

On 2 September the Senate considered the House apportionment amendment. A motion to increase the minimum number of representatives from one hundred to two hundred failed. The Senate then changed the House amendment to read that after the first one hundred representatives were apportioned in the House, one additional representative would be added for each increase of forty thousand in the nation's population. Once the membership in the House reached two hundred, the ratio would be reduced to one additional representative for each increase in population of sixty thousand.²⁸

One week later the Senate passed its final list of amendments. The next day the House of Representatives received the Senate list. Madison noted the list and wrote to Edmund Pendleton that "the Senate have sent back the plan

28Ibid., 1: 117.

of amendments with some alterations which strike in my opinion at the most salutary articles."29 On 21 September the House voted to disagree with several of the Senate's amendments, including the apportionment amendment. However, the House also agreed that a conference committee be established between the two houses to discuss the amendments. Madison, Sherman, and Vining were selected to serve as the House managers of the committee. That same day, after notification of the House decision, the Senate chose Oliver Ellsworth of Connecticut, Charles Carroll of Maryland, and William Patterson of New Jersey to meet the House committee representatives in hope of reaching an agreement on the amendments to the Constitution.30

On 23 September Madison again wrote to Pendleton. In his letter he noted that the Congress would soon adjourn, and rather than risk forfeiture of all the amendments, he was willing to accept the Senate list with minor changes. The same day, both the House of Representatives and the Senate heard the Conference Report. The report suggested that the Senate accept the House version of the apportionment amendment if the last line of the amendment were changed to read, "that there shall be not less than two

²⁹James Madison to Edmund Pendleton, 14 September 1789, Madison, 12: 402.

³⁰Journal of the House of Representatives (New York: Francis Childs and John Swaine, 1789; reprint, 9 vols., Martin P. Claussen, ed., Wilmington, Del.: Michael Glazier, Inc., 1977), 1: 151 (page references are to reprint edition; hereinafter cited as House Journal).

hundred Representatives, nor more than one Representative for every fifty thousand persons."³¹ The final apportionment amendment would therefore read:

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 time the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representatives for every fifty thousand persons.³²

On 24 September the House agreed to the Conference report by a vote of thirty-seven in favor and fourteen opposed. The next day the Senate concurred in the amendments as approved by the House. A total of twelve amendments were submitted to President Washington who forwarded them to the states one week later. The first of those amendments was the apportionment amendment and the second prohibited the Congress from granting itself a midterm pay raise. The remaining ten amendments were the guarantees of liberties that eventually became the Bill of

³¹James Madison to Edmund Pendleton, 23 September 1789, <u>Madison</u>, 12: 418; Senate <u>Journal</u>, 1: 145.

^{32&}lt;u>U.S. Congress. House. The Constitution of the United</u> States of America as amended through July 1971, Analytical <u>Index, Unratified Amendments</u>. 92d Cong., 2d sess., 1972. House Doc. 92-157. (Washington: GPO, 1972), 25 (hereinfater cited as <u>Analytical Index</u>).

Rights. Washington forwarded them to the states one week later.33

Once in the states, the supporters of the amendments hoped for a quick ratification by ten of the states. But Edward Carrington, in a letter to Madison, noted that the ratification of the apportionment amendment would be difficult. In considering the amendments, he noted,

One of them which seems at present to be much approved of & was indeed made a considerable object of by all the States, will not, I apprehend, be found good in practice--I mean the excessive enlargement of the representation. . . .34

Unfortunately we know little of what transpired in the ratification conventions in the states. There are no journals for the state conventions comparable to the House <u>Journal</u> or the <u>Annals of Congress</u>. Yet, there must have been some divisions within those conventions. Final ratification of the Bill of Rights by the required threefourths of the states was not completed until 1792. Additionally, three of the original thirteen states, Massachusetts, Connecticut, and Georgia, did not ratify the Bill of Rights until 1939.35

The apportionment amendment addressed the Anti-Federalists' demand that the House be increased in size and

³³House <u>Journal</u>, 1: 152; Senate <u>Journal</u>, 1: 150-51; <u>The</u> <u>Massachusetts Spy</u>, 15 October 1791.

³⁴Edward Carrington to James Madison, 9 September 1789, Madison, 12: 393.

35Analytical Index, 12.

yet met the Federalists' insistence that the House of Representatives remain limited in membership. Therefore it faced little opposition in the early stages of the ratification debates in the states. On 25 January 1790, President Washington transmitted Maryland's message of ratification to the Congress. On 19 December, Maryland's Senate had agreed with its House of Delegates to ratify all twelve of the proposed amendments. Twenty days later Washington presented the Congress with another ratification message. On 29 January the New Hampshire legislature had ratified all the amendments except the second--the amendment prohibiting the Congress from granting itself a mid-term pay raise.³⁶ It appeared as if Carrington had perhaps underestimated the support for the apportionment amendment.

But the supporters of the apportionment amendment suffered a defeat on 8 March. Washington submitted to the Congress Delaware's ratification message. In it, the Governor of Delaware notified Washington that his state legislature had ratified all the proposed constitutional amendments except the first. Eight days later, the apportionment amendment was rejected by another state. The

³⁶House Journal, 2: 18-19; New York Journal and Weekly Register, 10 December 1789; House Journal, 2: 35-36; New York Journal and Weekly Register, 11 February 1790; United States Chronicle, 21 February 1790.

Pennsylvania legislature had voted, like Delaware's, to accept all the proposed amendments except the first.37

Pennsylvania's refusal to ratify the apportionment amendment virtually assured that it would not become part of the Bill of Rights. Although Washington submitted ratification notices for South Carolina on 1 April, New York on 5 April, North Carolina on 25 May, Rhode Island on 30 June, and New Jersey on 4 August, it was clear that the apportionment amendment would not have the support of the required ten states for incorporation into the Bill of Rights.³⁸

It made little difference that Vermont, after being admitted to the Union on 4 March 1791, ratified the proposed first amendment. The apportionment amendment then had the support of eight states, but it remained three short of the ratification of the required three-fourths of the states. Although Virginia finally ratified all twelve proposed amendments to the Constitution on 15 December 1791, the apportionment amendment died.39

Eleven of the fourteen states ratified amendments III though XII of the Congress's proposed list. Those ten

39<u>Analytical Index</u>, 12.

³⁷House Journal, 2: 49-50; New York Journal and Weekly Register, 18 February 1790; House Journal, 2: 56; New York Journal and Weekly Register, 25 March 1790.

³⁸House <u>Journal</u>, 2: 71, 73, 137-38, 154, 202-03; <u>New</u> <u>York Journal and Weekly Register</u>, 19 November 1789; <u>The</u> <u>Massachusetts Spy</u>, 3 December 1789.

amendments were added to the Constitution as the Bill of Rights. Only six states ratified the proposed second amendment. The apportionment amendment was ratified by nine of the required eleven states. The attempt to pass a constitutional amendment guaranteeing a periodic increase in the size of the House of Representatives had failed. The debate over the size of the House would therefore shift to the Second Congress as the supporters of an increase in the size of the House would attempt to pass apportionment legislation guaranteeing that increase by statute law.

CHAPTER 5

THE REPRESENTATION DEBATE IN THE SECOND CONGRESS

By October 1791 the apportionment debate was again before the Congress. The proposed first amendment to the Constitution had passed only six of the eleven states required for ratification. The debate over the apportionment of representatives in the House remained unsettled. Proponents of a larger House of Representatives therefore set out to pass regular statute law to increase the number of representatives in the House.

The Second Congress convened on 24 October 1791. The apportionment issued surfaced one week later. John Laurance, a representative from New York, started the debate when he submitted an apportionment resolution in the House of Representatives. House Resolution 147 read: "That till the time of the next enumeration, the number of Representatives shall be one to every thirty thousand inhabitants."¹

Laurance's resolution had significant implications for the make-up of the House of Representatives. Laurance proposed increasing the number of representatives in the

¹Debates and Proceedings of the Congress of the United States, 1789-1834 (Washington: Gales and Seaton, 1834-56), 42 vols. 3: 148 (hereinafter cited as <u>Annals of Congress</u>).

House from the constitutionally mandated sixty-five to one hundred and twelve. Based on the Census of 1790, Laurance's resolution would have been a political windfall for the South and the larger Mid-Atlantic States. The South would garner twenty-two additional representatives in the reapportionment. New York and Pennsylvania could expect to gain eleven representatives between them. But the New England states would gain a total of only thirteen additional members in the House of Representatives (see table 1).

New Englanders realized the political threat posed by Laurance's resolution. Theodore Sedgwick of Massachusetts argued that although the Constitution provided for a representation ratio no greater than one representative for each thirty thousand persons, he preferred to see the number of representatives in the House limited to one hundred. Samuel Livermore of New Hampshire seconded Sedgwick's sentiments. He was in favor of any ratio that would lead to the smallest number of representatives possible. Another Northerner, Jonathan Dayton of New Jersey, noted that his constituents were opposed to any significant increase in the number of representatives in the House.²

On 3 November the Committee of the Whole considered Laurance's resolution. Sedgwick contended that the representation ratio in Laurance's resolution was too small.

²Ibid., 3: 149.

Table 1

Representatives Apportioned under the Constitution and Proposed H.R. 147³

| <u>New England States</u> Vermont New Hampshire Massachusetts Rhode Island Connecticut | Constitution 0 3 8 1 5 | H.R. 147 2 4 15 2 7 | <u>Gain</u> 2 1 7 1 2 |
|---|---------------------------------------|------------------------------------|--------------------------------------|
| | 17 | 30 | 13 |
| <u>Middle States</u> New York New Jersey Pennsylvania Delaware | 6 4 8 1 | 11 5 14 1 | 5 1 6 0 |
| | 19 | 31 | 12 |
| <u>Southern States</u> Maryland Virginia Kentucky North Carolina South Carolina Georgia | 6 10 0 5 5 3 | 9 21 2 11 6 2 | 3 11 2 6 1 -1 |
| | 29 | 51 | 22 |
| Total | 65 | 112 | 47 |
| | | | |

Note: Vermont was admitted to the Union on 4 March 1791. Kentucky was admitted 1 June 1792.

³President Washington transmitted a summary of the results of the Census of 1790 to the Congress on 27 October 1791. <u>Heads of Families at the First Census of the United</u> <u>States Taken in the Year 1790: Vermont</u> (Baltimore: Genealogical Publishing Company, 1966), 4 (hereinafter cited as <u>Census 1790</u>). <u>Constitution</u>, art. I, sec. 2. Author's own calculations for the number of representatives apportioned to each state. It is significant to note that the number of representatives apportioned in Laurance's resolution was identical to the number that would have been apportioned under the apportionment amendment in the First Congress. See Appendix 6 for the population figures found in the Census of 1790. All population figures used for apportionment are based on each state's free population and three-fifths of its slave population. He proposed limiting the size of the House to one hundred members by increasing the ratio to one representative for each thirty-four thousand inhabitants. Livermore went even further and argued for a ratio of one to forty thousand. Abraham Clark of New Jersey stated that since the people of the United States were concerned over the expenses of maintaining the government, any increase in the number of representatives in the House should be considered with caution--a reapportionment of representatives would surely unnecessarily increase the government's expenses. He seconded Livermore's proposal in hope of limiting the House to eighty-one members.⁴

Laurance objected to Livermore's proposal. He contended that when the Constitution was ratified in 1788, the majority of Americans had agreed to the ratio of one representative for each thirty thousand persons. Clark's objections that an increase in the number of representatives in the House would raise the costs of government were unreasonable. Laurance claimed that since the difference between his proposal of one representative for every thirty thousand inhabitants and Sedgwick's proposed ratio of one Congressman for each thirty-four thousand individuals was only twelve representatives, the resulting increase in the costs to the government was minimal. Additionally, any attempt at limiting the number of representatives in the

⁴Ibid., 3: 154.

House was detrimental to the people's trust in the Congress: "The Government is a Government by representation, and it is of the last importance that the confidence of the people should be inspired by the feeling that their interests are fully represented"⁵ (see table 2).

Table 2

Representatives Apportioned under Each Proposed Representation Ratio⁶

| <u>State</u> Vermont New Hampshire Massachusetts Rhode Island Connecticut | 1:30 2 4 15 2 7 | 1:33 2 4 14 2 7 | 1:34 2 4 13 2 6 | 1:35 2 4 13 1 6 | 1:40 2 3 11 1 5 |
|--|------------------------------------|------------------------------------|------------------------------------|------------------------------------|-----------------------------------|
| | 30 | 29 | 27 | 26 | 22 |
| New York New Jersey Pennsylvania Delaware | 11 5 14 1 31 | 10 5 13 1 29 | 9 5 12 1 27 | 9 5 12 1 27 | 8 4 10 1 23 |
| Maryland Virginia Kentucky North Carolina South Carolina Georgia | 9 21 2 11 6 2 51 | 8 19 2 10 6 2 47 | 8 18 2 10 6 2 46 | 7 18 1 10 5 2 43 | 6 15 1 8 5 1 36 |
| Total | <u>112</u> | 105 | 100 | 96 | 81 |

Note: Ratios are one representative for each tens of thousands.

⁵Annals of Congress, 3: 154-55.

⁶Author's own calculations based on the population figures in the Census of 1790.

After a one week reprieve from debate, the House, on 10 November, again considered the representation ratio. Elbridge Gerry of Massachusetts spoke in favor of one representative for each thirty-thousand persons. Although he failed to sign the Constitution in Philadelphia in 1787, he argued that the people's wishes as expressed in the Constitution must be observed.

Gerry reminded the Committee of the Whole that the government was a government of representation. Since the people had a direct say in the selection of neither the President nor the Senate, the House was their sole voice in the national government. He feared that if the number of representatives were to remain small, the common man would want for advocates in the federal government. The American people, with the ratification of the Constitution, expected a representation ratio of one to thirty thousand. He asked the members of the House if it would not therefore be perceived as an abuse of their position to increase the representation ratio and thereby limit the size of future Congresses.

Gerry contended that the cost of additional representatives was negligible. In his estimation, adding forty-seven members to the House would have increased its expenditures by only one-eighteenth. But, he also noted that he preferred to leave the issue unsettled. Since by October 1791 only seven states had ratified the apportionment amendment, the Congress should let the issue

stand. He suggested waiting until the number of representatives reached one hundred under the Constitution's provisions. The Congress at that time could then alter the ratio better to match the political opinion of the day.⁷

Elias Boudinot of New Jersey took issue with Gerry's arguments for a ratio of one representatives for every thirty thousand persons. He argued that even if the House's operating costs would only increase by one-eighteenth as Gerry suggested, that one-eighteenth rise was too much. He noted that although he was willing to tax the American people, he was unwilling to burden them with unnecessary expenses. Coupled with the fact that only seven states had adopted the proposed first amendment and two different representation ratios had been proposed to the Congress, the House should consider a compromise ratio of one representative for every thirty-five thousand persons.⁸

John Steele of North Carolina, speaking against his fellow Southerners, and Abraham Clark of New Jersey presented similar arguments against Laurance's resolution. Clark noted that his opposition was not based solely on

⁸Ibid., 169-170. Boudinot presented apportionment figures based on his own calculations. By those calculations, a ratio of one to thirty-three thousand would lead to 113 representatives. A ratio of one to forty thousand would lead to 81 representatives.

⁷Ibid., 3: 168-69. By 10 November only New Jersey, Maryland, North Carolina, South Carolina, New Hampshire, and Rhode Island had ratified the apportionment amendment. The next day, Virginia became the eight state to ratify. Ibid., 1: 1983-90.

finances; he feared that as the number of representatives increased, so would nepotism within the government. Steele argued that a representation ratio of one to thirty thousand would almost double the number of Congressmen in the House, thus dividing and diminishing the effectiveness of the House. He stated: "Too numerous an Assembly is perpetually liable to disorder; and when that is the case Government becomes contemptible."⁹

Laurance countered that any increase in expenditures resulting from an increase in the number of representatives was insignificant. Since "the existence of the Union may depend on the fulness of representation," the additional expenses would be negated by the positive gains of a larger representation.¹⁰

Abraham Baldwin of Georgia defended Laurance's resolution. He argued that representation in the national legislature should be based on the size of the United States. He contended that while a representation ratio of one representative for every thirty-four thousand or thirtyfive thousand persons could work in England or France, a similar ratio was impractical in the United States. The size of the United States dictated that more representatives were needed than in either England or France. If republicanism were to succeed in an area as large as the

⁹Ibid., 3: 170-71.

¹⁰Ibid., 3: 172.

United States, the representation ratio needed to guarantee as many representatives in the House as possible.¹¹

On 14 November the House again debated the apportionment issue. The question of the people's stake in government remained the central issue. William Findley of Pennsylvania noted that

a large representation embraces these interests more fully, and is more competent to giving and receiving information. The objects of legislation are such as come home to the doors, to the feeling of very man; the Government ought therefore to secure the confidence of the people by a large representation.¹²

William Giles of Virginia supported Findley's statements and argued that since the American people were familiar with the ratio of one representative for each thirty thousand persons, any change in that ratio would be perceived as corruption on the part of the Congress.¹³

The next day the representation question was again the central topic of debate in the Committee of the Whole. John Page of Virginia noted, like Gerry, that it would be best if the representation issue were settled by a later Congress where the implications of the debate would be more significantly felt. But he also stated, "it is not and cannot be the interest or the wish of the people at large to

¹¹Ibid., 3: 173-75. ¹²Ibid., 3: 177. ¹³Ibid., 3: 178-79.

have a small representation in the Congress under the present Government."¹⁴

Abraham Clark felt differently. He was convinced that a larger representative body would lead to corruption. In response to one of Findley's earlier statements that more wisdom would be brought into the House by increasing the ratio, Clark asked whether that increase would not instead bring folly. Lacking confidence in the polity to make the "virtuous" decisions in the election of their leaders, Clark argued,

If ever the liberties of the People are endangered, it will not be by the smallness of the representation, but by the corruption of electors and elections. This is the door which Congress should guard in the strictest manner, and that will secure the people against corruption in the House.¹⁵

With Clark's objections aside, Laurance's resolution was put to a vote of the Committee of the Whole. It passed by a margin of thirty-five in favor and twenty-three opposed. The chairman then ordered that John Page, William Vans Murray of Maryland, and Nathaniel Macon of North Carolina prepare an apportionment bill based on Laurance's resolution for submittal to the House.¹⁶ On 21 November,

¹⁴Ibid., 3: 181-82.

¹⁵Ibid., 3: 185.

16The Journal of the House of Representatives (Philadelphia: Francis Childs and John Swaine, 1792; reprint, 9 vols., Martin P. Claussen, ed.,Wilmington Del.: Michael Glazier, Inc., 1977), 4: 30-31 (page reference are to reprint; hereinafter cited as House Journal). For a complete description of the measure and vote, see Appendix 1, roll call 1.

Page's committee reported its bill to the Committee of the Whole. As instructed, it stated that after 3 March 1793, therefore in the Third Congress, representation would be apportioned among the states at a ratio of one representative for each thirty thousand persons.¹⁷

After a failed attempt on 23 November to change the bill to reflect a representation ratio of one to thirty-four thousand, the House, on 24 November, took its roll call on the apportionment committee's bill. By a vote of fortythree in favor and twelve opposed, the House passed its first apportionment bill.¹⁸ Unfortunately for the supporters of that bill, the Senate, on 8 December, returned it to the House. But before doing so, the Senate voted on the same day to amend the House bill to include a representation ratio of one to thirty-three thousand.¹⁹

Findley, on 12 December, dubiously contended that the apportionment provisions in the Senate bill were unconstitutional. He stated: "The Constitution of the United States is express in the subject, and now is the time

¹⁷Ibid., 4: 35.

18Ibid., 4: 37. See Appendix 1, roll call 2.

¹⁹Ibid., 40-41. See Appendix 1, roll call 3; <u>The</u> <u>Journal of the Senate Including the Journal of the Executive</u> <u>Proceedings of the Senate</u> (Philadelphia: John Fenno, 1792; reprint, 9 vols., Martin P. Claussen, ed., Wilmington, Del.: Michael Glazier, Inc., 1977), 4: 55-56 (page references are to reprint; hereinafter cited as Senate <u>Journal</u>).

when the people ought to enjoy the advantages of the representation of one to each thirty thousand." 20

Two days later the House considered whether to agree to the Senate's amendments to the apportionment bill. But before that vote could be taken, John Vining of Delaware submitted an amendment to the bill dictating each state's number of representatives in the House. Almost identical to a later bill proposed by the Senate on 12 March 1792, it mentioned neither a representation ratio nor a later apportionment. After Vining's amendment failed, a roll call was taken on whether to incorporate the Senate's apportionment ratio of one to thirty-three thousand. By a narrow margin of only two votes, the House voted not to agree to the Senate's amended apportionment bill.²¹

The next day the Senate debated the apportionment issue. By a vote of thirteen to twelve, with the Vice-President casting the deciding vote, the Senate voted not to recede from its amendment calling for an apportionment ratio of one to thirty-three thousand. Additionally, the Senate failed to agree that a compromise committee comprised of members from both houses was needed to discuss the issue.²²

²⁰<u>Annals of Congress</u>, 3: 243-45. The Constitution's apportionment provisions stated not more than one representative for every thirty thousand, not one representative for every thirty thousand, a significant difference.

²¹House <u>Journal</u>, 4: 54-55; See Appendix 1, roll calls 4-5.

²²Senate <u>Journal</u>, 4: 60-61.

Four days later the apportionment bill was back in the House of Representatives. Two roll calls were taken on whether to agree to the Senate's apportionment ratio of one representatives for each thirty-three thousand persons. Both votes failed. The next day, 20 December 1791, the first apportionment bill died when the Senate again voted not to recede from its insistence on its ratio of one representatives for each thirty-three thousand persons.²³

Through the first three weeks of January 1972 the House considered business other than the apportionment issue. Then on 24 January it resumed its debate on the representation ratio. On the same day, the Committee of the Whole was presented with a new apportionment resolution. The wording in the resolution, with two very significant exceptions, was similar to the bill rejected by the Senate on 20 December 1791. The first exception stated that a reapportionment would take place after 3 March 1797 and the convening of the Fifth Congress instead of 3 March 1793 and the Third Congress. Additionally, it read, "and no greater ratio be reported, than thirty thousand inhabitants for every representative."²⁴

Northerners immediately attacked the apportionment resolution. Jonathan Dayton of New Jersey unsuccessfully moved to strike out the section of the resolution calling

²⁴House <u>Journal</u>, 4: 83.

²³House <u>Journal</u>, 4: 58-60. See Appendix 1, roll calls 6-7; Senate <u>Journal</u>, 4: 64.

for a second enumeration. Dayton hoped to keep the population figures used in the apportionment of representatives static and to deny the South the increase in representatives as its population expanded into its western frontier.²⁵

Livermore, on the heels of Dayton's motion, offered another amendment to the resolution. He argued that since the Senate had previously rejected the ratio of one representative for each thirty thousand persons, the House, in the interests of compromise, should prevent it from being reported by striking out the section of the resolution prohibiting a ratio greater than one representative for thirty thousand persons from being reported.²⁶

Livermore contended that a representation ratio of one representative for every thirty thousand persons would cause too many Americans to be unrepresented.²⁷ For example, if one were to take New Hampshire's population of 141,822 and apply a representation ratio of one representative for every thirty thousand inhabitants, New Hampshire would be allotted four representatives. But, those four representatives actually would represent only 120,000 of New Hampshire's inhabitants. Therefore, New Hampshire would have nearly twenty-two thousand persons, the difference between 141,888

25Ibid., 4: 83-84. See Appendix 1, roll call 8. 26Ibid., 4: 84.

²⁷Annals of Congress, 3: 332.

and 120,000, without representation. But at a ratio of one representative for every thirty-three thousand inhabitants, the number of New Hampshire's inhabitants without representation declined to less than ten thousand. Under a ratio of one to thirty thousand, Virginia would have a mere 559 inhabitants without representation, while Maryland would have less than nine thousand persons without representation. In fact, the most advantageous representation ratio for Maryland and Virginia was one to thirty thousand. However, at the same ratio, all the New England states, with the exception of Rhode Island, had at least six thousand, and up to twenty-one thousand, individuals without representation as compared to a ratio of one to thirty-three thousand (see table 3).

Although Livermore's argument disregarded the nonrepresentation of the remaining two-fifths of the nation's slave population, it was convincing enough to the members of the Committee of the Whole to accept the amendment.²⁸

Egbert Benson of New York, James Madison of Virginia, and Gerry were then instructed to prepare an apportionment bill based on the House's amended resolution. On 13 February the committee presented its resolution to the Committee of the Whole. Numbered H.R. 163, it contained no mention of a representation ratio. It did, however, contain provisions for a second enumeration and a subsequent

28House Journal, 4: 84-85. See Appendix 1, roll call
9.

reapportionment of representatives after 3 March 1797--the

beginning of the Fifth Congress.29

Table 3

Number of Persons Unrepresented under Each Proposed Representation Ratio³⁰

| State Vermont | $\frac{1:30}{25,533}$ | 1:33 | $\frac{1:34}{7.532}$ | $\frac{1:35}{15,522}$ | 1:40 |
|---|---|--|--|---|---|
| Vermont New Hampshire | 25,533 21,822 | 19,533 9,822 | 7,533 5,822 | 15,533 1,822 | 5,533 21,822 |
| Massachusetts | 25,327 | 13,327 | 33,327 | 20,327 | 35,327 |
| Rhode Island | 8,446 | 2,446 | 446 | 33,446 | 28,446 |
| Connecticut | 26,840 | 5,840 | 32,840 | 26,840 | 36,840 |
| New York | 1,590 | 1,590 | 25,590 | 16,590 | 11,590 |
| New Jersey | 29,570 | 14,570 | 9,570 | 4,570 | 19,570 |
| Pennsylvania | 12,878 | 3,878 | 24,878 | 12,878 | 32,878 |
| Delaware | 25,541 | 22,541 | 21,541 | 20,541 | 15,541 |
| Maryland Virginia Kentucky North Carolina South Carolina Georgia | 8,514 559 8,705 28,522 26,235 10,842 | 14,514 3,559 2,705 23,522 8,235 4,842 | 6,514 18,559 705 13,522 2,235 2,842 | 33,514 559 33,705 3,522 31,235 842 | 38,514 30,559 28,705 33,522 6,235 30,842 |

Joshua Seney of Maryland argued that a representation ratio of one to thirty thousand should be added to H.R. 163. His fellow representative from Maryland, John Mercer, called for as small a ratio as possible. Mercer contended that a small number of representatives could not rule properly and the eventual result of a limited membership in the House would be despotism.³¹

²⁹Ibid., 4: 97.

³⁰Author's own calculations. Ratios are in tens of thousands.

³¹Annals of Congress, 3: 403-05.

On 20 February Seney's proposal was incorporated into H.R. 163. But before that, two roll calls were taken on the provisions in H.R. 163 calling for a second enumeration. The implications of those roll calls were significant. Tf the amendments had passed, reapportionment would be based solely on population figures in the Census of 1790. While that census favored the Southern states in 1790, New Englanders could be sure that a later census would favor the same states even more. Certainly the South, with larger back-countries open to settlement vis-a-vis New England, would experience a significant population increase. Among the Southern states, only Maryland, with a fixed western boundary, could not expect a massive population growth on the western frontier. Therefore, if a reapportionment were to be made following a second census, New England could expect to lose even more representative strength in the House. But since those amendments failed, the apportionment of representatives would reflect future changes in the distribution of population throughout the country.³²

The next day, 21 February, the House took its vote on H.R. 163. By a margin of eighteen votes, the Committee of the Whole found all the provisions of H.R. 163 acceptable. The House apportionment bill thereafter incorporated all the points of the earlier debate. It included provisions for making a apportionment based on the Census of 1790 at a

³²House <u>Journal</u>, 4: 104-07. See Appendix 1, roll calls 10-12.

representation ratio of one representative for every thirty thousand persons. It additionally directed a second enumeration on which to base the apportionment of representatives to compose the House after the Fifth Congress.³³

On 6 March, H.R. 163 was read for a second time in the Senate. As the first order of business the Senate considered an amendment delaying the reapportionment date until 3 March 1803--the Eight House. Although that amendment failed, the Senate, through another amendment, succeeded in establishing 3 March 1793, the start of the Third House, as the apportionment date.³⁴

But even more drastic changes were made to H.R. 163 on 12 March. The Senate amended the bill to read that after 3 March 1793 the House of Representatives would be comprised of one hundred and twenty members. New Hampshire would receive five representatives, Massachusetts sixteen, Vermont three, Rhode Island two, Connecticut eight, New York eleven, New Jersey six, Pennsylvania fourteen, Delaware two, Maryland nine, Virginia twenty-one, Kentucky two, North Carolina twelve, South Carolina seven, and Georgia two. Although a representation ratio of one to thirty thousand was proposed for the bill, it failed to garner enough support to pass. As a result, the Senate version of the

³³Ibid., 4: 108-09. See Appendix 1, roll call 13.
³⁴Senate <u>Journal</u>, 4: 145-47.

apportionment bill contained no mention of any representation ratio on which to base future reapportionments.³⁵

The Senate bill offered little to the Southern states (see table 4). Only North and South Carolina could

Table 4

Representatives Apportioned under the Constitution, H.R. 147, and the Senate Bill36

| <u>State</u> Vermont New Hampshire Massachusetts Rhode Island Connecticut | Constitution 0 3 8 1 5 | <u>H.R. 147</u> 2 4 15 2 7 | <u>Senate Bill</u> 3 5 16 2 8 |
|--|---------------------------------------|---|--|
| | 17 | 30 | 34 |
| New York New Jersey Pennsylvania Delaware | 6 4 8 1 | 11 5 14 1 | 11 6 14 2 |
| | 19 | 31 | 33 |
| Maryland Virginia Kentucky North Carolin South Carolin Georgia | | 9 21 2 11 6 2 | 9 21 2 12 7 2 |
| | 29 | 51 | 53 |
| Total | 65 | 112 | 120 |

expect to gain additional representatives under the Senate bill as compared to their apportionment at a ratio of one to

³⁵Ibid., 152-54.

36Author's own calculations.

thirty thousand. New York's and Pennsylvania's apportionments remained the same. But the New England states would receive an additional four representatives. Vermont, New Hampshire, Connecticut, and Massachusetts would each earn an additional representative when compared to their apportionment at a ratio of one to thirty thousand.

The House considered the Senate's finalized bill under the name H.R. 179. The Committee of the Whole, on 17 March, failed to agree to the Senate bill dictating the number of representatives at one hundred-twenty. But realizing the implications of its vote, it agreed to establish a conference committee comprised of members from each house to confer on the apportionment issue. Two days later the Senate concurred that a conference committee was in order.³⁷

The House's committee representatives, Madison, Findley, James Hillhouse of Connecticut, William C. Smith of South Carolina, and Baldwin met with Oliver Ellsworth, Aaron Burr, and Pierce Butler through 22 March. On that day, Ellsworth reported to the Senate that the committee had been unable to reach an agreement on the apportionment issue. The Senate then voted in favor of insisting on all its amendments to H.R. 179.³⁸

³⁷House <u>Journal</u>, 4: 137-38. See Appendix 1, roll call 14.

³⁸<u>Annals of Congress</u>, 3: 474, 109; Senate <u>Journal</u>, 4: 162-63. Madison had remained silent on the representation debate in the Second Congress until his selection to the committee.

On 23 March a breakthrough was made in the apportionment debate. By a margin of only two votes, the House of Representatives agreed to recede from all its disagreements to H.R. 179. With that vote, the Congress had finally reached a consensus on the apportionment issue. All that was required to make the bill law was President George Washington's signature.³⁹

However, Washington refused to sign the Congress's apportionment bill. After conferring with his cabinet, on 5 April he returned the bill to the House of Representatives with its first veto message. In that message he stated two objections to the bill. First, there was "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."⁴⁰

Six different representation ratios were used in the bill. Delaware's ratio was one to twenty-seven thousand thus assuring it of at least two members in the House. New Hampshire's and Vermont's representatives were apportioned at a ratio of one to twenty-eight thousand. The representatives of three Northern states, Massachusetts, Connecticut, and New Jersey, and two Southern states, North Carolina and South Carolina, were apportioned at the ratio

³⁹House <u>Journal</u>, 4: 146-47, See Appendix 1, roll call 15.

⁴⁰Harold C. Syrett, ed., <u>The Papers of Alexander</u> <u>Hamilton</u>. 27 vols. (New York: Columbia University Press, 1961-87), 11: 226-30; House <u>Journal</u>, 4: 168.

of one representative for each twenty-nine thousand persons. The largest remaining states, whose populations assured them of a significant number of representatives in the House, New York, Pennsylvania, Maryland, and Virginia, had their representatives apportioned at a ratio of one to thirty thousand. Rhode Island and Kentucky, two states with virtually the same population, had ratios of one to thirtyfour thousand. Georgia's representatives were figured at a ratio of one to thirty-five thousand.⁴¹

Washington's second objection was that the Constitution provided for a representation ratio no greater than one representative for each thirty thousand persons.⁴² As noted above, the Congress's apportionment figures were in direct violation of the Constitution's restrictions on apportionment ratios. He wrote that as the bill stood, eight states were allotted representatives at a ratio of more than one representative for every thirty thousand inhabitants.

Eight states were indeed apportioned representatives at a ratio of greater than one to each thirty thousand. Therefore, Vermont, New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, North Carolina, and South

⁴²House Journal, 4: 168.

⁴¹Each state's representation ratio was determined by dividing the state's population by the number of representatives apportioned to it. Author's own calculations.

Carolina were all allotted representation at a ratio prohibited by the Constitution (see table 5).

Table 5

Representation Ratios in H.R. 17943

| | Representatives | Representation | |
|----------------|-----------------|----------------|----------|
| State | under H.R. 179 | Population | Ratio |
| Vermont | 3 | 85,533 | 1:28,000 |
| New Hampshire | 5 | 141,822 | 1:28,000 |
| Massachusetts | 16 | 475,327 | 1:29,000 |
| Rhode Island | 2 | 68,446 | 1:34,000 |
| Connecticut | 8 | 236,840 | 1:29,000 |
| New York | 11 | 331,590 | 1:30,000 |
| New Jersey | 6 | 179,570 | 1:29,000 |
| Pennsylvania | 14 | 432,878 | 1:30,000 |
| Delaware | 2 | 55,541 | 1:27,000 |
| Maryland | 9 | 278,514 | 1:30,000 |
| Virginia | 21 | 630,559 | 1:30,000 |
| Kentucky | 2 | 68,705 | 1:34,000 |
| North Carolina | 12 | 353,522 | 1:29,000 |
| South Carolina | 7 | 206,235 | 1:29,000 |
| Georgia | 2 | 70,842 | 1:35,000 |
| | | | |

On 6 April the House attempted to override the President's veto of H.R. 179. By a vote of twenty-eight in favor and thirty-three opposed the House failed to muster the two-thirds majority required by the Constitution to pass H.R. 179 over Washington's veto. The next day, a committee comprised of Laurance, the individual who started the apportionment debate with his resolution calling for a representation ratio of one to thirty thousand, Seney, and

43Author's own calculations.

Jeremiah Smith of New Hampshire was formed to devise a new apportionment bill.⁴⁴

Laurance's committee reported its revised version of H.R. 179 to the House on 9 April. Instead of dictating the representation ratio to the House, the committee left that portion of the bill blank. With virtually no debate, a roll call was taken of the House to insert in the blank the ratio of one representative for each thirty-three thousand persons. By a vote of thirty-four in favor, thirty opposed, that ratio was engrossed into H.R. 179. With no more objection to the apportionment bill in the House, it was sent to the Senate for its concurrence.⁴⁵

The next day, 10 April, H.R. 179 passed the Senate without any amendments. When President Washington signed it into law on 14 April as "An Act for apportioning Representatives among the several states according to the First Enumeration, "⁴⁶ the apportionment debate in the Second Congress ended.

⁴⁴House <u>Journal</u>, 4: 170-71. See Appendix 1, roll call 16. ⁴⁵Ibid., 4: 175-76. See Appendix 1, roll call 17. ⁴⁶Senate <u>Journal</u>, 4: 178; <u>Annals of Congress</u>, 3, 1359.

CHAPTER 6

ANALYSIS OF THE ROLL CALL RECORD

Two basic assumptions must be made with cluster bloc analysis.¹ The first is that representatives will vote as they believe. In other words, a representative's vote on a particular issue indicates that representative's true position on the issue--with occasional exceptions made for political maneuvering and expediency. The second basic assumption is that representatives who vote together will have some common feature and can therefore be grouped into voting blocs that give some meaningful indicator of causal factors. Such blocs may indicate degrees of sectional or party unity or disunity, coalitions between and within sections and parties, factionalism within regions or parties, or any number of other combinations.

In cluster bloc analysis, the absence of voting is as important as voting itself. For example, if a Northern

¹My discussion of the techniques involved in Rice-Byele Cluster Bloc Analysis is taken from Lee F. Anderson, Meredith W. Watts, Jr., and Allen R. Wilcox, <u>Legislative</u> <u>Roll Call Analysis</u> (Evanston: Northwestern University Press, 1966), 56-74; Richard Beringer, <u>Historical Analysis:</u> <u>Contemporary Approaches to Clio's Craft</u> (New York: John Wiley & Sons, 1978), 287-93; Charles M. Dollar and Richard J. Jensen, <u>Historian's Guide to Statistics: Quantitative</u> <u>Analysis in Historical Research</u> (New York: Holt, Rinehart and Winston, Inc., 1971), 106-109, 214-23; David B. Truman, <u>The Congressional Party: A Case Study</u> (New York: John Wiley & Sons, 1959), 45-48.

representative were not to vote for a specific piece of legislation that other members of his section supported, that representative's absence is significant. By not voting, that representative's actions could be perceived as a protest against that specific piece of legislation, his party, his coalition within the party, or perhaps his section. On the other hand, lack of a vote may indicate an attempt to dodge an issue, or that the legislator was ill, away from the capital, or away from his seat for reasons that have nothing to do with politics. If several representatives fail to vote either yea or nay on an issue or a set of related issues, however, those representatives may be placed in their own bloc.

Cluster bloc analysis also provides the researcher with a tool to determine the opinions of the many representatives who failed to speak in regular session, the Committee of the Whole, or in Committee. If a representative casts a vote, or in certain instances does not, that representative is expressing an opinion on an issue. Since most representatives do not actually speak on the floor of the House of Representatives, the researcher can garner what that representative's opinion may have been. If historians fail to examine the legislative voting record, they will study the elite and garrulous only, and it is more than likely that they could ignore the contribution of the majority of representatives.

Rice-Beyle Cluster-Bloc Analysis, the type of legislative roll call analysis utilized here, involves a standard set of procedures. The first step in cluster bloc analysis is the selection of roll calls to be analyzed. For this paper, seventeen roll calls from the First Session, Second House of Representatives were selected. Each of these roll calls dealt specifically with the apportionment of representation in the House of Representation. Appendix 1 contains a complete listing of these roll calls, as well as a description of the measure, issue, vote, result, and probable attitudinal position a Congressman would hold regarding that roll call. Appendix 2 contains a listing of each section's vote on the apportionment roll calls.2

The second step in cluster bloc analysis involves calculating the extent of agreement between representatives. A cluster bloc computer program provides an index of agreement for each possible pair of representatives.3 This simple measure of agreement is the percentage of times that two representatives voted the same way on the chosen set of roll calls. The pair-wise indexes of agreement are then

2When selecting roll calls to be analyzed, it is important to cross-check the information presented in the <u>Voting Records</u> with the actual debates in the <u>Annals of</u> <u>Congress</u> and the <u>Journal of the House of Representatives</u>, as discrepancies in the <u>Voting Records</u> are often present.

3The computer program utilized in this paper is found in Cluster Bloc Analysis, unpublished computer program by Jarvis Ehart and Richard Beringer, University of North Dakota, 1972. The Ehart and Beringer program is a modification of the cluster bloc program found in Anderson, Watts, and Wilcox, Legislative Roll-Call Analysis, chapter 4.

placed in a matrix like the one in Appendix 4. Blocs are formed among the representatives with the highest levels of agreement. Those with the highest level of agreement are placed at the top of the matrix, while those with lower levels of agreement are placed progressively lower in the matrix. For example, Abraham Baldwin of Georgia voted for each measure that would have increased the size of the House of Representatives.4 To fall into the same bloc as Baldwin, a representative would have to have voted in agreement with Baldwin on at least 70 percent of the twelve selected roll calls. This is an arbitrary threshold, and may vary from study to study, but it has been proven to be compatible with the data in this study. Requiring a threshold that is too high tends to lead to the conclusion that there were no blocs at all, much as high water levels do not reveal the rocks and reefs. Criteria that are too low would mislead the reader into believing that there was relatively little disagreement among Congressmen--there would be nothing but rocks and reefs. The conventional threshold in this sort of research is between 70 percent and 80 percent. Given the rudimentary nature of factional development in the early 1790s, we are justified in using the lower conventional criteria.

⁴For the roll call data pertaining to the Second House, refer to the Inter-University Consortium for Political and Social Research, <u>United States Congressional Roll Call</u> <u>Voting Records, 2 House, 1791-1793</u>, machine readable records, ICPSR 0004 (hereinafter cited as <u>Voting Records</u>).

Rarely will all representatives fall into the same bloc. This would indicate there was no disagreement in the legislative body, but members will argue. Moreover, if a representative agrees with at least 50 percent of the bloc members, but not all of them, that representative is considered a "fringe" member. Those representatives who are neither bloc nor fringe members, but who agree with at least one other representative at least 70 percent of the time are "isolates." If the index of agreement between two representatives is less than 70 percent, a zero is substituted in the matrix for the index of agreement. That zero does not imply that there was no agreement between the two representatives. Instead, it simply signifies that the level of frequency of agreement between them failed to break the minimum threshold of 70 percent and therefore one or both is not to be considered a bloc or fringe member for our purposes.

Cluster bloc analysis of the apportionment roll calls in the Second Congress indicates a great deal about sectionalism's role in the apportionment debate. The entire membership of the First Session of the Second House was analyzed and three sectional blocs were found: a Southern bloc, a New England bloc, and a Mid-Atlantic bloc. There are two possible conclusions that can be drawn from that analysis. First, Southern representatives united against representatives from the North (New England and Mid-Atlantic states) to support an increase in the size of the House of

Representatives. And within the North, there was a distinct division between the New England states and the Mid-Atlantic states. The second, and less explanatory conclusion, is that the apportionment debate saw an East-West sectionalism. This theory would suggest that the states without a large western frontier (Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Delaware, New Jersey, and Maryland) opposed the states with a large frontier (Virginia, North Carolina, South Carolina, and Georgia). The states with the large western frontiers could look forward to the day when increased settlement would automatically increase their representation. The other states would not have that expectation.

Under the Constitution's apportionment clause, the five Southern states, Maryland, Virginia, North Carolina, South Carolina, and Georgia, had a total of twenty-nine representatives between them. Table 6 shows that 52 percent

Table 6

Distribution of Southern Representatives in Southern Bloc and Fringe (Percents calculated by rows)

| Ot at a | Number of | Bloc | Fringe | Total of |
|----------------|-----------|----------|---------|-------------|
| State | Members | Members | Members | Bloc/Fringe |
| Maryland | 6 | 1 (17%) | 3 (50%) | 4 (67%) |
| Virginia | 10 | 9 (90%) | 1 (10%) | 10 (100%) |
| North Carolina | 5 | 1 (20%) | 3 (60%) | 4 (80%) |
| South Carolina | 5 | 2 (40%) | 1 (20%) | 3 (60%) |
| Georgia | 3 | 2 (67%) | 1 (33%) | 3 (100%) |
| Total | 29 | 15 (52%) | 9 (31%) | 24 (83%) |

of Southern representatives in the House voted in a single bloc, while 31 percent of them were on the fringe of that bloc. Out of a total of twenty-nine representatives, 83 percent voted with their section on the seventeen apportionment roll calls held in the Second Congress. The matrixes of the Southern, New England, and Mid-Atlantic blocs and fringes can be found in Appendix 4.

It is possible to account for the five Southern representatives who were not in the Southern bloc or fringe. For example, John Mercer of Maryland failed to vote on the minimum twelve roll calls to be eligible for membership in the matrix. While I mentioned earlier that absence from voting is in itself a voting behavior, Mercer's absences cannot be attributed to his opposition to the rest of his section. Mercer took his seat in the House on 6 February 1792 to fill the vacancy caused by the resignation of his predecessor, William Pinkney. Pinkney had resigned in November 1791 over questions surrounding his residence and eligibility to serve as a representative from Maryland. Mercer was not present for the first fifteen roll calls cast in the Second House. He was, however, present for four of the apportionment roll calls. On those four occasions, he voted with his Southern colleagues each time.5

⁵Ibid.; Congress, Senate, <u>Biographical Directory of the</u> <u>United States Congress 1774-1989</u>, 100th Cong., 1st sess., 1989. S. Doc. 100-34, 53 (hereinafter cited as <u>Biographical</u> <u>Directory</u>).

Upton Sheridine, also of Maryland, was also not in the Southern bloc or fringe. But Sheridine voted on only 21 of the 102 roll calls in the entire Second House. Absence on 79 percent of the roll calls for a particular Congress does not justify considering those absences as significant behavior for roll call analysis. However, of the twenty-one votes that Sheridine did cast, seven were on apportionment roll calls. Of those seven votes, Sheridine voted with the Southern bloc members on six times, suggesting that he was leaning heavily toward support of the Southern position.6 Additionally, the fact that one-third of the roll calls that he actively participated in were over the apportionment issue suggests the importance of that debate for his section.

Two representatives from South Carolina failed to vote in either the Southern bloc or fringe. The first case, William L. Smith, is a useful example of an isolate. Smith voted at least 70 percent agreement with five Southern bloc or fringe members: John Ashe of North Carolina at 79 percent, Samuel Sterett of Maryland at 75 percent, Nathaniel Macon of North Carolina at 73 percent, and William Barry Grove of North Carolina and Daniel Huger of South Carolina at 71 percent. As such, Smith cannot be completely ruled out as a supporter of the Southern position.

6 Voting Records.

Robert Barnwell was the second of South Carolina's representatives who failed to appear in the Southern bloc or fringe. However, he was an isolate with both William L. Smith of South Carolina and Philip Key of Maryland. Of the seventeen roll calls examined, Barnwell sided with the South nine times and with the New England bloc eight times. It appears as if his political loyalties on the apportionment issue were divided. One can only suppose that perhaps Barnwell opposed any large increase in the number of representatives on political or social ground. Perhaps more analysis of Barnwell's writings would hold the answer to his position on the representation issue.

An additional Southern representative failed to appear in the Southern bloc or fringe. John Steele of North Carolina cast only twelve votes on the apportionment roll calls. However, Steele actively participated in the majority of the remaining roll calls in the Second House. On the twelve apportionemnt roll calls that Steele voted on, he was in agreement with his fellow Southerners only five times. But on those same twelve roll calls, he voted with the New England bloc six times. While at first perplexing, Steele's behavior makes more sense when the debates in the House are examined. Steele was one of the most vocal critics of a dramatic increase in the number of representatives, and stated as much on 10 November 1791 on the floor of the House. Additionally, biographical data on Steele suggest that he was a supporter of the Federalist

Party later in his career.7 Perhaps Steele chose to abstain from a number of votes that he felt would put him in opposition to his Southern colleagues. However, the votes he did cast pushed his membership toward the New England bloc.

But even with the failure of Steele and Barnwell to vote with the Southern bloc and fringe, 83 percent of Southern representatives in the Second Congress favored increasing the size of the House of Representatives. After we consider that two of the five Southern representatives not in the Southern bloc or fringe can be accounted for by not being present in the House at the time of the debate, the percentage of Southerners in the single bloc and fringe increases to 89 percent.

A similar analysis of the voting patterns of the representatives from New England shows a discernible bloc diametrically opposed to the Southern bloc and fringe. For example, Nicholas Gilman of New Hampshire voted exactly opposite to Abraham Baldwin on every representation roll call. I noted earlier that Baldwin was one of the South's most ardent supporters of an increase in the size of the House. Therefore, Gilman's votes can be used as a standard by which to judge New England's opposition to an increase in the size of the House.8 An analysis of the roll calls

7Biographical Directory, 1865.

8 Voting Records.

indicates that the majority of New England's representatives agreed with Gilman. A total of 58 percent of New England's representatives voted in the same bloc as Gilman. Likewise, 21 percent of the representatives from New England were on the fringe of that bloc. Thus, as table 7 reveals, a

Table 7

Distribution of New England Representatives in New England Bloc and Fringe (Percents calculated by rows)

| | Number of | Bloc | Fringe | Total of |
|---------------|-----------|----------|---------|-------------|
| State | Members | Members | Members | Bloc/Fringe |
| Vermont | 2 | 2 (100%) | - | 2 (100%) |
| New Hampshire | 3 | 3 (100%) | - | 3 (100%) |
| Massachusetts | 8 | 4 (50%) | 2 (25%) | 6 (75%) |
| Connecticut | 5 | 1 (20%) | 2 (40%) | 3 (60%) |
| Rhode Island | 1 | 1 (100%) | - | 1 (100%) |
| Total | 19 | 11 (58%) | 4 (21%) | 15 (79%) |

substantial total of 79 percent of the representatives from New England were part of either a bloc or a fringe with the other members of that section.

But not all of the representatives from New England fell into the New England bloc and fringe. However, like most of the Southern representatives who were not part of the Southern bloc and fringe, the absence of similar representatives from New England can be explained. For example, George Leonard of Massachusetts was not even present in the House during the apportionment debate;

Leonard did not take his seat until after the debate had ended.9

Jonathan Trumball of Connecticut did not actively participate in the apportionment debate in the whole Second House. In fact, of the 102 roll calls held during the Second Congress, Trumbull voted yea or nay only 5 times. Of those five votes, only one was cast in the first session and that vote had nothing to do with the apportionment debate.10 But Trumball was Speaker of the House, and the Speaker rarely voted unless to make a special point or to break a tie.

James Hillhouse of Connecticut was a semi-active member of the House during the representation debate. But he failed to vote with his fellow representatives from New England. However, he did vote as an isolate with Robert Barnwell of South Carolina and Andrew Gregg of Pennsylvania.

The only representative from New England who voted consistently against his section was Elbridge Gerry of Massachusetts. One will recall that as early as the Constitutional Convention Gerry had favored an increase in the size of the House of Representatives. Yet, he failed to side completely with the South on the apportionment issue in the Second Congress. Of the seventeen roll calls analyzed, Gerry cast votes on only twelve.11 It is likely that rather

9Ibid. 10Ibid. 11Ibid.

than alienate the members of his section, Gerry abstained from casting votes against their position. On the twelve roll calls he voted on, he managed to agree with his fellow New Englanders seven times, thus denying him a place in the New England bloc or fringe. Thus, if we remove Leonard and Trumbull from our calculations as inactive voters, the percentage of representatives from New England voting in a single bloc and fringe increases 10 percent to 89 percent.

Gerry was not the only Northern representative who abstained from voting on a significant number of roll calls. Several representatives from the Mid-Atlantic states (New Jersey, New York, Pennsylvania, and Delaware) abstained from voting on several of the apportionment roll calls that so clearly divided the South from New England.12 The same analysis that was used to determine the New England and Southern blocs and fringes shows that representatives from the Mid-Atlantic states also voted in a discernible bloc and fringe, distinct from the Southern and New England Blocs. Table 8 shows that six of the nineteen members (32 percent) from the Mid-Atlantic states voted in the same bloc. Two (11 percent) of the representatives from the same states were on the fringe of that bloc.

12Ibid.

Table 8

Distribution of Mid-Atlantic Representatives in Mid-Atlantic Bloc and Fringe (Percents calculated by rows)

| <u>State</u> New Jersey | Number of <u>Members</u> 4 | Bloc <u>Members</u> | Fringe <u>Members</u> 1 (25%) | Total of <u>Bloc/Fringe</u> |
|----------------------------|----------------------------------|------------------------|-------------------------------------|--------------------------------|
| New York | 6 | 2 (33%) | 1 (258) 1 (178) | 1 (25%) 3 (50%) |
| Pennsylvania | 8 | 4 (50%) | - | 4 (50%) |
| Delaware | 1 | - | - | - |
| Total | 19 | 6 (32%) | 2 (11%) | 8 (42%) |

The Mid-Atlantic position on the apportionment roll calls was closer to that of New England's that to that of the South. As Appendix 2 shows, on the seventeen representation roll calls, the Mid-Atlantic states sided with the New England states ten times. On four of the roll calls they voted with the Southern representatives. But on the three roll calls dealing with the census, many of the representatives from the Mid-Atlantic states abstained from voting. The representatives from New Jersey and Delaware could expect little increase in representation in future Congresses resulting from an increase in their states' population.

Membership in the Mid-Atlantic and New England blocs and fringes was not mutually exclusive. For example, Amasa Learned of Connecticut was a member of both the Mid-Atlantic and New England blocs. Jeremiah Wadsworth, also of Connecticut was a member of both the New England bloc and the Mid-Atlantic fringe. Of the four representatives from New Jersey, only one of them, Abraham Clark, was in the Mid-Atlantic fringe while the remaining representatives from New Jersey fell into the New England bloc and fringe. The significance of that voting breakdown will be discussed later.

Pennsylvania's representatives failed to unite into a single Mid-Atlantic bloc. In fact, two representatives from Pennsylvania, William Findley, a vocal supporter of an increase in the size of the House during the debates in the Committee of the Whole, and Frederick A.C. Muhlenberg, abandoned their fellow Northerners and voted within the Southern bloc.

Two other Pennsylvanians appear unaccounted for in the representation debate. One, Daniel Heister, voted on only nine of the seventeen roll calls. Of those nine roll calls, six votes were in common with the Southern bloc, five were in agreement with the Mid-Atlantic bloc, and only three matched the New England position.13 With such limited information, Heister's voting record cannot be used to accurately determine any position other than perhaps opposition to the New England position. Andrew Gregg, the other missing Pennsylvania representative, can be accounted for as an isolate. A breakdown of the vote showed that Hillhouse of Connecticut voted in agreement on enough issues with Gregg for the two to become isolates.

13Ibid.

John Vining, Delaware's representative in the House, failed to vote on enough issues to appear in any of the blocs.14 But it will be remembered that Vining continually argued during the debates in the Committee of the Whole for an increase in at least Delaware's representation in the House.

New York's representatives, like those of Pennsylvania and New Jersey, failed to commit to the Mid-Atlantic blocs en masse. Of New York's six representatives in the House, three were members of the Mid-Atlantic bloc or fringe. Cornelius Schoonmaker, like Vining, failed to vote on enough roll calls to be a member of any bloc.¹⁵ John Laurance, as expected after all his efforts in the Committee of the Whole to increase the size of the House, voted with the Southern bloc. Meanwhile, Thomas Tredwell's voting pattern put him very close to the Southern fringe. Tredwell was an isolate with seven of the sixteen Southern bloc members. Undoubtedly, Tredwell's interests were with his Southern colleagues and not with his fellow representatives from the North.

While a North-South division on the apportionment issue appears obvious, we must consider the possibility that the sectional division over the apportionment debate was between the East and the West as opposed to the North and the South.

14Ibid. 15Ibid.

The East was those states without a large western frontier into which their populations would expand. Therefore, we must consider all of New England, plus Delaware, New Jersey, and Maryland as Eastern states. Virginia, North Carolina, South Carolina, and Georgia, with their large western frontiers, were the Western states. New York and Pennsylvania did not have extensive western boundaries in the early 1790, but they still had large areas of land within the states open to settlement. Therefore, their interests would lie with a Western bloc.

The Eastern position would oppose any dramatic increase in the size of the House of Representatives. Conversely, the Western states would favor such an increase as they would certainly benefit from any reapportionments based on proportional representation. It logically follows that all of New England would fall in the Eastern bloc and all of the South, except Maryland, would fall in the Western bloc. Moreover, Pennsylvania and New York would vote with the Western (Southern) bloc.

But analysis of the roll call record reveals that Maryland abandoned Eastern solidarity to vote with the Western bloc. Undoubtedly, the representatives from Maryland viewed Southern sectional unity as more vital to their interests than Eastern unity.

The voting behavior of the Mid-Atlantic states also challenges the contention of a East-West sectional division on the apportionment issue. First, we must remember that

Pennsylvania refused to ratify the apportionment amendment that would have surely increased its apportionment of representatives. Second, why did only three (16 percent) of New York's and Pennsylvania's representatives vote with the Western bloc? If an East-West division was present, does it not follow that more than 16 percent of those representatives would have voted in the Western bloc? If we consider that only two (25 percent) of Pennsylvania's representatives voted with the Western bloc while four (50 percent) voted against that bloc and with the Mid-Atlantic bloc, we see that the sectional orientation of Pennsylvanians was definitely more North-South than East-West. Moreover, three (50 percent) of New York's representatives voted against the Western bloc and for the Mid-Atlantic bloc (see table 9).

New Jersey's voting behavior just as likely suggests a North-South division as it suggests an East-West sectionalism. Regarding the representation ratio in 1791, one can justifiably presume that New Jersey would oppose any increase in the number of members in the House. During the Constitutional Convention, the New Jersey delegation was the most vocal critic of a large House of Representatives. Only after the Great Compromise was the New Jersey delegation's demands placated. Thus, it is no surprise that in 1791 New Jersey's representatives in the government would have favored limiting the number of representatives in the House.

Table 9

| <u>State</u> Vermont New Hampshire Massachusetts Connecticut Rhode Island | Number of <u>Members</u> 2 3 8 5 1 1 19 | East <u>Bloc</u> 2 (100%) 3 (100%) 4 (50%) 1 (20%) 1 (100%) 11 (58%) | East Fringe - 2 (25%) 2 (40%) - 4 (21%) | West <u>Bloc</u> - - - - - - | West <u>Fringe</u> - - - - - - - - |
|--|--|---|---|---|---|
| New Jersey New York Pennsylvania Delaware | 4 6 8 1 19 | 3 (75%) - - - 3 (16%) | 1 (25%) - - 1 (5%) | - 1 (16%) 2 (25%) - 3 (16%) | - - - - |
| Maryland Virginia North Carolina South Carolina Georgia | $ \begin{array}{r} 6 \\ 10 \\ 5 \\ 5 \\ 3 \\ \overline{29} \end{array} $ | | | $ \begin{array}{r} 1 & (178) \\ 9 & (908) \\ 1 & (208) \\ 2 & (408) \\ 2 & (678) \\ \hline 15 & (528) \end{array} $ | |
| Total | <u>65</u> | <u>14 (22%</u>) | 5 (8%) | <u>18 (28%)</u> | |

Distribution and Percentage of Representatives in East and West Blocs and Fringes

Therefore, what is the significance of the voting patterns on the apportionment issue? Clearly, the South and New England divided along North-South sectional lines in opposition on the representation issue in the Second House. A total of 80 percent of all Southerners voted in a single bloc and fringe. Meanwhile, 79 percent of New England's representatives voted in their own distinct--and opposing-bloc and fringe. Additionally, no representatives from the South or New England completely abandoned their section to vote with the other section. John Steele's votes, while putting him close to the New England position, were not so contrary to the Southern position as to reflect a complete break with his section.

The voting behavior of the Mid-Atlantic states also points to a North-South sectional division on the representation issue. Fifteen (79 percent) of the Representatives from the Mid-Atlantic states voted solidly against the Southern position. Only 16 percent of the representatives from the Mid-Atlantic states fell within the Southern bloc. An additional representative, Tredwell of New York, was close to belonging to the Southern bloc as a fringe member. Even including Tredwell as a potential Southern sympathizer on the apportionment issue, only 21 percent of the Mid-Atlantic representatives voted with the Southern bloc as opposed to 79 percent who voted just as solidly against it. East-West considerations may have been in the back of the minds of some the Congressmen, but not enough to detect by cluster bloc analysis.

The question arises as to the degree of sectionalism within the North between the Mid-Atlantic states and New England. The fact that seven representatives from the Mid-Atlantic states voted in a single bloc and fringe opposed to the New England states is significant. What is even more significant is that all seven of those representatives were from New York and Pennsylvania. The fact that 50 percent of the representatives from Pennsylvania and New York, the two

largest and most influential Mid-Atlantic states, voted as a mini-bloc surely indicates a significant degree of sectionalism.

Of all the representatives who failed to vote within their section's bloc or fringe, only Laurance and Tredwell of New York and Findley and Muhlenberg of Pennsylvania, totally abandoned the North for the South. But none of the four representatives were from the states holding either the extreme New England or Southern positions.

Thus, an analysis of the roll call data pertaining to the apportionment debate in the Second Congress proves my hypothesis. The South did unite against the North to favor a large increase in the size of the House of Representatives. But within the North, two distinct voting blocs emerged. One coalition consisted of the New England states and New Jersey. The other bloc was comprised of the largest Mid-Atlantic states: New York and Pennsylvania. The Mid-Atlantic states, while solidly against the Southern position of any measure to radically increase the size of the House, failed to reach a consensus with their Northern colleagues. As a result, a division between New England the Mid-Atlantic states emerged.

CHAPTER 7 CONCLUSION

From 1787 until 1792 American statesmen debated the representation issue. The delegates to the Constitutional Convention in the summer of 1787 struggled with the question of slavery's role in the apportionment of representatives to the national legislature. Coupled with the debate surrounding the merits of a bicameral legislature, the representation issue almost brought the Convention to an end. But the Convention reached a compromise. On the basis of both the three-fifths clause and the Great Compromise, representation in the House of Representatives would be apportioned at a ratio of not more than one representative for each thirty thousand persons.

In the state ratifying conventions the representation issue was a point of contention between the Anti-Federalist critics of the Constitution and its Federalist supporters. The Anti-Federalists claimed that the Constitution's apportionment provisions fixing the representation ratio at not more than one representative for each thirty thousand persons would unnecessarily limit the size of the House of Representatives. A House limited in number, they argued, could not guarantee the peoples' liberties. Therefore, the

number of representatives in the House should be increased. However, the Federalist supporters of the Constitution contended that a limited number of representatives in the House would prevent the emergence of the tyranny of the legislative majority. Additionally, they stressed that any increase in the House would burden the people with unnecessary costs for maintaining the Congress.

The Federalists won the ratification contest in 1788 when New Hampshire, as the ninth state to do so, ratified the Constitution. But the Anti-Federalists took heart in the proposed constitutional amendments submitted by several of that state ratifying conventions. Six of the ratifying conventions, those in Pennsylvania, Massachusetts, New Hampshire, Virginia, New York, and North Carolina, suggested a constitutional amendment to change the apportionment provisions to allow for a more drastic increase in the number of representatives in the House.

James Madison, one of the Constitution's framers and earliest supporters, brought the representation issue to the floor of the First Congress. Madison understood that a significant number of Americans remained critical of the Constitution on the ground that not only did it not contain a Bill of Rights, but that it limited representation in the House of Representatives. He therefore offered the House of Representatives a list of constitutional amendments addressing those grievances.

By September 1789 the House of Representatives and the Senate had agreed on a final list of twelve proposed constitutional amendments to be submitted to the states. The first of those amendments was an apportionment amendment that would have significantly increased the size of the House of Representatives. The second of those amendments prohibited the Congress from granting itself a mid-term pay raise. But when submitted to the states, the first two amendments failed to pass the required three-fourths of the states for ratification. Only seven states ratified the proposed First Amendment. When Virginia ratified amendments III thorough XII, they became the first ten amendments to the Constitution--the Bill of Rights.

When the Second Congress convened in late 1791, the representation issue remained unsettled. The representation debate surrounded the representation ratio and the size of future House of Representatives. In October 1791, Representative John Laurance proposed a settlement of the issue of the representation ratio. He submitted a resolution to the House calling for a reapportionment of representatives at a ratio of one representative for every thirty thousand persons. Thereafter, from October 1791 until April 1792, the representation ratio was the topic of near continuous debate in the Congress.

In the House of Representatives the apportionment debate became a contest between North and South. The South, with a larger population, could expect to gain more

representatives than the North if there were a new apportionment at a lower representation ratio. At the same time, the New England states came to oppose any measure that would lead to an increase in the size of the House. Finally, after three different bills and a presidential veto, President Washington signed an apportionment bill into law with a representation ratio of one representatives for every thirty-three thousand persons. Representation was reapportioned on the basis of the apportionment law in time for the Third Congress. The number of members in the House increased from sixty-five to one hundred and five.1 As expected, the South gained by far the most representatives.

The proposed First Amendment remained unratified by the states and has subsequently been relegated to the status of a footnote in history, when mentioned at all. In contrast, in 1992, two hundred years after the fact, three-fourths of the states finally ratified the proposed Second Amendment. Meanwhile, the Bill of Rights became the basis for the American peoples' personal liberties and freedoms.

The implications of the apportionment debate were limited in the early 1790s. The reapportionment of representation on the basis of a representation ratio of one representative for every thirty-three thousand persons changed little. No major changes occurred in the power

¹Under the Apportionment Act of 1929, the number of representatives in the House was fixed at 435. Jay M. Shafritz, <u>The Dorsey Dictionary of American Government and</u> <u>Politics</u> (Chicago: The Dorsey Press, 1988), 29.

structure of Washington's administrations. Decision making remained firmly settled in the President, his cabinet, and Congress. The House was Southern dominated, but not more demagogic than before. The period was still centered on the confrontation between the Hamiltonians and Jeffersonians in Washington's cabinet, not between the North and the South.

However, the apportionment debate brought an early sectional conflict to the fore of American politics. Even before the rift between the New England Federalists and the Southern Jeffersonian-Republicans that emerged during the Quasi-War with France and the Election of 1800, it was clear that the two sections held significantly different views on both the government and the American people. This was true even if some early tensions on the slavery issue were ignored.

One can only imagine the chaos that would be the House of Representatives if the apportionment amendment had passed. Supposing a population of two hundred and fifty million today, after the Census of 1990, the House would be comprised of over five thousand representatives. With the gridlock that paralyses the House today, we can only long for leaders and statesmen as reasonable and dedicated as both the Federalists and Anti-Federalists of the early years.

As with any work, during the research and writing of this paper certain unanswered questions emerged that should be examined by future researchers. The most basic question

is how consistently did the New England and Southern states vote as blocs in the House of Representatives during Washington's administrations? Did the issue of the militia bill, relations with the Indians on the western frontier, or reactions to the French Revolution divide the House along sectional lines? Was a North-South sectionalism therefore a more common feature of national politics in the early 1790s than has generally been acknowledged?

Another important question that requires attention centers on the lack of private debate surrounding the apportionment issue after the failure of the apportionment amendment. Although the representation issue was heartily debated in both the Constitutional Convention and the state ratifying conventions, why did that debate fail to capture the public's imagination during the debates in the First and Second Congress. After 1789 the apportionment debate was centered primarily in the House of Representatives. Almost nothing was written of the proposed first amendment or the apportionment bills that were debated in the Congress. Could it be that the general population perceived the representation issue as one that affected them less than more pressing issues of taxation, banking, possible war, and Indian relations?

The role of the New England states in the rest of the Federalist Era brings to the surface the most intriguing question surrounding the apportionment debate, one that may well be unanswerable. Almost as a unit the representatives

from New England voted in true Hamiltonian fashion to oppose an increase in the size of the House. Was the apportionment issue the beginning of the solid alignment of New England against the eventual Federalist Party? Can the New England voting bloc on the apportionment debate from 1790 through 1792 be viewed as the beginning of the core New England support of the Federalist Party?

A final question remained of interest to me as I wrote this paper. Trying to place the representation debate in the context of the entire Federalist Era, I wondered what impact that New England's intransigeance on an issue in the House of Representatives had on the eventual success of the Jeffersonian-Republicans. Certainly the Revolution of 1800 was a result of the failures of Adams's administration and was not a direct result of New England's opposition to an increase in the size of the House. But is it not possible that the representation debate showed New England, and by implication, the Federalists' true sentiments about the masses? Did many future Jeffersonian-Republican realize for the first time that they possessed a distinctly different outlook on politics than the Federalists? Future party allegiance is therefore a question that future researchers ought to examine. In short, was the representation debate from 1787 through 1792 an isolated instance of sectionalism, or merely one of the first steps in a long and drawn out sectional conflict between the North and the South?

APPENDIX 1

LIST OF ROLL CALLS

<u>Roll Call 1</u>: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 2</u>: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: 15 November 1791 To pass the resolution submitted by John Laurance of New York establishing a representation ratio of one representative for each thirty thousand persons. The resolution would set the representation ratio at one representative for each thirty thousand persons. Yea 25, nay 23. The resolution passes. Until the next enumeration, the representation ratio will be set at one representative for each thirty thousand persons. Annals of Congress, p. 191; House Journal, pp. 30-31. H021001 Card 1, column 33 A yea vote would be cast by a Congressman who favored a large representation in the House. 23 November 1791 To amend H.R. 147, a bill to apportion representation according to the first enumeration, so that the representation ratio is one to

thirty-four thousand. The amendment would establish a representation ratio of one to thirty-four thousand. Yea 21, nay 38. The amendment fails. H.R. 147 continues to have a representation ratio of one to thirty thousand. <u>Annals of Congress</u>, p. 208; House <u>Journal</u>, pp. 37-38. H021002

Card 1, column 34

<u>Roll Call 3</u>: Date: Measure: Issue:

Vote: Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 4</u>: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 5</u>: Date: Measure: A nay vote would be cast by a Congressman who hoped to see a larger increase in the size of the House.

24 November 1791 To pass H.R. 147. The bill would establish a representation ratio of one to thirty thousand as law. Yea 43, nay 12 An apportionment bill with a representation ratio of one to thirty thousand passes the House. Annals of Congress, p. 210; House Journal, p. 40. H021003 Card 1, column 35 A yea vote would be cast by a Congressman who favored a large increase in the size of the House.

14 December 1791 To agree to an amendment to H.R. 146 submitted by John Vining of Delaware that would set the number of representatives in the House at fixed number instead of at a а ratio of one to thirty-three thousand. Vining's amendment would limit the number of representatives in the House. Yea 27, nay 37. The amendment fails. H.R. 147 continues to keep a representation ratio of one to thirty-three thousand. Annals of Congress, p. 250; House Journal, pp. 54-55 H021004 Card 1, column 36 A nay vote would be cast by a Congressman who opposed limiting the size of the House.

14 December 1791 A vote to agree with the Senate amendment to H.R. 147 that would have set the representation ratio at one to thirty-three thousand.

Issue: The apportionment bill would contain a representation ratio of one to thirty-three thousand and therefore limit the increase in the number of members in the House. Vote: Yea 29, nay 31. The amendment fails. Result: The Senate and the House must compromise on a representation ratio. Location: Annals of Congress, p. 251; House Journal, pp. 55-56. ICPSR variable number: H021004 ICPSR location: Card 1, column 37 Attitudinal position: A nay vote would be cast by a Congressmen who opposed limiting the increase in the size of the House of Representatives. Roll Call 6: Date: 19 December 1791 To recede from the disagreement to Measure: the representation ratio of one to thirty-three thousand. Issue: If this motioned passed, H.R. 147 would have provided a representation ratio of one to thirty-three thousand. Vote: Yea 27, nay 33. The motion fails. The House fails to accept the Result: Senate version of the apportionment bill. Location: Annals of Congress, p. 251; House Journal, pp. 58-59. ICPSR variable number: H021006 ICPSR location: Card 1, column 38 Attitudinal position: A nay vote would be cast by a Congressman who opposed limiting the increase in the House. Roll Call 7: 19 December 1791 Date: To adhere to the House's earlier Measure: disagreement to the Senate's representation ratio of one to thirty-three thousand. Issue: The apportionment bill would have contained a representation ratio of one to thirty-three thousand if the motion failed. Yea 32, nay 27 Vote: Result: The House and the Senate are unable to agree on a representation ratio. Annals of Congress, p. 274; House Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 8</u>: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 9</u>: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position: <u>Journal</u>, pp. 59-60. H021007 Card 1, column 39 A yea vote would be cast by a Congressman who opposed limiting the size of the House.

24 January 1792

To agree to an amendment submitted by Jonathan Dayton of New Jersey that would remove the section of the apportionment resolution calling for a second enumeration. The resolution would keep the population figures used in apportionment calculations static. Yea 22, nay 36. The amendment fails. The new apportionment bill would contain mention of a second enumeration. Annals of Congress, p. 336; House Journal, pp. 83-84. H021012 Card 1, column 44 A yea vote would be cast by a Congressman who opposed limiting the increase in the number of

representatives in the House.

24 January 1792 An amendment to the resolution to prepare a new apportionment bill, submitted by Samuel Livermore of New Hampshire, removing the phrase "no greater ratio be reported than thirty thousand to one." The amendment would allow representation ratios greater than one to thirty thousand to be reported in the apportionment bill. Yea 33, nay 26. The amendment passes. In the new apportionment bill a representation ratio greater than one to thirty thousand can be reported. Annals of Congress, p. 336; House Journal, pp. 84-85. H021013 Card 1, column 45

A yea vote would be cast by a

<u>Roll Call 10</u>: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 11</u>: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position: Congressman who favored limiting the increase in the size of the House of Representatives.

20 February 1792 To amend H.R. 163 to strike out the portion of the resolution calling for a second enumeration. The amendment would remove all mention of a second enumeration in the apportionment bill and therefore keep the population figures used for apportionment static. Yea 23, nay 26. The amendment fails. The apportionment bill will make provisions for a second enumeration on which to base apportionment. Annals of Congress, p. 415; House Journal, pp. 104-05. H021019 Card 1, column 51 A yea vote would be cast by a Congressman who favored limiting the increase in the size of the House.

20 February 1792 An amendment to H.R. 163 submitted by Joshua Seney of Maryland to strike the section of the bill calling for a second enumeration. If passed, the amendment would have removed the section of the apportionment bill calling for a second enumeration. Yea 25, nay 26. The amendment fails. The apportionment bill will contain provisions for a second enumeration. Annals of Congress, P. 416; House Journal, pp. 105-06. H021020 Card 1, column 52 A nay vote would be cast by a Congressman who opposed limiting the size of the increase in the House.

Roll Call 12:

Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 13</u>: Date: Measure: Issue:

Vote: Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 14</u>: Date: Measure:

Issue:

Vote:

20 February 1792 An amendment to H.R. 163 that sets the representation ratio at one to thirty thousand. The new apportionment bill would contain a representation ratio of one to thirty thousand. Yea 29, nay 22. The amendment passes. H.R. 163 will contain a representation ratio of one to thirty thousand. Annals of Congress, p. 416; House Journal, pp. 106-07. H021021 Card 1, column 53 A yea vote would be cast by a Congressman who favored a larger increase in the size of the House of Representatives. 21 February 1792 To pass H.R. 163

The apportionment law would apportion representation in time for the next Congress at a ratio of one representative for each thirty thousand persons. Yea 34, nay 16. The bill passes. Pending the Senate's approval, representation will be apportioned at a ratio of one to thirty thousand in the Third Congress. Annals of Congress, p. 418; House Journal, pp. 107-08. H021023 Card 1, column 55 A yea vote would be cast by a Congressman who favored a large increase in the House.

17 March 1792 To pass an amendment to H.R. 179 that would set the number of Congressmen in the House at one hundred and twenty. Representation in the House would not be based on any representation ratio. Yea 30, nay 31. The amendment fails. Location:

ICPSR variable number: ICPSR location: Attitudinal position:

<u>Roll Call 15</u>: Date: Measure:

Issue:

Vote: Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position:

Roll Call 16: Date: Measure:

Issue:

Vote:

Result:

Location:

ICPSR variable number: ICPSR location: The number of representatives in the House will be apportioned according to a representation ratio. Annals of Congress, p. 482; House Journal, pp. 137-38. H021034 Card 1, column 65 A yea vote would be cast by a Congressman who favored limiting the number of representatives in the House or who beleived that one hundred and twenty representatives was an equitable compromise. 23 March 1792 A motion submitted by Samuel Livermore of New Hampshire to recede from all disagreements to the Senate's amendments to H.R. 179. The Senate's amendment dictates that the reapportionment in the House be made before the Fifth Congress and fixes the number of representatives. Yea 31, nay 29 H.R. 179, as amended by the Senate, passes the Congress. Annals of Congress, p. 482; House Journal, pp. 146-47. H021034 Card 1, column 67 A nay vote would be cast by a Congressman who opposed limiting the size of the House.

6 April 1792 To override President Washington's veto of H.R. 179. To pass the apportionment bill as amended by the Senate. Yea 28, nay 33. The House is unable to override the President's veto. New amendments must be submitted to H.R. 179 to comply with the President's veto message. <u>Annals of Congress</u>, p. 541; House <u>Journal</u>, pp. 170-71. H021046 Card 1, column 46 Roll Call 17: Date: Measure:

Issue:

Vote: Result:

Location:

ICPSR variable number: ICPSR location: Attitudinal position: A nay vote would be cast by a Congressman who opposed limiting the increase in the size of the House.

9 April 1792. To amend H.R. 179 to apportion representation at a ratio of one to thirty-three thousand. After 3 March 1793 the House will consist of members apportioned at a ratio of one to thirty-three thousand. Yea 34, nay 30. Another apportionment bill passes the House. Annals of Congress, p. 548; House Journal, pp. 175-76. H021047 Card 1, column 80 A yea vote would be cast by a Congressman who favored limiting the increase in the size of the

House.

APPENDIX 2

ATTITUDINAL POSITION OF EACH BLOC ON REPRESENTATION ROLL CALLS¹

| Roll | Southern | New England | Mid-Atlantic |
|------|----------|-------------|--------------|
| Call | Vote | Vote | Vote |
| 1 | yea | nay | yea |
| 2 | nay | yea | nay |
| 3 | yea | nay | yea |
| 4 | nay | yea | yea |
| 5 | nay | yea | yea |
| 6 | nay | yea | yea |
| 7 | yea | nay | nay |
| 8 | nay | yea | nay |
| 9 | nay | yea | yea |
| 10 | nay | yea | abstain |
| 11 | nay | yea | abstain |
| 12 | yea | nay | abstain |
| 13 | yea | nay | nay |
| 14 | nay | yea | yea |
| 15 | nay | yea | yea |
| 16 | nay | yea | yea |
| 17 | nay | yea | yea |
| | | | |

¹Inter-University Consortium for Political and Social Research, <u>United States Congressional Roll Call Voting</u> <u>Records, 2 House, 1791-1793</u>, machine readable records, ICPSR, 0004.

APPENDIX 3

REPRESENTATIVES IN THE NEW ENGLAND BLOC AND FRINGE

New England Bloc Fisher Ames (Massachusetts) Elias Boudinot (New Jersey) Benjamin Bourn (Massachusetts) Sherjashub Bourne (Rhode Island) Abraham Clark (New Jersey) Nicholas Gilman (New Hampshire) Benjamin Goodhue (Massachusetts) Aaron Kitchell (New Jersey) Amasa Learned (Connecticut) Samule Livermore (New Hampshire) Nathaniel Niles (Vermont) Isreal Smith (Vermont) Jermiah Smith (New Hampshire) George Thacher (Massachusetts)

New England Fringe

Jonathan Dayton (New Jersey) Theodore Sedgwick (Massachusetts) Jonathan Sturges (Connecticut) Artemus Ward (Massachusetts) Jeremiah Wadsworth (Connecticut)

REPRESENTATIVES IN THE MID-ATLANTIC BLOC AND FRINGE

<u>Mid-Atlantic Bloc</u> Egbert Benson (New York) Thomas Fitzsimons (Pennsylvania) Thomas Hartley (Pennsylvania) Isreal Jacobs (Pennsylvania) John W. Kittera (Pennsylvania) Amasa Learned (Connecticut) Peter Silvester (New York) Jeremiah Wadsworth (Connecticut)

<u>Mid-Atlantic Bloc</u> Abraham Clark (New Jersey) James Gordon (New York)

APPENDIX 3 (con't)

REPRESENTATIVES IN THE SOUTHERN BLOC AND FRINGE

Southern Bloc Abraham Baldwin (Georgia) John Brown (Virginia) William Findley (Pennsylvania) William B. Giles (Virginia) Samuel Griffin (Virginia) Daniel Huger (South Carolina) Richard Bland Lee (Virginia) Nathaniel Macon (North Carolina) James Madison (Virginia) Andrew Moore (Virginia) Frederick A.C. Muhlenberg (Pennsylvania) John Page (Virginia) Joshua Seney (Maryland) Thomas Sumter (South Carolina) Abraham Venable (Virginia) Alexander White (Virginia) Francis Willis (Georgia)

Southern Fringe John Ashe (North Carolina) William Barry Grove (North Carolina) Philip Key (Maryland) John Laurance (New York) William Vans Murray (Maryland) Anthony Wayne (Georgia) Joshiah Parker (Virginia) Samuel Sterett (Maryland) Thomas Tudor Tucker (South Carolina) Hugh Williamson (North Carolina) Gilman Fitzsimons mith, turges aldwin ttera noonmaker 11house dsworth adinot mwel] h, W nore нч 10000 Baldwin (Georgia) 0000000000000000 100 100 100 100 1000 g 1 8 9 9 9 9 00 Brown (Virginia) 0000000 000000000000 9910001000 8 8 00000000000 Findley (Pennsylvania) 1000 10 10 10 1808 00 õ g 8 9 Giles (Virginia) 100 8 700000 8 9 Griffin (Virginia) 0 8510000 g 000 Lee (Virginia) 0 100 8 70 S 0000000 Sumter (South Carolina) 000000 1888888 9 000000000 Venable (Virginia) ______ 8 90 9998 889 8 000000 White (Virginia) _____ 20 00000 _____ Page (Virginia) 10001100110 Muhlenberg (Pennsylvania) 0000000 Willis (Georgia) 0000000 38 Madison (Virginia) 000000 92 92 92 92 92 92 92 92 92 07 0 381 810 1 Huger (South Carolina) 00 _____ ______ Moore (Virginia) 00 86 993 764870 1 Macon (North Carolina) ______ 0 192790000 Seney (Maryland) 00 Ashe (North Carolina) 700758885900 Grove (North Carolina) 81130 Tucker (South Carolina) 10 10 Murray (Maryland)

4

APPENDIX

DISTRIBUTION OF REPRESENTATIVES IN NEW ENGLAND, MID-ATLANTIC, AND SOUTHERN BLOCS AND FRINGES

APPENDIX 5

| | TOTAL | NEW E | NGLAN | D | MID-AT | LAN | TIC | | SOUTI | HER | RN | |
|----------------|---------|---------|-------|--------|--------|-----|-------|----|-------|-----|-------|--|
| STATE | MEMBERS | BLOC | FRI | NGE E | BLOC | FF | RINGE | BI | JOC | FR | INGE | |
| Vermont | 2 | 2(100% |) – | | - | | - | | - | | - | |
| New Hampshire | 3 | 3(100% |) – | | - | | - | | - | | - | |
| Massachusetts | 8 | 4 (50% |) 2 (| 25%) | - | | - | | - | | - | |
| Connecticut | 5 | 1 (20% |) 2 (| 40%) 2 | (20%) | | - | | - | | _ | |
| Rhode Island | 1 | 1(100% |) - | | - | | - | | - | | - | |
| New Jersey | 4 | 3 (75% | 1 1 | 25%) | _ | 1 | (25%) | | 2 | | | |
| New York | 6 | 5 (750 | , - (| | (33%) | 1 | | | _ | 1 | (17%) | |
| Pennsylvania | 8 | | | 4 | | 1 | (1/0) | 2 | (25%) | T | (1/0) | |
| Delaware | 1 | - | - | | - | | - | 2 | - | | - | |
| Maryland | 6 | _ | - | | _ | | _ | 1 | (178) | 3 | (50%) | |
| Virginia | 10 | - | | | - | | - | | (90%) | 1 | (10%) | |
| North Carolina | 5 | - | - | | - | | _ | 1 | (20%) | 3 | | |
| South Carolina | 5 | - | _ | | - | | - | 2 | (40%) | 1 | (20%) | |
| Georgia | 3 | - | - | | - | | - | | (67%) | | | |
| Total | 67 | 14 (21% |) 5 (| 7%) 8 | (12%) | 2 | (3%) | 17 | (25%) | 10 | (15%) | |

APPENDIX 6

POPULATION OF THE UNITED STATES AT THE FIRST CENSUS¹

| <u>State</u> Vermont New Hampshire Massachusetts Rhode Island Connecticut | Free Persons 85,523 141,727 475,327 67,877 235,182 1,005,636 | <u>3/5 of Slaves</u> 10 95 0 569 <u>1,658</u> 2,332 | <u>Total</u> 85,533 141,822 475,327 68,446 <u>236,840</u> 1,007,968 |
|--|--|--|---|
| New York New Jersey Pennsylvania Delaware | 318,796 172,716 430,636 50,209 972,357 | 12,794 6,854 2,242 5,332 27,422 | 331,590 179,570 432,878 55,541 999,579 |
| Maryland Virginia Kentucky North Carolina South Carolina Georgia | | 61,822 175,576 7,458 60,343 64,256 <u>17,558</u> 387,013 | 278,514 630,559 68,705 353,522 206,235 70,842 1,608,377 |
| Total | 3,199,357 | 416,767 | 3,615,924 |

¹<u>Heads Of Families At The First Census Of The United</u> <u>States Taken In The Year 1790: Vermont</u> (Baltimore: Genealogical Publishing Company, 1966), 4.

BIBLIOGRAPHY

Primary Materials

Constitution of the United States.

- Debates and Proceedings of the Congress of the United States, 1789-1824. 42 vols. Washington: Gales and Seaton, 1834-56.
- Elliot, Jonathan, ed. <u>The Debates in the Several State</u> <u>Conventions on the Adoption of the Federal</u> <u>Constitution</u>. 5 vols. 2d ed. WashinTaylor & Maury, 1866.
- Farrand, Max, ed. The Rec<u>ords of the Federal Convention of</u>
 <u>1787</u>. 3 vols. New Haven: Yale University Press, 191137; reprint, 4 vols. New Haven, Yale University Press,
 1966.

Gazette of the United States, 1789.

- Heads of <u>Families at the First Census of the United States</u> <u>taken in the Year 1790: Vermont</u>. Baltimore: Genealogical Publishing Company, 1966.
- Hutchinson, William T. et al., eds. <u>The Papers of James</u> <u>Madison</u>. 17 vols. Charlottesville: University Press of Virginia, 1962-91.
- Inter-University Consortium for Political and Social Research. <u>United States Congressional Roll Call Voting</u> <u>Records, 2 House, 1791-1793</u>. Machine readable records. ICPSR 0004.
- Jensen, Merrill, ed. <u>Constitutional Documents and Records</u>, <u>1776-1787</u>. Vol. 1, <u>The Documentary History of the</u> <u>Ratification of the Constitution</u>. 16 vols. Madison: State Historical Society of Wisconsin, 1976-1986.
- The Journal of the House of Representatives. New York and Philadelphia: Francis Childs and John Swaine, 1789-1792; reprint, Martin P. Claussen, ed., 9 vols. Wilmington, Del.: Michael Glazier, Inc., 1977.

- <u>The Journal of the Senate Including the Journal of the</u> <u>Executive Proceedings of the Senate</u>. New York and Philadelphia: Thomas Greenleaf and John Fenno, 1789-1792; reprint, Martin P. Claussen, ed., 9 vols. Wilmington, Del.: Michael Glazier, Inc., 1977.
- Kaminski, John P., et al., eds. <u>Commentaries on the</u> <u>Constitution: Public and Private</u>. Vols. 13-16, in Merrill Jensen, ed., <u>The Documentary History of the</u> <u>Ratification of the Constitution</u>. 16 vols. Madison: State Historical Society of Wisconsin, 1976-1986.

Massachusetts Spy, 1789.

New York Journal and Weekly Register, 1789.

- Schwartz, Bernard, ed. <u>The Bill of Rights: A Documentary</u> <u>History</u>. 2 vols. New York: Chelsea House Publishers, 1971.
- Shafritz, Jay M., ed. <u>The Dorsey Dictionary of American</u> <u>Government and Politics</u>. Chicago: The Dorsey Press, 1988.
- Storing, Herbert J., ed. <u>The Complete Anti-Federalist</u>. 7 vols. Chicago: The University of Chicago Press, 1981.
- Syrett, Harold C., ed. <u>The Papers of Alexander Hamilton</u>. 27 vols. New York: Columbia University Press, 1961-1987.

United States Chronicle, 1789.

U.S. Congress. <u>The Constitution of the United States of</u> <u>America as amended through 1971. Analytical Index.</u> <u>Unratified Amendments</u>. 92d Cong., 2d sess., 1972. H. Doc. 92-157.

Secondary Materials

- Anderson, Lee F., Meredith W. Watts Jr., and Allen R. Wilcox. <u>Legislative Roll Call Analysis</u>. Evanston: Northwestern University Press, 1966.
- Banning, Lance. <u>The Jeffersonian Persuasion: Evolution of a</u> <u>Party Ideology</u>. Ithaca: Cornell University Press, 1978.

- Beard, Charles A. <u>An Economic Interpretation of the</u> <u>Constitution of the United States</u>. New York: The Macmilliam Company, 1913.
- Beringer, Richard E. <u>Historical Analysis: Contemporary</u> <u>Approaches to Clio's Craft</u>. New York: John Wiley & Sons, 1978.
- Bowen, Cathernine Drinker. <u>Miracle at Philadelphia: The</u> <u>Story of the Constitutional Convention May to September</u> <u>1787</u>. Boston: Little, Brown and Company, 1966.
- Bowling, Kenneth R. "Politics in the First Congress, 1789-91." Ph.D. diss., University of Wisconsin, 1968.
- Brown, Robert E. <u>Charles A. Beard and the Constitution: A</u> <u>Critical Analysis of "An Economic Interpretation of the</u> <u>Constitution"</u>. Princeton: Princeton University Press, 1956.
- Dollar, Charles M. and Richard J. Jensen. <u>Historian's Guide</u> <u>to Statistics: Quantitative Analysis in Historical</u> <u>Research</u>. New York: Holt, Reinhart, and Winston Inc., 1971.
- Farrand, Max. <u>The Framing of the Constitution of the United</u> <u>States</u>. New Haven: Yale University Press, 1912.
- Jillson, Calvin C. <u>Constitution Making: Conflict and</u> <u>Consensus in the Federal Convention</u>. New York: Agatha Press, 1988.
- Libby, Orin G. <u>The Geographical Distribution of the Vote of</u> <u>the Thirteen States on the Federal Constitution, 1787-</u> <u>8</u>. Madison: University of Wisconsin, 1894; reprint, New York: Burt Franklin, 1969.
- Lynd, Staughton. <u>Class Conflict, Slavery, and the United</u> <u>States Constitution</u>. New York: The Bobbs-Merrill Company, 1967.
- McDonald, Forrest. <u>We the People: The Economic Origins of</u> <u>the Constitution</u>. Chicago: The University of Chicago Press, 1958.
- McLaughlin, Andrew C. <u>A Constitutional History of the</u> <u>United States</u>. New York: D. Appleton-Century Company, 1935.
- Roche, John P. "The Convention as a Case Study in Democratic Politics." In Leonard W. Levy, ed. <u>Essays</u> <u>on the Making of the Constitution</u>. New York: Oxford University Press, 1969.

- Smith, David G. <u>The Convention and the Constitution: The</u> <u>Politial Ideals of the Founding Fathers</u>. New York: St. Martin's Press, 1965.
- Truman, David B. <u>The Congressional Party: A Case Study</u>. New York: John Wiley & Sons, 1959.
- U.S. Congress. <u>Biographical Directory of the United States</u> <u>Congress 1774-1789</u>. 100th Cong., 2d sess., 1989. S. Doc. 100-34.
- Warren, Charles. <u>The Making of the Constitution</u>. Boston: Little Brown and Company, 1937.

Computer Program

Cluster Bloc Analysis. Jarvis Ehart and Richard Beringer, University of North Dakota.