

Sec. 2—House of Representatives**Cl. 3—Apportionment**

this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons].³⁴⁹ 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.

APPORTIONMENT OF SEATS IN THE HOUSE**The Census Requirement**

The Census Clause “reflects several important constitutional determinations: that comparative state political power in the House would reflect comparative population, not comparative wealth; that comparative power would shift every 10 years to reflect population changes; that federal tax authority would rest upon the same base; and that Congress, not the states, would determine the manner of conducting the census.”³⁵⁰ These determinations “all suggest a strong constitutional interest in accuracy.”³⁵¹ The language employed—“actual enumeration”—requires an actual count, but gives Congress wide discretion in determining the methodology of that count. The word “enumeration” refers to a counting process without describing the count’s methodological details. The word “actual” merely refers to the enumeration to be used for apportioning the Third Con-

³⁴⁹ The part of this clause relating to the mode of apportionment of representatives among the several States was changed by the Fourteenth Amendment, § 2 and as to taxes on incomes without apportionment, by the Sixteenth Amendment.

³⁵⁰ *Utah v. Evans*, 536 U.S. 452, 476 (2002).

³⁵¹ *Id.*