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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Eugene Martin LaVergne; **Frederick John LaVergne;** **Leonard P. Marshall, and** **Scott Neuman,** ***Plaintiffs,*** ***-and-*** **Citizens for Fair Representation**; % SLAC 239 N Olympic Ave. Arlington, WA 98223 **Mark Baird;** % SLAC 239 N Olympic Ave. Arlington, WA 98223 **Steven Baird;** % SLAC 239 N Olympic Ave. Arlington, WA 98223	**CASE NO. 1:17-cv-00793-CKK-CP-RDM** **Honorable Cornelia T. L. Pillard,C.J. (Presiding)** **Honorable Colleen KoLlar-Kotelly, U.S.D.J.** **Honorable Randolph D. Moss, U.S.D.J.** ***Civil Action*** **COMPLAINT IN INTERVENTION**

Cindy Brown;
℅ SLAC 239 N Olympic Ave. Arlington, WA 98223
Win Carpenter;
℅ SLAC 239 N Olympic Ave. Arlington, WA 98223
Tanya Nemcik; and
℅ SLAC 239 N Olympic Ave. Arlington, WA 98223
Terry Rapoza
℅ SLAC 239 N Olympic Ave. Arlington, WA 98223

Plaintiffs-Intervenors,

v.

(1) United States House of Representatives, *a body politic created and constituted by Article I of the United States Constitution, as amended;*

(2) Individual Members of the United States House of Representatives from the 50 States that have been seated so far at the One Hundred Fifteenth Congress *(435 Representatives Apportioned to date out of the minimum of 6,230 Representatives Constitutionally Required to be Apportioned);*

(3) Honorable Paul Ryan, *United States Representative from the State of Wisconsin;*

(4) Honorable David S. Ferriero, *Archivist of the United States;*

(5) Honorable Wilbur Ross, *United States Secretary of Commerce;*

(6) Honorable Donald J. Trump, *President of the United States;* and

(7) Honorable Karen L. Haas, *Clerk of the United States House of Representatives;*

VIRGINIA STATE OFFICIALS

(8) Honorable Terry McAuliffe, *Governor of Virginia;*

(9) Honorable Mark Herring, *Virginia State Attorney General;*

(10) Honorable Kelly Thomasson, *Secretary of the Commonwealth of Virginia;*

(11) Virginia State Senate
(40 State Senators)

(12) Virginia House of Delegates
(100 State Delegates)

CONNECTICUT STATE OFFICIALS

(13) Honorable Daniel P. Malloy, *Governor of Connecticut;*

(14) Honorable George Jepsen, *Connecticut State Attorney General;*

(15) Honorable Denise W. Merrill, *Connecticut Secretary of State;*

(16) Connecticut State Senate
(36 State Senators);

(17) Connecticut State House of Representatives
(151 State Representatives);

KENTUCKY STATE OFFICIALS

(18) Honorable Matt Bevin, *Governor of Kentucky;*

(19) Honorable Andy Beshear, *Kentucky State Attorney General;*

(20) Honorable Alison Lundergan Grimes, *Kentucky Secretary of State;*

(21) Kentucky State Senate
(30 state Senators);

(**22) Kentucky State House of** Representatives
(100 State Representatives)

STATE OFFICIALS FROM THE OTHER 47 STATES

ALABAMA STATE OFFICIALS

(23) Honorable Robert Bentley, *Governor of Alabama;*

(24) Honorable Luther Strange, *Alabama State Attorney General;*
(25) Honorable John H. Merrill, *Alabama Secretary of State;*
(26) Alabama State Senate;
(35 State Senators);
(27) Alabama State House of Representatives
(105 State Representatives);

ALASKA STATE OFFICIALS

(28) Honorable Bill Walker, *Governor of Alaska;*
(29) Honorable Jahna Lindemuth, *Alaska State Attorney General;*
(30) Honorable Josephine Bahnke, *Director Alaska Division of Elections;*
(31) Alaska State Senate
(20 State Senators);
(32) Alaska State House of Representatives
(40 State Representatives);

ARIZONA STATE OFFICIALS

(33) Honorable Doug Ducey, *Governor of Arizona;*
(34) Honorable Mark Brnovich, *Arizona State Attorney General;*
(35) Honorable Michele Reagan, *Secretary of State of Arizona;*
(36) Arizona State Senate
(30 State Senators);
(37) Arizona State House of Representative
(60 State Representatives);

ARKANSAS STATE OFFICIALS

(38) Honorable Asa Hutchinson, *Governor of Arkansas;*
(39) Honorable Leslie Rutledge, *Arkansas State Attorney General;*
(40) Honorable Mark Martin, *Arkansas Secretary of State;*
(41) Arkansas State Senate
(35 State Senators);

(42) Arkansas State House of Representatives
(100 State Representatives);

CALIFORNIA STATE OFFICIALS

(43) Honorable Edmund G. Brown, Jr., *Governor of California;*
(44) Honorable Xavier Becerra, *California State Attorney General;*
(45) Honorable Alex Padilla, *California Secretary of State;*
(46) California State Senate
(40 State Senators);
(47) California State Assembly
(80 State Representatives);

COLORADO STATE OFFICIALS

(48) Honorable John Hickenlooper, *Governor of Colorado;*
(49) Honorable Cynthia H. Coffman, *Colorado State Attorney General;*
(50) Honorable Wayne W. Williams, *Colorado Secretary of State;*
(51) Colorado State Senate
(40 State Senators)
(52) Colorado State House of Representatives
(80 State Representatives)

DELAWARE STATE OFFICIALS

(53) Honorable John Carney, *Governor of Delaware;*
(54) Honorable Matthew Denn, *Delaware State Attorney General;*
(55) Honorable Elaine Manlove, *Department of Elections;*
(56) Delaware State Senate
(21 State Senators);
(57) Delaware State House of Representative
(41 State Representatives);

FLORIDA STATE OFFICIALS

(58) Honorable Rick Scott, *Governor of Florida;*

(59) Honorable Pam Bondi, *Florida State Attorney General;*
(60) Honorable Ken Detzner, *Florida Secretary of State;*
(61) Florida State Senate
(35 State Senators);
(62) Florida State House of Representatives
(105 State Representatives);

GEORGIA STATE OFFICIALS

(63) Honorable Nathan Deal, *Governor of Georgia;*
(64) Honorable Christopher M. Carr, *Georgia State Attorney General;*
(65) Honorable Brian P. Kemp, *Georgia Secretary of State;*
(66) Georgia State Senate
(56 State Senators);
(67) Georgia State House of Representatives
(180 State Representatives);

HAWAII STATE OFFICIALS

(68) Honorable David Y. Ige, *Governor of Hawaii;*
(69) Honorable Doug Chin, *Hawaii Attorney General;*
(70) Honorable Scott T. Nago, *Chief Election Officer;*
(71) Hawaii State Senate
(25 State Senators);
(72) Hawaii State House of Representatives
(51 State Representatives);

IDAHO STATE OFFICIALS

(73) Honorable C. L. "Butch" Otter, *Governor of Idaho;*
(74) Honorable Lawrence Wasden, *Idaho Attorney General;*
(75) Honorable Lawrence Denney, *Idaho Secretary of State;*
(76) Idaho State Senate
(35 State Senators);
(77) Idaho State House of Representatives
(70 State Representatives);

ILLINOIS STATE OFFICIALS

(78) Honorable Bruce Rauner, *Governor of Illinois;*
(79) Honorable Lisa Madigan, *Illinois State Attorney General;*
(80) Honorable Steve Sandvoss, *Executive Director, Illinois State Board of Elections;*
(81) Illinois State Senate
(59 State Senators);
(82) Illinois State House of Representatives
(70 State Representatives);

INDIANA STATE OFFICIALS

(83) Honorable Eric J. Holcomb, *Governor of Indiana;*
(84) Honorable Curtis Hill, *Indiana State Attorney General;*
(85) Honorable Connie Lawson, *Indiana Secretary of State;*
(86) Indiana State Senate
(50 State Senators);
(87) Indiana State House of Representatives
(100 State Representatives);

IOWA STATE OFFICIALS

(88) Honorable Terry Branstad, *Governor of Iowa;*
(89) Honorable Tom Miller, *Iowa State Attorney General;*
(90) Honorable Paul D. Pate, *Iowa Secretary of State;*
(91) Iowa State Senate
(35 State Senators);
(92) Iowa State House of Representatives
(105 State Senators);

KANSAS STATE OFFICIALS

(93) Honorable Sam Brownback, *Governor of Kansas;*
(94) Honorable Derek Schmidt, *Kansas State Attorney General;*
(95) Honorable Kris W. Kobach, *Kansas Secretary of State;*

(96) Kansas State Senate
(40 State Senators);
(97) Kansas State House of Representatives
(125 State Senators);

LOUISIANA STATE OFFICIALS

(98) Honorable John Bel Edwards, *Governor of Louisiana;*
(99) Honorable Jeff Landry, *Louisiana Attorney General;*
(100) Honorable Tom Schedler, *Louisiana Secretary of State;*
(101) Louisiana State Senate
(39 State Senators);
(102) Louisiana State House of Representatives
(105 State Representatives);

MAINE STATE OFFICIALS

(103) Honorable Paul LePage, *Governor of Maine;*
(104) Honorable Janet T. Mills, *Maine State Attorney General;*
(105) Honorable Matthew Dunlap, *Maine Secretary of State;*
(106) Maine State Senate
(35 State Senators);
(107) Maine State House of Representatives
(151 State Representatives);

MARYLAND STATE OFFICIALS

(108) Honorable Larry Hogan, *Governor of Maryland;*
(109) Honorable Brian Frosh, *Maryland State Attorney General;*
(110) Honorable John C. Wobensmith, *Maryland Secretary of State;*
(111) Maryland State Senate
(47 State Senators);
(112) Maryland State House of Delegates
(141 State Delegates);

MASSACHUSETTS STATE OFFICIALS

(113) Charlie Baker, *Governor of Massachusetts;*

(114) Honorable Maura Healey, *Massachusetts State Attorney General;*

(115) Honorable William Francis Galvin, *Secretary of the Commonwealth of Massachusetts;*

(116) Massachusetts State Senate (40 State Senators);

(117) Massachusetts State House of Representatives (160 Representatives);

MICHIGAN STATE OFFICIALS

(118) Honorable Rick Snyder, *Governor of Michigan;*

(119) Honorable Bill Schuette, *Michigan State Attorney General;*

(120) Honorable Ruth Johnson, *Michigan Secretary of State;*

(121) Michigan State Senate (38 State Senators);

(122) Michigan State House of Representatives (110 State Representatives);

MINNESOTA STATE OFFICIALS

(123) Honorable Mark Dayton, *Governor of Minnesota;*

(124) Honorable Lori Swanson, *Minnesota State Attorney General;*

(125) Honorable Steve Simon, *Minnesota Secretary of State;*

(126) Minnesota State Senate (67 State Senators);

(127) Minnesota State House of Representatives (134 State Representatives);

MISSISSIPPI STATE OFFICIALS

(128) Honorable Phil Bryant, *Governor of Mississippi;*

(129) Honorable Jim Hood, *Mississippi State Attorney General;*
(130) Honorable Delbert Hosemann, *Mississippi Secretary of State;*
(131) Mississippi State Senate
(52 State Senators);
(132) Mississippi State House of Representatives
(122 State Representatives);

MISSOURI STATE OFFICIALS

(133) Honorable Eric Greitens, *Governor of Missouri;*
(134) Honorable Joshua Hawley, *Missouri Attorney General;*
(135) Honorable John R. Ashcroft, *Missouri Secretary of State;*
(136) Missouri State Senate
(34 State Senators);
(137) Missouri State House of Representatives
(163 State Representatives);

MONTANA STATE OFFICIALS

(138) Honorable Steve Bullock, *Governor of Montana;*
(139) Honorable Tim Fox, *Montana Attorney General;*
(140) Honorable Corey Stapleton, *Montana Secretary of State;*
(141) Montana State Senate
(50 State Senators);
(142) Montana State House of Representatives
(100 State Representatives);

NEBRASKA STATE OFFICIALS

(143) Honorable Pete Ricketts, *Governor of Nebraska;*
(144) Honorable Doug Peterson, *Nebraska Attorney General;*
(145) Honorable John A. Gale, *Nebraska Secretary of State;*

(146) Nebraska Unicameral State Legislature
(49 Members);

NEVADA STATE OFFICIALS

(147) Honorable Brian Sandoval, *Governor of Nevada;*
(148) Honorable Adam Paul Laxalt, *Nevada State Attorney General;*
(149) Honorable Barbara K. Cegavske, *Nevada Secretary of State;*
(150) Nevada State Senate
(21 State Senators);
(151) Nevada State House of Representatives
(42 State Representatives);

NEW HAMPSHIRE STATE OFFICIALS

(152) Honorable Chris Sununu, *Governor of New Hampshire;*
(153) Honorable Joseph Foster, *New Hampshire State Attorney General;*
(154) Honorable William M. Gardner, *New Hampshire Secretary of State;*
(155) New Hampshire State Senate
(24 State Senators);
(156) New Hampshire State House of Representatives
(400 State Representatives);

NEW JERSEY STATE OFFICIALS

(157) Honorable Chris Christie, *Governor of New Jersey;*
(158) Honorable Kim Guadagno, *Lt. Governor / Secretary of State;*
(159) Honorable Christopher S. Porrino, *Acting New Jersey State Attorney General;*
(160) New Jersey State Senate
(40 State Senators);
(161) New Jersey State General Assembly
(80 State Representatives);

NEW MEXICO STATE OFFICIALS

(162) Honorable Susana Martinez, *Governor of New Mexico;*

(163) Honorable Hector Balderas, *New Mexico State Attorney General;*
(164) Honorable Dianna Duran, *New Mexico Secretary of State;*
(165) New Mexico State Senate
(24 State Senators);
(166) New Mexico State House of Representatives
(70 State Representatives);

NEW YORK STATE OFFICIALS

(167) Honorable Andrew Cuomo, *Governor of New York;*
(168) Honorable Eric Schneiderman, *New York State Attorney General;*
(169) Honorable Rossana Rosado, *New York Secretary of State;*
(170) New York State Senate
(63 State Senators);
(171) New York State House of Representatives
(150 State Representatives);

NORTH CAROLINA STATE OFFICIALS

(172) Honorable Ray Cooper, *Governor of North Carolina;*
(173) Honorable Josh Stein, *North Carolina State Attorney General;*
(174) Honorable Elaine F. Marshall, *North Carolina Secretary of State;*
(175) North Carolina State Senate
(50 State Senators);
(176) North Carolina State House of Representatives
(120 State Representatives);

NORTH DAKOTA STATE OFFICIALS

(177) Honorable Doug Burgum, *Governor of North Dakota;*
(178) Honorable Wayne Stenehjem, *North Dakota Attorney General;*
(179) Honorable Al Jaeger, *North Dakota Secretary of State;*

(180) North Dakota State Senate
(47 State Senators);
(181) North Dakota State House of Representatives
(94 State Representatives);

OHIO STATE OFFICIALS

(182) Honorable John Kasich, *Governor of Ohio;*
(183) Honorable Mike DeWine, *Ohio State Attorney General;*
(184) Honorable Jon Husted, *Ohio Secretary of State;*
(185) Ohio State Senate
(33 State Senators);
(186) Ohio State House of Representatives
(99 State Representatives);

OKLAHOMA STATE OFFICIALS

(187) Honorable Mary Fallin, *Governor of Oklahoma;*
(188) Honorable Mike Hunter, *Oklahoma State Attorney General;*
(189) Honorable Hike Hunter, *Oklahoma Secretary of State;*
(190) Oklahoma State Senate
(48 State Senators);
(191) Oklahoma State House of Representatives
(101 State Representatives);

OREGON STATE OFFICIALS

(192) Honorable Kate Brown, *Governor of Oregon;*
(193) Honorable Ellen F. Rosenblum, *Oregon State Attorney General;*
(194) Honorable Dennis Richardson, *Oregon Secretary of State;*
(195) Oregon State Senate
(30 State Senators);
(196) Oregon State House of Representatives
(60 State Representatives);

PENNSYLVANIA STATE OFFICIALS

(197) Honorable Tom Wolf, *Governor of Pennsylvania;*
(198) Honorable Josh Shapiro, *Pennsylvania State Attorney General;*
(199) Honorable Pedro A. Cortes, *Pennsylvania Secretary of State;*
(200) Pennsylvania State Senate
(50 State Senators);
(201) Pennsylvania State House of Representatives
(203 State Representatives);

RHODE ISLAND STATE OFFICIALS

(202) Honorable Gina Raimondo, *Governor of Rhode Island;*
(203) Honorable Peter F. Kilmartin, *Rhode Island Attorney General;*
(204) Honorable Nellie M. Gorbea, *Rhode Island Secretary of State;*
(205) Rhode Island State Senate
(38 State Senators);
(206) Rhode Island State House of Representatives
(75 State Representatives);

SOUTH CAROLINA STATE OFFICIALS

(207) Honorable Henry McMaster, *Governor of South Carolina;*
(208) Honorable Alan Wilson, *South Carolina Attorney General;*
(209) Honorable Mark Hammond, *South Carolina Secretary of State;*
(210) South Carolina State Senate
(46 State Senators);
(211) South Carolina State House of Representatives
(179 State Representatives);

SOUTH DAKOTA STATE OFFICIALS

(212) Honorable Dennis Daugaard, *Governor of South Dakota*;
(213) Honorable Marty Jackley, *South Dakota Attorney General;*

(214) Honorable Shantel Krebs, *South Dakota Secretary of State;*
(215) South Dakota State Senate
(35 State Senators);
(216) South Dakota State House of Representatives
(70 State Representatives);

TENNESSEE STATE OFFICIALS

(217) Honorable Bill Haslam, *Governor of Tennessee;*
(218) Honorable Herbert R. Slattery, III, *Tennessee Attorney General;*
(219) Honorable Tre Hargett, *Tennessee Secretary of State;*
(220) Tennessee State Senate
(33 State Senators);
(221) Tennessee State House of Representatives
(99 State Representatives);

TEXAS STATE OFFICIALS

(222) Honorable Greg Abbott, *Governor of Texas;*
(223) Honorable Ken Paxton, *Texas State Attorney General;*
(224) Honorable Rolando Pablos, *Texas Secretary of State;*
(225) Texas State Senate
(31 State Senators)
(226) Texas State House of Representatives
(150 State Representatives);

UTAH STATE OFFICIALS

(227) Honorable Gary R. Herbert, *Governor of Utah;*
(228) Honorable Sean D. Reyes, *Utah Attorney General;*
(229) Honorable Spencer J. Cox, *Utah Lieutenant Governor;*
(230) Utah State Senate
(29 State Senators);
(231) Utah State House of Representative
(75 State Representatives);

VERMONT STATE OFFICIALS

(232) Honorable Phil Scott, *Governor of Vermont;*

(233) Honorable TJ Donovan, *Vermont Attorney General;*

(234) Honorable Jim Condos, *Vermont Secretary of State;*

(235) Vermont State Senate
(30 State Senators)

(236) Vermont State House of Representatives
(150 State Representatives);

WASHINGTON STATE OFFICIALS

(237) Honorable Jay Inslee, *Governor of Washington;*

(238) Honorable Bob Ferguson, *Washington State Attorney General;*

(239) Honorable Kim Wyman, *Washington Secretary of State;*

(240) Washington State Senate
(49 State Senators);

(241) Washington State House of Representatives
(98 State Representatives);

WEST VIRGINIA STATE OFFICIALS

(242) Honorable Jim Justice, *Governor of West Virginia;*

(243) Honorable Patrick Morrisey, *West Virginia State Attorney General;*

(244) Honorable Mac Warner, *West Virginia Secretary of State;*

(245) West Virginia State Senate
(34 State Senators);

(246) West Virginia State House of Representatives;
(100 State Representatives);

WISCONSIN STATE OFFICIALS

(247) Honorable Scott Walker, *Governor of Wisconsin;*
(248) Honorable Brad Schimel, *Wisconsin State Attorney General;*
(249) Honorable Doug La Follette, *Wisconsin Secretary of State;*
(250) Wisconsin State Senate
(33 State Senators);
(251) Wisconsin State House of Representatives
(99 State Representatives);

WYOMING STATE OFFICIALS

(252) Honorable Matthew Mead, *Governor of Wyoming;*
(253) Honorable Peter K. Michael, *Wyoming State Attorney General;*
(254) Honorable Ed Murray, *Wyoming Secretary of State;*
(255) Wyoming State Senate
(30 State Senators);
(256) Wyoming State House of Representatives
(60 State Representatives);

Defendants;

And

(257) Michael Pence, *Vice President of the United States*
(258) United States Senate, *a body politic created and constituted by Article I of the United States Constitution, as amended;*
(259) Individual Members of the United States Senate *from the 50 States that have been seated at the One Hundred Fifteenth Congress;*
Interested Parties.

TABLE OF CONTENTS

INTRODUCTION

1.1. The plaintiffs named in the "LaVergne Complaint" have alleged they will establish through their own indisputable documentary proof and such proof as they seek to compel be produced by Virginia State Officials, Connecticut State Officials, and Kentucky State Officials that *Article the First* was ratified pursuant to U.S. Constitution Article V as an amendment to the United States Constitution on or before June 21, 1792. *See* LaVergne Original Complaint, pp. 27-40. Intervenor Plaintiffs (hereinafter referred to as CFR) join in those allegations and present additional allegations supporting that proposition herein.

1.2. Based on the facts set forth in both the LaVergne plaintiffs complaint and this CFR Intervenors complaint the CFR Intervenor plaintiffs seek precisely the same relief sought by LaVerne plaintiffs with regard to *Article the First*, namely that it be declared a valid and controlling amendment to the United States Constitution. If this relief is granted, CFR Intervenor Plaintiffs also ask this Court to declare that the number of Electoral College members who elect the President should be increased because U.S. Const. Art. 2, §1 provides in pertinent part:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

1.3 Further, in the event this Court does not order the members of the United States House of Representatives be apportioned pursuant to the requirements of *Article the First*, CFR Intervenor plaintiffs request that the Automatic Reapportionment Act, 2 U.S.C 2, be found unconstitutional and the House be apportioned consistently with the Constitution's Separation of Powers structure, Federalism structure, and system of checks and balances, and those numerous

other constitutional provisions which were intended to give the people control of their government.

1.4. When *Article the First* was written and ratified it was intended to assure those who struggled through the Revolutionary War that the people of the United States would forever have an important say in their governing, which could not be choked off by elites. But until now the elites have succeeded in making history disappear so that they can rule forever by means of a debt based oligarchy intended to adversely impact those structural components of our Constitution as referenced herein.

1.5. In addition to the facts in the LaVergne complaint and those stated herein, CFR Intervenor Plaintiffs complaint is also based on those facts stated in LaVergne's pending motion for summary judgment in this case, along with that evidence and proof documented in the Pulitzer Prize nominated book "*How "Less is More": The Story of the Real First Amendment to the United States Constitution*," by Eugene Martin LaVergne, Published by First Amendment Free Press, Inc., New York, New York (2016) (Hereafter sometimes referred to as "LaVergne's book").

I. PARTIES

A. *Plaintiffs*

2.1. The plaintiffs in this action are Eugene Martin LaVergne, Frederick John LaVergne, Leonard P. Marshall, Scott Neuman, and Allen Cannon. They complain in Paragraph 1 of Section II of their complaint that each of them have been concretely aggrieved in a way this Court can redress by Congress enactment of S.J. Res. 34 as Public Law No: 115-22 (04/03/2017). In this regard these New Jersey plaintiffs allege that:

"On Friday December 2, 2016 the Federal Communications Commission ("FCC") published a new Agency Rule entitled "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services" in the *Federal Register,* at Volume 81, No. 232 (Friday December 2, 2016) pages 87274 through 87346. The new Agency Rule operates to protect the privacy interests of Plaintiffs and others similarly situated by Federal Law and among other things, bars ISPs from collecting and selling or otherwise disseminating Plaintiffs' personal, business and health information as accumulated by the ISP to third parties for free or for profit. Under the *Congressional Review Act,* the new FCC Rule "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services" would automatically become final binding Federal Law unless the Senate and House of Representatives pass, and the President signs, a "disapproval resolution" in accordance with the procedures outlined therein. *See* 5 *U.S.C. sec.* 802. On March 28, 2017, with the Senate having introduced and approved a "disapproval resolution" known as S.J. Res. 34, the United States House of Representatives also then and there voted to approve S.J. Res. 34 rejecting the new FCC Rule "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services". However, on March 28, 2017 the United States House of Representatives of the One Hundred and Fifteenth Congress was not apportioned in accordance with *Article the First* with a minimum of 6,230 Representatives among the 50 States, and with only 435 Representatives, had not yet achieved the mandatory Article I *Quorum* of 50% +1 of the membership present (or 3,116 Representatives) to conduct business, and as such the March 28, 2017 vote in the House of Representatives approving S.J. Res. 34 was illegal, invalid, a nullity and unconstitutional. Nevertheless, on April 3, 2017 Article II President Donald J. Trump signed S.J. Res. 34 into law, rejecting new FCC Rule "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services", thereby allowing ISPs to now, without violating any Federal Laws, to collect and sell or otherwise disseminating Plaintiffs' personal, business and health information as accumulated by the ISP to third parties. S.J. Res. 34 is now identified as Public Law No: 115-22 (04/03/2017). Plaintiffs have Article III Standing to challenge the legality and constitutional validity of S.J. Res. 34 / Public Law No: 115-22 (04/03/2017) on the basis that the March 28, 2017 vote in the House of Representatives was conducted without the necessary Article I *Quorum* to conduct business rendering the vote invalid, illegal, a nullity and unconstitutional, which in turn means that the "bi-camerality" requirements of the Constitution have not yet been met and that S.J. Res. 34 / Public Law No: 115-22 (04/03/2017) is not valid law. Additionally and cumulatively, Plaintiffs have Article III "Standing" to bring this lawsuit because, as citizens of the United States and residents and voters of New Jersey, **Plaintiffs are generally damaged**[1] by having a United States House of Representatives not properly apportioned in accordance with the mandatory standards of *Article the First* with a minimum of 6,230 Representatives apportioned among the 50 States, and specifically and directly damages by their home State of New

[1] CFR Intervenor Plaintiffs do not claim to be "generally damaged", but individually harmed as a result of the United States *ultra vires* enactment of a law which will adversely impact those privacy rights afforded each of them individually in violation of the Separation of Powers and the Federalism structure of our government.

Jersey only having been apportioned 12 Representatives to represent their interests in the United States House of Representatives at the One Hundred and Fifteenth Congress when in fact the State of New Jersey is Constitutionally required to have been apportioned a total of a minimum of 177 Representatives at the One Hundred and Fifteenth Congress, leaving the State of New Jersey with 165 vacancies for Representatives, thereby unconstitutionally diluting Plaintiffs representation at the One Hundred and Fifteenth Congress.

B. Defendants

2.2. The defendants in this action are numerous. Their identities and the basis for the LaVergne Plaintiff's litigation against them with regard to the passage of S.J. Res. 34 / Public Law No: 115-22 (04/03/2017) is set forth at Paragraphs 2 - 13 of Section II of the LaVergne Plaintiffs complaint.

2.3. For purposes of CFR's Intervenor-plaintiffs complaint against these same defendants on the same grounds as are set forth in the LaVergne complaint, Intervenors incorporate herein and make a part hereof the same paragraphs (¶¶ 2-13) identifying defendants and interested parties, except to the extent that CFR plaintiffs identify such persons as defendants rather than interested parties.

2.4. Thus, CFR Intervenor Plaintiffs are intervening in this action to bring causes of action against:

a.) Defendant United States House of Representatives (*See* LaVergne Complaint, Section II, The Parties, ¶2);

b.) Defendant Individual Members of the United States House of Representatives from the 50 States that have been seated so far at the One Hundred Fifteenth Congress, which consists of the Members who were elected to serve during the One Hundred and Fifteenth Congress at the November 8, 2016 General Elections held in each of the 50

States. (*See* LaVergne Complaint, Section II, The Parties, ¶3) and Exhibit A and B to that complaint).

c.) Defendant Honorable Paul Ryan, an elected Member of the United States House of Representative who was purportedly elected to the position of "Speaker of the United States House of Representatives" on January 3, 2017. (*See* LaVergne Complaint, Section II, The Parties, ¶4)

d.) Defendant David S. Ferriero, Archivist of the United States. *See* LaVergne Complaint, Section II, The Parties, ¶5);

e.) Defendant Wilbur Ross, the United States Secretary of Commerce. (*See* LaVergne Complaint, Section II, The Parties, ¶6):

f.) Defendant Donald J. Trump, the duly elected Article II President of the United States who has a principal place of business located at 1600 Pennsylvania Avenue NW, Washington, D.C. Trump is the head of the Executive Branch of government. The Executive Department is one of the three separate branches of the Federal government.

g.) Defendant Karen L. Haas, the Clerk of the United States House of Representatives. (*See* LaVergne Complaint, Section II, The Parties, ¶8);

f.) The Virginia, Connecticut and Kentucky State Officials named in the caption of this lawsuit are the State Officials responsible for "officially reporting" their State Legislature's ratification votes on proposed Constitutional amendments to the Archivist of the United States and are the State officials responsible for issuing writs for special elections to fill vacancies in the United States House of Representatives in their States and are responsible for administering such special elections. The addresses and principal

place of business of such State Officials are as found in **"Exhibit C"** attached to LaVergne's complaint and incorporated herein by reference.

g.) Interested Party Michael Pence, the duly elected Vice President of the United States who in that capacity presides over the United States Senate. (*See* LaVergne Complaint, Section II, The Parties, ¶11);

h.) Defendant United States Senate is a body politic created and constituted by Article I of the United States Constitution, as amended. The principal place of business of this Interested Party is Office of the Secretary of the Senate, United States Capitol, Washington, D.C. The Senate and the United States House of Representatives make up the Legislative Department of the United States, which is one of the three departments of the United States federal government.

i.) Defendant individual Members of the United States Senate have an address and principal place of business as found in **"Exhibit D"** and **"Exhibit E"** attached to the LaVergne complaint that is incorporated herein by reference.

j.) Interested Party Chief Justice John Roberts, the Chief Administrative Officer for the federal Article III Judicial Department. The Article III Judicial Department is one of the three separated departments of the United States federal government. The Article III judicial department is tasked with exercising judicial power pursuant to the Constitution, laws and treaties of the United States.

C. CFR Intervenor Plaintiffs

2.5. Intervenor plaintiff "**Citizens for Fair Representation**" ("**CFR**") is a "not for profit" corporation which promotes and educates people with regard to the requirements under

the United States Constitution that the number of members in the California legislature must be increased from 120 (which was established in 1862 when California's population was approximately 400,000) to a number of members which can meaningfully represent the approximately 40,000,000 people who inhabit California today. The purpose of such promotion and education is to achieve governmental change which protects their individual personal liberties related to self-governance. Those liberties are protected by the structural components of the organic design of the United States Constitution and California's Constitution. CFR is presently a plaintiff in *CFR et al v Alex Padilla* (the California Secretary of State), case no. 2:17-cv-00973-KJM-CMK which is currently pending in the United States District Court for the Eastern District of California before the Honorable United States District Court Judge Kimberly J. Mueller. A copy of CFR's Amended complaint, which has not yet been permitted to be filed, is attached hereto as Exhibit 1. One of California's Secretary of State Padilla's arguments in that case is that the United States Constitution establishes there is no necessity to increase the number of legislative members as the population increases and that this is also true for the state of California. While CFR and its individual Intervenor plaintiffs disagree with this premise based on several structural components of the United States Constitution, its amendments, and more recent statutes and treaties as well as customary international law, the fact remains that if California is wrong about this premise (and the United States House of Representatives was required to grow as the population of the States increased) this would more likely than not go a long way towards establishing the merits of CFR's case against Padilla.

2.6. **Mark Baird**[2] is a citizen of the United States and California. **Baird** was born in Santa Monica in 1952 and now resides in Fort Jones in Siskiyou County. **Mark Baird** is a United States and California taxpayer and voter. If *Article the First* is declared to have been ratified in 1792 and this Court holds that California and all States must be apportioned at one United States representative for every 50,000 inhabitants, **Mark Baird** will on a more likely than not basis seek election as a United States representative in order to promote the creation of the State of Jefferson[3]. **Baird** has long been a proponent of the State of Jefferson and will have little difficulty running and winning an election in a United State house district composed of 50,000 people in Northern California. Further, the value of Mark Baird's vote for purposes of electing a presidential elector in the electoral college will be greatly increased if California and all other States are required to elect a presidential elector based on a district size of one for every 50,000 persons rather than one for approximately every 700,000 or so as exists today as a result of the Automatic Apportionment Statute.

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[2] http://interactive.nydailynews.com/2016/02/state-of-jefferson-secessionists-california-gun-totin-rebels/ (accessed November 20, 2017)

[3] The movement to establish a separate State, the State of Jefferson, has existed since 1941 as a result of the convictions of many people in the Northern Counties of California that they are not fairly represented in that State's legislature. As a result the people in these areas have frequently pushed for a constitutional State split, pursuant to U.S. Const. Art 4, §3 which states in part:

> New States may be admitted by Congress into this Union, but no new States shall be formed or erected within the jurisdiction of any other State, nor may any State be formed by the Junction of two or more States without the Consent of the Legislatures of the States concerned as well as of the Congress.

(This note also applies to CFR Intervenor Plaintiffs Win Carpenter, Terry Rapoza, and Steven Baird and is further discussed *infra*. In the "Facts" section)

2.7. **Win Carpenter**[4] is a Native American Indian and citizen of the United States and California. **Carpenter** is a sixth generation resident of Shasta County. **Carpenter** is a United States and California taxpayer and voter. Native Americans are the members of a protected racial class, who have been systematically and invidiously discriminated against by the United States and California to the point of genocide, as well as by the denial of political and civil rights from California's statehood up until the present time. If *Article the First* is declared to have been ratified in 1792 and this Court holds that California and all States must be apportioned at one United States representative for every 50,000 inhabitants, **Carpenter** will on a more likely than not basis seek election as a United States representative in order to promote the creation of the State of Jefferson. **Carpenter** has long been a proponent of the State of Jefferson and will have little difficulty running and winning election in a district of composed of 50,000 people in Northern California. Further, the value of **Carpenter**'s vote for purposes of electing a presidential elector will be greatly increased if California and all other States are required to elect a presidential elector based on a district size of one for every 50,000 persons rather than one for approximately every 700,000 or so as is the case today as a result of the Automatic Apportionment Statute.

2.8. **Terry Rapoza**[5] is a citizen of the United States and California. **Rapoza** was born in Palo Alto 1950 and now resides in Redding in Shasta County. **Rapoza** is a United States and California taxpayer and voter. If *Article the First* is declared to have been ratified in 1792 and

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[4] https://shastalantern.net/2015/11/can-you-hear-us-now-shasta-citizens-declare-for-state-of-jefferson-in-face-of-supervisor-defiance/ (November 30, (2017)

[5] http://www.sacbee.com/news/politics-government/capitol-alert/article6684729.html (accessed November 30, 2017)

this Court holds that California and all States must be apportioned at one U.S. representative for every 50,000 inhabitants, **Rapoza** will on a more likely than not basis seek election as a United States representative in order to promote the creation of the State of Jefferson. **Rapoza** has long been a proponent of the State of Jefferson and will have little difficulty running and winning election in a district of composed of 50,000 people in Northern California. Further, the value of **Rapoza's** vote for purposes of electing a U.S. presidential elector will be greatly increased if California and all other States are required to elect a presidential elector based on a district size of one for every 50,000 persons rather than one for approximately every 700,000 or so as exists today as a result of the Automatic Apportionment Statute.

2.9. **Steven Baird**[6] is a citizen of the United States and a sixth generation Californian. **Steven Baird** is a United States and California taxpayer and voter. **Steven Baird** currently is a resident of Sacramento, California in Sacramento County and recently ran for the California Senate in California's first Senate district in 2016. This district is larger than the State of West Virginia. It has 11 Counties and about 1 million people in it. It is **Steven Baird's** intention to run for either the California State legislature or the United States House of Representatives in 2018 depending on whether this Court determines that *Article the First* requires California elect one representative for every 50,000 inhabitants. If the Court orders that *Article the First* must be followed and one federal representative be elected for every 50,000 persons **Steven Baird** will run for a United States federal representative position. Further, the value of **Steven Baird**'s vote for purposes of electing a presidential elector will be greatly increased if California and all other

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6 http://www.auburnjournal.com/article/5/18/16/election-selections-1st-senate-district-steven-baird-republican (Accessed November 30, 2017)

States are required to elect a presidential elector based on a district size of one for every 50,000 persons rather than one for approximately every 700,000 or so as is the case today as a result of the Automatic Apportionment Statute.

2.10. Cindy L. Brown[7] is a resident of Orange County, California. **Brown** is a United States and California taxpayer and voter. Brown is a retired women's basketball player, at the college, Olympic and professional levels. Brown was a member of the USA Basketball team which went on to win a gold medal at the Pan Am Games in Indianapolis, Indiana in 1987, and the gold medal at the 1988 Olympics in Seoul. She was also a member of the gold medal winning team for the USA at the 1985 World University Games, and the 1986 World Championship team. If this Court requires that *Article the First* be implemented **Brown** will likely run for the position of representative in the United States House of Representatives in 2018. Based on information and belief, if Brown runs in a district of 50,000 persons, she is likely to be elected as a representative. If elected as a United States representative **Brown** intends to devote much of her attention to overseeing the operation of "corrupt" courts, pushing for legislation which will make federal and state courts more fair to debtors and families, and for ensuring the impeachment of corrupt judges at both the State and federal levels. Further, the value of **Brown**'s vote for purposes of electing a presidential elector will be greatly increased if California and all other States are required to elect a presidential elector based on a district size of one for every 50,000 persons rather than one for approximately every 700,000 or so as exists today as a result of the Automatic Apportionment Statute.

2.11. **Brown** is a disabled African American woman. **Brown** educates the public about

[7] https://en.wikipedia.org/wiki/Cindy_Brown_(basketball) (accessed November 25, 2017)

disabilities and advocates for the disabled in California courts pursuant to the Americans with Disabilities Act (ADA). Brown has represented herself *pro se* in resisting corrupt foreclosure proceedings occurring against her in Orange County courts. If these corrupt foreclosure proceedings based on forged evidence are allowed to proceed, Brown will lose her home and likely die, as have many others, in what **Brown** refers to America's "invisible holocaust". **Brown**'s case is on appeal and she alleges neither collateral estoppel nor res judicata should be applied to her proceedings because of the obvious fraud on the court. Further, **Brown** has acted as an ADA disability advocate for numerous persons regarding various matters before several California courts, including Orange county courts, and has been forced to participate in proceedings where California courts ignore the ADA, notwithstanding the Fourteenth Amendment and Tennessee v. Lane[8], 541 US 509 (2004), and refuse to provide *pro se* litigants their basic rights.

2.12. Tanya Nemcik[9] is a 42 year old white woman, who resides in Contra Costa County. Nemcik is disabled with post traumatic stress syndrome proximately caused by her experiences with California's judicial system, which began in 2010 when she was stripped of custody of her two boys without notice or a hearing as a result of a judge's ex parte order. When attempting to regain custody Nemcik was not allowed to attend conferences related thereto, which were held in the Judge's chambers. The trial court entered an order awarding custody to her ex, which was

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[8] https://scholar.google.com/scholar_case?case=6561706852611120473&q=tennessee+v+lane&hl=en&as_sdt=6,48 (accessed November 30, 2017)

[9] Nemcik's expereience with California's court system is documented in part on this news report: https://www.nbcbayarea.com/news/local/California-Superior-Courts-in-Crisis-216668081.html (accessed November 30 (2017)

reversed and remanded on appeal in 2013 because the superior court failed to consider the best interests of the children. Since 2013 Nemchik has been trying to obtain an evidentiary hearing or trial pursuant to the California Court of Appeals decision, but has been unable to do so. In fact, one judge told Nemcik that she (the judge) did not have to follow the appeals court decision. So now 7 years later no attempt to obtain justice pursuant to the standard established by the appeals court has even been attempted. Nemcik alleges this type of judicial atrocity is routine in California courts.

2.13. On information and belief the Courts of Orange, Los Angeles, Sacramento, and Contra Costa Counties are known throughout the nation to be troubled and corrupt. *See e.g.* "Former Clerk in Orange County Superior Court Sentenced to Over 11 years in Federal Prison for Racketeering"[10] (September 22, 2017); City Watch, "Judicial Corruption: Still Pandemic in California[11]" April 17, 2017; Medical Kidnap, "Does Los Angeles County have the most corrupt Judicial System in the Nation?[12]" (February 13 (2017); FBI Confirms Public Corruption Task Force: Court Reporters, DA Offices, and Judges from Family and Criminal Courts Caught in Cross Fire[13] (June 28, 2017); ;The Washington Post, The Jaw Dropping police/prosecutor

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[10] http://beta.latimes.com/local/lanow/la-me-oc-tickets-20170922-story.html (accessed December 1, 2017)

[11] http://www.citywatchla.com/index.php/los-angeles/13048-judicial-corruption-still-pandemic-in-california (accessed on November 26, 2017)

[12] https://medicalkidnap.com/2017/02/13/does-los-angeles-county-have-the-most-corrupt-judicial-system-in-the-nation/ (accessed November 26, 2017)

[13] https://www.janeandjohnqpublic.com/blog/fbi-confirms-public-corruption-task-force-court-reporters-family-law-attorneys-public-information-officers-district-attorney-and-judges-caught-in-cross-fire (accessed November 26, 2017)

scandal in Orange County, Calif."[14] (July 13, 2015); Shaun King, Daily Kos, "Judge disqualifies all 250 prosecutors in Orange County, CA because of widespread corruption" [15](May 29, 1015). Further, California courts have long been constitutionally corrupt in the sense they have refused to follow the federal constitution with regard to its prohibitions against invidious discrimination based on race. In Federalist Paper No. 52[16] it is observed: "Justice is the end of government. It is the end of civil society. It ever has been and ever will be until it be obtained or lost in the pursuit." Many wonder: "Has justice been lost in California? Did it really ever exist?"

2.14. **Brown** and **Nemcik** allege they are concretely aggrieved by the corruption of California courts which has resulted from the U.S. House of Representatives not having enough members with adequate time to oversee the state and federal judicial systems pursuant to its members Fourteenth Amendment[17] responsibilities.

D. Standing under Public Law No: 115-22 (04/03/2017)

2.15. Each of these individual CFR Intervenor plaintiffs identified above, access and use the internet for business, and/or personal, and/or health purposes through various commercial Internet Service Providers. In this regard each is in the same or a similar position to each of the LaVergne plaintiffs as is alleged in Section II, ¶ 1 of the LaVergne complaint, except each of CFR Intervenor plaintiffs is a citizen of the United States *with a residence in California*. Each of

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14 https://www.washingtonpost.com/news/the-watch/wp/2015/07/13/the-jaw-dropping-policeprosecutor-scandal-in-orange-county-calif/?utm_term=.9e89b351fb92 (accessed November 26, 2017)

15 https://www.dailykos.com/stories/2015/5/29/1388819/-Judge-disqualifies-all-250-prosecutors-in-Orange-County-CA-because-of-widespread-corruption (accessed December 1, 2017)

16 http://avalon.law.yale.edu/18th_century/fed51.asp (accessed December 3, 2017)

17 https://www.usconstitution.net/xconst_Am14.htm (accessed December 2, 2017)

the CFR Intervenor plaintiffs votes in State and Federal elections in California and pays taxes to both the California and Federal governments. Each CFR Intervenor individual plaintiff alleges they are aggrieved by Congress' disapproval of the FCC Agency Rule entitled "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services" in the *Federal Register,* at Vol 81, No. 232 (Friday December 2, 2016) pages 87274 through 87346 for the same reasons as the LaVergne plaintiffs allege at paragraph 1 of Section II of their complaint. Accordingly, each CFR Intervenor Plaintiff incorporates and alleges herein those same facts and law (except for any assertion of as generalized as opposed to personal grievance) for purposes of establishing their standing and this Court's subject matter jurisdiction to adjudicate the Constitutional challenge by each Intervenor Plaintiff regarding the *ultra vires* adoption process by which S.J. Res. 34 became Public Law No: 115-22 (04/03/2017).

II. JURISDICTION, VENUE, AND THREE JUDGE DISTRICT COURT

A. *Jurisdiction and Three Judge District Court*

3.1. Jurisdiction to entertain CFR Intervenor Plaintiffs' Federal Constitutional legal claims is conferred on the U.S. District Court pursuant to 28 U.S.C. §1331[18] and 28 U.S.C. §2284(a).[19]

3.2. With regard to their request for a three judge district court to hear this apportionment case, CFR Intervenor Plaintiffs have been made aware through review of this Court's docket that such a court has already been appointed pursuant to 28 U.S.C. 2284. Further, that a scheduling order of this Court is now in place with regard to this case. Under that scheduling order the

[18] https://www.law.cornell.edu/uscode/text/28/1331 (accessed November 22, 2017)
[19] https://www.law.cornell.edu/uscode/text/28/2284 (accessed December 1, 2017)

present on-going proceedings involve only the issue of whether the claims by defendant Eugene Martin LaVergne should be dismissed on *res judicata* and/or collateral estoppel grounds.

3.3. CFR Plaintiff Intervenors each have standing to bring this case and this Court has jurisdiction to hear causes of action related to the government's non-compliance with the structural provisions of the Constitution which causes or is imminently likely to cause concrete injuries which this Court can redress through the exercise of Article III judicial power. *See e.g.* *Bond v. United States*,[20] 131 S. Ct. 2355 (U.S. June 16, 2011); *LaRoque v. Holder*,[21] 650 F.3d 777 (D.C. Cir 2011) ("In *Bond*, the Court held that a criminal defendant charged with attempting to poison her husband's paramour had standing to challenge the federal statute under which she was indicted on the grounds 'that, by enacting it, Congress exceeded its powers under the Constitution, thus intruding upon the sovereignty and authority of the States.' [cite] The Court reiterated that our federal system's allocation of power between the national government and the states is meant to protect not only 'the integrity, dignity and residual sovereignty of the [s]tates,' but also 'individual liberty.'" *Id.*, 791-792) *See also U.S. v McIntosh*[22], 833 F.3d 1163, 1174 (9th Cir. 2016) (applying same standing principles to Separation of Powers violations causing concrete injury to personal liberties which a court can redress.)

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20 https://scholar.google.com/scholar_case?case=12691789482415909888&q=131+S.+Ct.+2355&hl=en&as_sdt=806 (accessed December 1, 2017)

21 https://scholar.google.com/scholar_case?case=6319822971126923 23&q=650+F.3d+777&hl=en&as_sdt=803 (accessed December 1, 2017)

22 https://scholar.google.com/scholar_case?case=14800733384205205829&q=833+F.3d+1163&hl=en&as_sdt=803 (accessed December 1, 2017)

3.4. Jurisdiction to entertain LaVergne Plaintiffs' and CFR Intervenor Plaintiffs' legal claims challenging the purported legislative overturning of Federal Agency action protecting all Plaintiffs' privacy rights is conferred on the United States District Court pursuant to 5 U.S.C. §702[23]. Additionally, however, all Plaintiffs have a non-statutory right to bring this action to enjoin the Executive Branch from implementing Public Law No: 115-22 (04/03/2017) because it was not passed by a quorum of the House of Representatives in compliance with the real First Amendment referred to herein as *Article the First*. *See e.g. INS v. Chadha,* 462 US 919 (1983)[24]; *Chamber of Commerce of the United States v. Reich*[25]*,* 74 *F.3d* 1322 (C.C. Cir. 1996).

3.5. Additionally, CFR Intervenor plaintiffs have non-statutory standing to challenge the *ultra vires* actions and inactions of government officials or persons who are exercising governmental authority without the authority to do so. *See Chamber of Commerce of the United States v. Reich,* 74 F.3d 1322 (D.C. Cir. 1996). *See also Pollack v Hogan*[26], 703 F.3d 117, 119-20 (D.C. Cir. 2012)(Pollack's claims falls within the Larson-Dugan exception … [because h]er sole allegation is that the named officers acted unconstitutionally and she requests only injunctive and declaratory relief.).

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[23] https://www.law.cornell.edu/uscode/text/5/702 (accessed December 1, 2017)

[24] https://scholar.google.com/scholar_case?case=2221871582286121199&q=ins+v+chahda&hl=en&as_sdt=6,48 (accessed November 30, 2017)

[25] https://scholar.google.com/scholar_case?case=4028150111619628079&q=+74+F.3d+1322&hl=en&as_sdt=4,77,130,140 (November 30, 2017)

[26] https://scholar.google.com/scholar_case?case=13497758560601154 63&q=703+F.3d+117&hl=en&as_sdt=4,77,130,140 (accessed December 1, 2017)

3.6. CFR Intervenor Plaintiffs' claims for declaratory and injunctive relief are also authorized by 28 U.S.C. §2201[27] and 28 U.S.C. §2202[28] ("Federal Declaratory Judgments Act"), by 28 U.S.C. §1361[29] ("Federal Mandamus Act"), by *Rule* 57[30] and *Rule* 65[31] of the *Federal Rules of Civil Procedure,* by *L.Cv.R.* 65.1 of the *Rules of the United States District Court for the District of Columbia*[32], and by general legal and equitable powers of this Court.

3.7. Cumulatively and/or alternatively, LaVergne and CFR Intervenor Plaintiffs claims for declaratory and injunctive relief against the Virginia State Officials, Connecticut State Officials and Kentucky State Officials to compel each State to provide "official notice" to the Archivist of the United States of their respective State Legislature's unreported ratification action on *Article the First* is conferred pursuant to 28 U.S.C. §1367[33] and by the *Code of Virginia* §8.01 – 184[34], *Connecticut General Statute* 52-29[35] and *Kentucky Revised Statutes* 418.045[36], 418.050[37] and 418.055[38].

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[27] https://www.law.cornell.edu/uscode/text/28/2201# (accessed December 1, 2017)
[28] https://www.law.cornell.edu/uscode/text/28/2202 (accessed December 1, 2017)
[29] https://www.law.cornell.edu/uscode/text/28/1361 (accessed December 1, 2017)
[30] https://www.law.cornell.edu/rules/frcp/rule_57 (accessed December 1, 2017)
[31] https://www.law.cornell.edu/rules/frcp/rule_65 (accessed December 1, 2017)
[32] http://www.dcd.uscourts.gov/sites/dcd/files/LocalRulesNov2017.pdf (accessed December 1, 2017)

[33] https://www.law.cornell.edu/uscode/text/28/1367 (accessed December 1, 2017)
[34] https://law.lis.virginia.gov/vacode/title8.01/chapter3/section8.01-184/ (accessed December 1, 2017)

[35] https://law.justia.com/codes/connecticut/2012/title-52/chapter-895/section-52-29/ (accessed December 1, 2017)

[36] http://www.lrc.ky.gov/Statutes/statute.aspx?id=18017 (accessed December 1, 2017)
[37] http://www.lrc.ky.gov/Statutes/statute.aspx?id=18017 (accessed December 1, 2017)
[38] http://www.lrc.ky.gov/Statutes/statute.aspx?id=18019 (accessed December 1, 2017)

3.8. Jurisdiction may further exist pursuant to such other provisions of the United States Constitution, statutes, treaties, and customary international law which may apply to the facts as are set forth in this complaint. *See e.g.* *Johnson v. City of Shelby*[39], 135 S. Ct. 346, 347 (2014).

B. *Venue*

3.9. Venue is proper in the District of the District of Columbia pursuant to the requirements of 28 U.S.C. §1391[40].

III. JURY REQUEST

4.1. CFR Intervenor Plaintiffs request a jury decide all issues of material fact and/or mixed questions of fact and law. CFR Intervenor Plaintiffs allege this case arises pursuant to the common law[41] and the amount in controversy exceeds twenty dollars.

IV. FACTUAL ALLEGATIONS

A. Facts Related to Colonial Governing Under the Articles of Confederation

5.1. When English colonists left for the New World, they brought royal charters that established the colonies. The Massachusetts Bay Company charter, for example, stated that the colonists would "have and enjoy all liberties and immunities of free and natural subjects." The Virginia Charter of 1606, stated that the colonists would have the same "liberties, franchises and

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[39] https://scholar.google.com/scholar_case?case=18362575385172581282&q=+Johnson+v.+City+of+Shelby,+135+S.+Ct.+346,+&hl=en&as_sdt=4,60 (accessed December 1, 2017)

[40] https://www.law.cornell.edu/uscode/text/28/1391 (accessed December 3, 2017)

[41] *See e.g. Declaration of the Causes and Necessity of Taking Up Arms* (July 6, 1775) http://avalon.law.yale.edu/18th_century/arms.asp ; See James Otis, *Rights of British Colonies Asserted* (1763) http://oll.libertyfund.org/pages/1763-otis-rights-of-british-colonies-asserted-pamphlet ; See generally, Theodore Frank Thomas Plucknett, *A Concise History of the Common Law* (Indianapolis: Liberty Fund, 2

immunities" as people born in England.

5.2. The English Bill of Rights 1689[42] forbid the imposition of taxes without representation, i.e. the consent of Parliament.

5.3. By the 1760s American colonists were being taxed by Parliament without having any representation in that legislative body. According to colonists this violated the Rights of Englishmen[43].

5.4. Not impressed, Parliament initially contended the colonists had virtual representation [44]. Virtual representation was the concept that the members of Parliament, including the Lords and the Crown-in-Parliament[45], had the right to speak for the interests of all British subjects, rather than for the interests of only the district that elected them or for the regions in which they held peerages and spiritual sway.[46]

5.5. American colonists rejected the notion of virtual representation instead demanding "no taxation without representation"[47]. This principle became a very contentious issue between Great Britain and America's thirteen colonies. Protests regarding the disagreement over lack of representation steadily escalated in the colonies to the burning of the *Gaspee*[48] in Rhode Island in 1772, followed by the Boston Tea Party[49] in 1773.

5.6. The Boston Tea Party was a political protest by the Sons of Liberty[50] which occurred

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[42] http://avalon.law.yale.edu/17th_century/england.asp (accessed November 22, 2017)
[43] https://en.wikipedia.org/wiki/Rights_of_Englishmen (accessed November 23, 2017)
[44] https://en.wikipedia.org/wiki/Virtual_representation (accessed November 22, 2017)
[45] https://en.wikipedia.org/wiki/Crown-in-Parliament (accessed November 23, 2017)
[46] https://en.wikipedia.org/wiki/House_of_Lords#Lords_Spiritual (accessed November 23, 2017)
[47] https://en.wikipedia.org/wiki/No_taxation_without_representation (accessed December 1, 2017)
[48] https://en.wikipedia.org/wiki/Gaspee_Affair (accessed November 23, 2017)
[49] https://en.wikipedia.org/wiki/Boston_Tea_Party (accessed December 1, 2017)
[50] https://en.wikipedia.org/wiki/Sons_of_Liberty (accessed November 23, 2017)

in Boston's Harbor on December 16, 1773. Protesters in defiance of the Tea Act[51] of May 10, 1773, destroyed an entire shipment of tea sent by the East India Company[52]. They then boarded the ships owned by the English corporation and threw all their tea into the Harbor.

5.7. The British government still believing the colonists should pay taxes imposed by a legislature, *i.e.* Parliament (in which the Americans were not represented) responded by enacting the Massachusetts Government Act[53] (a law by Parliament which abrogated the Massachusetts Charter of 1691) and other Intolerable Acts[54] (meant to punish Massachusetts for the Tea Party).

5.8. On September 9, 1774 the leaders of Suffolk County, Massachusetts (Boston was its major city) sent the King the Suffolk Resolves[55] Declaration This declaration rejected Parliament's retaliatory laws and threatened a boycott of all imported goods from Britain unless they were repealed.

5.9. Britain, which was pretty full of itself at this time, responded by completely closing Boston's Harbor and attempted to disarm the Massachusetts militia at Concord in April 1775. This led to open combat[56]. This combat evolved into the American Revolutionary War[57], which ultimately also involved France, Spain, and the Kingdom of Mysore in India as well.

5.10. In early 1782, Parliament voted to end all offensive operations in North America, but the war continued in Europe and India. On September 3, 1783, the belligerent parties signed

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[51] https://en.wikipedia.org/wiki/Tea_Act (accessed November 23, 2017)
[52] https://en.wikipedia.org/wiki/East_India_Company (accessed November 23, 2017)
[53] https://en.wikipedia.org/wiki/Massachusetts_Government_Act (accessed November 23, 2017)
[54] https://en.wikipedia.org/wiki/Intolerable_Acts (accessed November 23, 2017)
[55] https://en.wikipedia.org/wiki/No_taxation_without_representation (accessed November 23, 2017)
[56] https://en.wikipedia.org/wiki/Battles_of_Lexington_and_Concord (accessed November 23, 2017)
[57] https://en.wikipedia.org/wiki/American_Revolutionary_War (accessed November 23, 2017)

the Treaty of Paris[58] in which Great Britain agreed to recognize the sovereignty of the United States and formally ended the war.

5.11. When the first Continental Congress met in September and October 1774, it drafted a Declaration of Rights and Grievances[59] claiming for the colonists the liberties guaranteed them under "the principles of the English Constitution and the several charters or compacts." The colonists sought preservation of their self governance, freedom from taxation without representation, the right to a trial by a jury of one's countrymen, and their enjoyment of "life, liberty, and property" free from the crown.

5.12. On June 15, 1775 the first Continental Congress appointed George Washington to command the Continental Army against the British.

5.13. On July 2, 1776, the First Continental Congress voted for independence, issuing its Declaration of Independence[60] on July 4, 1776. The declaration of Independence provides:

> When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.
>
> **We hold these truths to be self-evident:**
>
> *That all men are created equal*; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, *it is the right of the people to alter*

[58] https://en.wikipedia.org/wiki/Treaty_of_Paris_(1783) (accessed November 30, 2017)

[59] http://www.loc.gov/teachers/classroommaterials/presentationsandactivities/presentations/timeline/amrev/rebelln/rights.html (accessed November 30, 2017)

[60] http://avalon.law.yale.edu/18th_century/declare.asp (accessed November 23, 2017)

> *or to abolish it*, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. (Bolded emphasis in original; Italicised emphasis added))

5.14. Recognizing a responsibility to declare to the world the reasons for the colonies separating from Britain, the Declaration identifies with particularity the Colonies' reasons for doing so, including, among others, the King's affronts to their legislatures and courts as well as his unseemly reliance on mercenary armies in times of peace[61].

5.15. Following the adoption of the Declaration of Independence in July 1776 the Second Constitutional Convention of the colonies (which became the United States of America) adopted the Articles of Confederation[62]. This document was sent to the States for Ratification on November 15, 1776 and served as the United State's first constitution. The Articles came into force on March 1, 1781, after being ratified by all 13 states, but were used before that as the basis for governmental authority during the Revolutionary War.

5.16. As the Confederation Congress attempted to govern, its delegates soon discovered that the limitations placed upon the central government by the Articles of Confederation made control of the people difficult. One example of this was Shays' Rebellion[63], which involved one of a series of armed uprisings occurring in the colonies during 1785-1786.

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[61] While several changes were made to the draft of the Declaration of Independence, one of the most significant was Congress' deletion of language proposed by Thomas Jefferson condemning slavery. *See* BlackPast.org, "*The Deleted Passage of the Declaration of Independence (1776)* http://www.blackpast.org/primary/declaration-independence-and-debate-over-slavery (accessed December 1, 2017)

[62] http://avalon.law.yale.edu/18th_century/artconf.asp (accessed December 1, 2017)

[63] https://en.wikipedia.org/wiki/Shays%27_Rebellion (accessed December 1, 2017)

5.17. Daniel Shays, a veteran, joined the local Massachusetts militia and fought in the Battles of Bunker Hill, Saratoga, and Lexington. Shays rose to the rank of Captain in the Fifth Massachusetts Regiment, was wounded in battle and never got paid for his military service. When he returned home to Brookfield, a rural area west of Boston, he found that he was being taken to court for debts that went unpaid while he was off fighting the war. *Since he had not been compensated for his war service, he had no way of paying these debts.*

5.18. After attending several town meetings with veterans who had been blindsided into ruinous debt, Shays and many other veterans and farmers banded together to petition the Massachusetts state legislature for debt relief. The legislature was at that time dominated by Eastern banking and merchant elites who did not understand the plight of rural communities. All proposals for debt relief were rejected. Massachusetts ordered local sheriffs to seize many farms and put farmer/veterans who couldn't pay their debts in prison. In August 1786, the Massachusetts legislature adjourned without addressing the petitions for debt relief from the state's rural communities.

5.19. On August 29, a group of protesters, calling themselves the Regulators, converged on Northampton to stop the county court from convening. In response, Governor Bowdoin, a lender who was owed money by the protesters, drew up plans to use the militia to quash any such defaults in the future. On September 5, protestors shut down the court in Worcester and Governor Bowdoin ordered the State militia to quell the protest. The State militia sympathized with the protestors and refused the governor's order, leading Bowdoin and his fellow members of the elites to recruit and fund a new private militia paid by the merchant and banking class.

5.20. The farmers in western Massachusetts organized their resistance in ways similar to the American Revolutionary war and called special meetings of the people to protest conditions and agree on a coordinated protest. This led the rebels to close courts by force in the fall of 1786 and to liberate imprisoned debtors from jail. Soon events flared into a full-scale revolt.

5.21. The protest movement represented by Shays Rebellion in Massachusetts revived the rhetoric of the American Revolution and many colonists' grievances with British rule. Rural laborers opposed economic policies and perceived corruption of Massachusetts politics. Having just fought a revolution inspired in large part by opposition to British tax policies, they resented the state's levying of burdensome taxes and the onerous terms of credit imposed by the banks.

5.22. On January 25, 1787, Shays led a group of nearly 1,200 protesters on a march to the federal armory in Springfield. Governor Bowdoin's private militia was waiting for them, and the resulting skirmish left 4 of Shays's followers dead and 20 wounded. Shays rebellion was effectively over, but many feared the power of the people.

5.23. Shays's rebellion and other uprisings pitting the merchant/banker class against the majority of newly minted Americans raised the urgent question of whether the State governments formed after the American Revolution could survive. Under the Articles of Confederation, Congress had extremely limited powers. It did not have the authority to fund troops to suppress the rebellions, nor was it empowered to regulate commerce.

5.24. As more states became interested in meeting to change the Articles, a meeting was

set in Philadelphia on May 25, 1787. This became the Constitutional Convention[64]. It was soon realized that changes to the Articles would not work, instead the Articles needed to be replaced.

B. Facts Related to the Development and Ratification of the United States Constitution

5.25. There is much evidence our founders intended to create a democratic republic. The people were told and believed our founders did not intend to create an oligarchy form of government. James Madison observed that "[a] Republic may be converted into an aristocracy or oligarchy as well by limiting the number capable of being elected, …" *U.S. Term Limits, Inc. v. Thornton*[65], 514 U.S. 779, 790–91 (1995). CFR Intervenor Plaintiffs complain this is exactly what has happened as Madison predicted it would. *See e.g.* Shaw, Christopher M, "The Role of Electoral Accountability in the Madisonian Machine[66], 11 N.Y.U. J. Legis. & Pub. Pol'y 321 2007/2008).

5.26. A "republic[67]" is defined as:

> 1 a (1) : a government having a chief of state who is not a monarch and who in modern times is usually a president (2) : a political unit (such as a nation) having such a form of government
> b (1) : a government in which supreme power resides in a body of citizens entitled to vote and is exercised by elected officers and representatives responsible to them and governing according to law (2) : a political unit (such as a nation) having such a form of government

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[64] https://en.wikipedia.org/wiki/Constitutional_Convention_(United_States) (accessed November 30, 2017)

[65] https://scholar.google.com/scholar_case?case=17556563688641585277&q=514+us+779&hl=en&as_sdt=806 (accessed December 1, 2017)

[66] http://www.apportionment.us/Straw.pdf (accessed December 1, 2017)

[67] See Merriam-Webster dictionary last accessed on December 1, 2017 at https://www.merriam-webster.com/dictionary/republic

5.27. An "aristocracy[68]" is defined as:

> 1: government by the best individuals or by a small privileged class
> 2a : a government in which power is vested 1a) in a minority consisting of those believed to be best qualified b : a state with such a government
> 3: a governing body or upper class usually made up of a hereditary nobility a member of the British *aristocracy*
> 4: a class or group of people believed to be superior (as in rank, wealth, or intellect) an intellectual *aristocracy*

5.28. An "oligarchy[69]" is defined as:

> 1: government by the few * The corporation is ruled by *oligarchy*.
> 2: a government in which a small group exercises control especially for corrupt and selfish purposes * a military *oligarchy* was established in the county; *also* a group exercising such control * an *oligarchy*[70].

5.29. The structure of the Constitution included a Separation of Powers for the three federal departments (Executive, Legislative, and Judicial) and a division of powers, i.e. dual

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[68] *See* Merriam Webster Dictionary last accessed on December 1, 2017 at https://www.merriam-webster.com/dictionary/aristocracy

[69] *See* Merriam Webster Dictionary last accessed on December 1, 2017 at https://www.merriam-webster.com/dictionary/oligarchy

[70] Among others, this case poses the question as to whether an oligarchy, as opposed to a representative body, can exercise the people's sovereignty pursuant to the United States Constitution, its statutes, its treaties, and international customary law as it has developed into the 21st Century. For a good discussion of this issue from a practical perspective, *see* Jeffrey Winters, "*Oligarchy and Democracy*" The American Interest, Vol. 7, Number 2 (September 28, 2011) accessed December 1, 2017 at https://www.the-american-interest.com/2011/09/28/oligarchy-and-democracy/ ; Martin Gilens and Benjamin I. Page, Perspectives on Politics, *Testing Theories of American Politics: Elites, Interests Groups, and Average Citizens*, Vol. 12, Issue 3 (September 8, 2014) accessed December 2, 2017 at http://stafnelaw.com/wp-content/uploads/2017/12/Testing-Theories-of-American-Politics.pdf ; The Washington Post, Martin Gilens and Benjamin I. Page, *Critics argued with our analysis of U.S. political inequality. Here are 5 ways they're wrong* (May 23, 2016) accessed December 1, 2017 at https://www.washingtonpost.com/news/monkey-cage/wp/2016/05/23/critics-challenge-our-portrait-of-americas-political-inequality-heres-5-ways-they-are-wrong/?utm_term=.8eaa8bd01981.

sovereignty, between the National government and the States, which is called Federalism. These structural provisions were reinforced by a system checks and balances designed to protect and promote the liberty interests of the people.

C. Separation of Powers Under Original Constitution

5.30. As proposed in the original Constitution "... [t]he members of the executive and judiciary departments are few in number, and can be personally known to a small part only of the people. ... *The members of the legislative department, on the other hand, are numerous. They are distributed and dwell among the people at large*." (Federalist No. 49[71].) (Emphasis added)

5.31. Article I, Section 1[72] of the original *United States Constitution* provides that "… All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

1. Legislative Branch - House of Representative

5.32. The United States House of Representatives was to be the "people's chamber" in that the members of that body were supposed to represent and serve the constituents living in the district of each particular representative.

5.33. However, our founders had concerns about even one house actually representing "the people" because it was not clear to them whether slaves should be considered people for purposes of apportioning the House of Representatives.

5.34. The Southern states were fearful they would be overwhelmed in the House by the "large" states—Massachusetts, Pennsylvania, and Virginia. To increase their representation, the Southern states wanted their large number of slaves to be included in the population count. Of

[71] http://avalon.law.yale.edu/18th_century/fed49.asp (accessed December 3, 2017)
[72] https://www.usconstitution.net/xconst_A1Sec1.html (accessed December 2, 2017)

course, the large states did not want to relinquish their numerical advantage in the House. Many delegates argued slaves should not be counted at all—after all, they said, slaves are property, not persons.

5.35. The result of that debate was a compromise, incorporating ideas of both personhood and property: Population would be calculated by adding "the whole Number of free persons, including those bound to Service for a Term of Years, and excluding Indians not taxed," plus "three-fifths of all other Persons." Those "other Persons" were slaves.

5.36. On Monday, September 17, 1787, the delegates were poised to adopt a provision which would require not more than 40,000 when George Washington, who never spoke about any other provision during the convention, surprised the other delegates by saying this number was too high and requested it to be reduced to 30,000. *See A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774 - 1875*, Farrand's Records[73], Volume 2, Pages 644-667.[74] The delegates adopted Washington's 30,000 proposal, but it is not clear from the language they adopted what this meant with regard to increasing house members as the population of the country increased.

> The language adopted as Article I, § 2[75] stated:
>
> *Representatives and direct Taxes shall be apportioned among the several States* which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made

[73] http://lcweb2.loc.gov/ammem/amlaw/lwfr.html (accessed December 1, 2017)

[74] http://lcweb2.loc.gov/cgi-bin/ampage?collId=llfr&fileName=002/llfr002.db&recNum=649&itemLink=D?hlaw:1:./temp/~ammem_EbLL::%230020650&linkText=1 (accessed December 1, 2017)

[75] https://www.usconstitution.net/xconst_A1Sec2.html accessed December 3, 2017

> 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.

(Emphasis added)

5.37. As can be seen under the original Constitution the number of Representatives to be apportioned to each State was to be based upon each State's "Apportionment and Direct Federal Tax Population". Thus, the process of apportioning the number of Representatives for each State as originally enacted and ratified in the *United States Constitution* required a three-step process: **First** a "census" (a literal counting of all persons in the nation) was required to be conducted so that the "Actual Population" figures for each State could be determined. **Second**, the number of slaves in each state were to be subtracted, then counted as 3/5 of a person, with that 3/5 number then added back to establish each State's "Apportionment and Direct Federal Tax Population". **Third,** each State's "Apportionment and Direct Federal Tax Population" was then relied upon by Congress dually 1.) as a basis for assessing any direct Federal Taxes and 2.) as a basis for Apportioning Representatives in the United States House of Representatives among the States. This census process and the Apportionment process is specifically Constitutionally required to be conducted by Congress every 10 years.

5.38. As can be seen from the above paragraphs there was a direct link between the apportionment of representatives and direct taxes to slavery. As Federalist Paper No. 54[76]

[76] http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-54.php (accessed December 1, 2017)

(February 12, 1788) explains the ties between representation, taxes, and slavery were intentional. Indeed proof of the pro-slavery aspects of the United States Constitution, Bill of Rights, and specific constitutional provisions is demonstrated by Finkelman, Paul (1999) "*Affirmative Action for the Master Class: The Creation of the Proslavery Constitution*[77]," Akron Law Review: Vol. 32 : Iss. 3, Article 1, which is specifically incorporated herein.

5.39. As originally ratified and enacted U.S. Cost. Art 1, §2 conferred discretion in Congress in the future Decennial Apportionment Process of the House of Representatives constrained by only four specific enumerated Constitutional requirements: **First**, that "*Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers* …", with the "respective numbers" being those as determined in the State's "Apportionment and Direct Federal Tax Population" (as that evolved over time); **Second,** "… *The number of Representatives shall not exceed one for every thirty Thousand* …"; **Third**, that "… *each State shall have at least one Representative* …", and **Fourth**, that Representatives may only be Apportioned to one state and within a given State's political boundaries (*ie.* no crossing State lines).

5.40. As can be seen, however, nothing in Art 1, §2 (or the legislative history surrounding it) includes any language regulating how the number of members of the House of Representatives will grow as new States joined the Union and/or the population of the States in the Union began to grow or decrease. The failure to provide a constitutional mechanism for increasing the number of Representatives in the House as the number of States and the population within them grew was a significant omission given that the separation of powers and

[77] http://ideaexchange.uakron.edu/cgi/viewcontent.cgi?article=1420&context=akronlawreview (accessed December 2, 2017)

checks and balances affecting the other branches of government were based, in part, on the number of members in the House of Representatives.

2. Legislative Branch - The Senate

5.41. U.S. Const. Art. 1, § 3[78] provided "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote. ..." Senators are charged with representing the interest of the State (as a whole) which chose them to act as part of the federal Legislative Branch.ent.

3. The Executive Branch - The President

5.42. U.S. Const. Article 2, § 1[79] provided:

> The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice-President chosen for the same Term, be elected, as follows:
>
> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, ***equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress:*** but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.
>
> ***The Electors shall meet in their respective States, and vote by Ballot for two persons***, of whom one at least shall not lie an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; ***and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President;*** and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the

[78] https://www.usconstitution.net/xconst_A1Sec3.html (accessed December 1, 2017)
[79] https://www.usconstitution.net/xconst_A2Sec1.html (accessed December 1, 2017)

> Representation from each State having one Vote; a quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President. (Emphasis Supplied)

5.43. The above provision does not allow the voters in each State to directly elect the President. Rather it creates an electoral college for purposes of allowing a limited number of voters to indirectly elect the President. As can be seen, this Constitutional mandate requires electors appointed by each State "***equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress"*** to vote on who will be elected both President and Vice-President. Accordingly, the people's ability as a whole to participate in the election of their President and Vice President is directly proportionate to the number of members of the United States House of Representatives and Senate.

4. The Judicial Department

5.44. U.S. Const. Art III, § 1[80] states:

> ***The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain[81] and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior***, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office. (Emphasis Supplied)

5.45. U.S. Const. Art III, § 2[82] stated in provided:

> The judicial Power shall extend to all Cases, in Law and Equity, ***arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority***; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction;

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[80] https://www.usconstitution.net/xconst_A3Sec1.html (accessed December 1, 2017)
[81] https://www.usconstitution.net/glossary.html#ORDAIN (accessed December 1, 2017)
[82] https://www.usconstitution.net/xconst_A3Sec2.html (accessed December 2, 2017)

> to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. (Emphasis Supplied)

5.46. The Legislative Branch of government (consisting of the House of Representatives and Senate without the necessity for concurrence of the Executive Branch) is given the power to ordain and establish all federal courts except the Supreme Court. The people's ability to meaningfully participate in the process overseeing the federal judicial branch, both for purposes of impeachment and establishing a non-corrupt system of exercising judicial power, depends on the number of the members of the legislative branch, particularly the House having enough members to exercise these Constitutional duties and authority.

5.47. Similarly, Article III §2 limits the judicial power to "cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made under their Authority". Thus, the role of the people directly in acting as a check with regard to the authority of the Judicial Department to exercise judicial power over them at all is established in part by those laws established by the Legislative and Executive branches of government.

D. Federalism Under Original Constitution

5.48. In their attempt to balance order with liberty, the Founders identified several reasons for creating a federalist government:

- to avoid tyranny
- to allow more participation in politics
- to use the states as "laboratories" for new ideas and programs.

5.49. Our founders contemplated the legislative authority of the federal government would be curtailed to those enumerated powers established in U.S. Const. Art. 1, §8.[83]

5.50. Further, our founders believed electing both state and national officials would increase the input of citizens into their government. Thus, if a state adopted a disastrous new policy, at least it would not be a catastrophe for everyone. On the other hand, if a state's new programs work well, other states can adopt their ideas and adjust them to their own needs.

5.51. As James Madison pointed out in *The Federalist,* No. 10[84], if "factious leaders kindle a flame within their particular states," national leaders can check the spread of the "conflagration through the other states." So federalism prevents a person that takes control of a state from easily taking control of the federal governments as well.

5.52. The Supremacy Clause, Art 6, § 2[85] provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding

E. The Ratification Process for the original Constitution

5.53. When the Constitution was signed in September of 1787 and sent to the Congress that existed under the Articles of Confederation, Congress was instructed to send that Constitution to the states to be ratified. The message to the states was clear: Accept the Constitution or reject it *but don't try to change it*. Kauffman, Bruce, "The Massachusetts

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[83] https://www.usconstitution.net/xconst_A1Sec8.html (accessed November 30, 2017)
[84] http://avalon.law.yale.edu/18th_century/fed10.asp (accessed November 30, 2017)
[85] https://www.usconstitution.net/xconst_A6.html (accessed December 2, 2017)

Compromise (February 8, 2012)[86]

5.54. Several states, mostly small states, were quick to accept, in part because joining a larger union offered small states security, but also because, under the "Great Compromise" that occurred during the Constitutional Convention, every state, regardless of size and population, had equal representation in the Senate. *Id*.

5.55. But the larger states had grave doubts about the Constitution, and even though Pennsylvania, a large state, quickly ratified, other bigger States took their time. When Massachusetts, another large and important state, took up the ratification question there was strong disagreement between that State's Federalists, Anti-Federalists, and another separate faction in Massachusetts which wanted to pursue a middle path - ratification based on the Constitution being promptly amended to undo its glaring deficiencies. This last path became known as the "Massachusetts Compromise."

5.56. On February, 6 1788 Massachusetts, by the close margin - 187 "for" and 168 "against" - voted to ratify the Constitution but offer amendments for the first Congress to consider.

5.57. All but one state subsequently adopted this model: Ratify, but insist on Amendments being added to the Constitution to correct glaring deficiencies in its text, particularly with regard to the slave-based apportionment of the House of Representatives, which set forth no formula for increasing members of the House of Representatives as the population grew.

F. The Ratification Process for "Article the First"

5.58. One of the most glaring problems with the original Constitution for those people

[86] https://historylessons.net/the-massachusetts-compromise (accessed on November 27, 2017)

who had just fought a Revolution over taxes being imposed upon them without representation was that the Constitution appeared to do virtually nothing to address this issue. The people's direct participation in their federal government was limited to only half of the legislative department: The House of Representatives. And the House of Representatives was very small when the Constitution was ratified - only 65 men. Although George Washington had persuaded the Constitutional delegates the number of Representatives should not exceed one for every thirty thousand, there was nothing in the language of the original Constitution which mandated that the number of representatives should be increased as the more States joined and the population of each State grew over time.

5.59. During the ratification debates the manner of "apportioning" future members of the House of Representatives among the various States was one of the most hotly debated topics.

5.60. The great public concern about the lack of a constitutional provision mandating continuing growth of the House as the nation grew is demonstrated by the attention given this issue during the process of the States' ratification of the original Constitution. See e.g. The University of Wisconsin-Madison, *The Debate Of The House Of Representatives*[87]; "*The Documentary History of the Ratification of the Constitution Digital Edition, ed*". John P. Kaminski, Gaspare J. Saladino, Richard Leffler, Charles H. Schoenleber and Margaret A. Hogan. Charlottesville: University of Virginia Press, 2009[88]; The Impartial Examiner III, Virginia

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[87] https://csac.history.wisc.edu/documentary-resources/themes-of-the-ratification-period/house-of-representatives/ (accessed December 2, 2017)

[88] http://rotunda.upress.virginia.edu/founders/RNCN.html (accessed December 2, 2017)

Independent Chronicle[89], 4 June 1788; Hampden, Pittsburgh Gazette[90], 16 February 1788 (excerpts); Cato V, New York Journal[91], 22 November 1787; Brutus IV, New York Journal[92], 29 November 1787. *See also* Federalist Paper No. 54[93] (February 12, 1788)[94], Federalist Paper No. 55[95] (February 15, 1788), 56[96] (February 19, 1788), Federalist No. 57[97] (February 19, 1788);

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[89] https://histcsac.wiscweb.wisc.edu/wp-content/uploads/sites/281/2017/07/The_Impartial_Examiner_III1.pdf (accessed December 2, 2017)

[90] https://histcsac.wiscweb.wisc.edu/wp-content/uploads/sites/281/2017/07/Hampden2.pdf (accessed December 2, 2017).

[91] https://histcsac.wiscweb.wisc.edu/wp-content/uploads/sites/281/2017/07/Cato_V1.pdf (accessed December 2, 2017)

[92] https://histcsac.wiscweb.wisc.edu/wp-content/uploads/sites/281/2017/07/Brutus_IV1.pdf (accessed December 2, 2017)

[93] http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-54.php (accessed December 2, 2017)

[94] Discussing the justification for treating slaves as ⅗ of a man for apportionment purposes.

[95] http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-55.php (accessed December 2, 2017)

[96] http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-56.php (accessed December 2, 2017)

[97] http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-57.php (accessed December 2, 2017)

Federalist No. 58[98] (undated), Federalist No. 59[99] (February 22, 1788); Federalist No. 61[100] (February 26, 1788).

5.61. In recognition of the widespread dissent to the original constitution and pursuant to the Massachusetts Compromise, Congress enacted on March 4, 1789 a Resolution of the First Congress Submitting Twelve Amendments[101] to each of the State. The preamble to that Resolution acknowledges:

> THE Conventions of a number of the States, having at the time of their adopting the Constitution expressed a desire, ***in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses be added***: ***And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of it institution:*** (Emphasis Supplied)

5.62. Not surprisingly the first amendment of the twelve (known as "*Article the First*") was crafted to assure the people their representation in the House of Representatives would increase as the population in each State grew. This Amendment, which was subject to a later scrivener's error[102], stated:

> 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 be less than one hundred

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98 http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-58.php (accessed December 2, 2017)

99 http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-59.php (accessed December 2, 2017)

100 http://www.let.rug.nl/usa/documents/1786-1800/the-federalist-papers/the-federalist-61.php (accessed December 2, 2017)

101 http://avalon.law.yale.edu/18th_century/resolu02.asp#b1 (accessed December 2, 2017)

102Facts and law related to the *Article the First* scrivener's error are described in the second count of the LaVergne plaintiffs' complaint, at pp. 40 - 43, which by this reference is incorporated herein. See also *infra*, "The Scrivener's Error"

representative, ***nor more than one representative for every forty thousand person***s, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall be no less than, that there shall be no less than two hundred Representatives, ***nor less than one Representative for every fifty thousand persons.*** (Emphasis Supplied)

5.63. *Article the First* was ratified as the First Amendment to the United States Constitution pursuant to U.S. Const. Article V[103] by three-fourths of the States as is documented by the LaVergne complaint at pages 31-33.

5.64. Intervenor Plaintiffs reiterate and reallege those ratification facts in the following portion of this paragraph.

RATIFICATION VOTES IN THE STATE LEGISLATURES:

(*The process starts with Eleven States in the Union: Massachusetts, New Hampshire, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina and Georgia)

(1.) Connecticut State Legislature: Ratified *Article the First* by the *United States Constitution's* Article V's standards October 1789 (*or alternatively May 1790 if the "Upper House Council" is part of the "Legislature" for Article V purposes). **(UNREPORTED)**

(2.) New Jersey State Legislature: Ratified *Article the First* by the *United States Constitution's* Article V's standards on November 19, 1789 (* or November 20, 1789). **(REPORTED)**

(*November 28, 1789 now Twelve States in the Union: North Carolina ratified the *United States Constitution* at statewide convention of November 28, 1789 and joined the Union of States)

(3.) Virginia State Legislature: Ratified *Article the First* by the United States Constitution's Article V's standards on December 15, 1789.
(UNREPORTED)
*After the First Decennial Census results were reported in October 1791, and in anticipation of the first Decennial Apportionment of the United States House of Representatives, the Virginia State Legislature ratified *Article the First* by the United States Constitution's Article V's standards *a second time* on November 3, 1789.

[103] https://www.usconstitution.net/xconst_A5.html (accessed December 2, 2017)

(IMMEDIATELY AND SINGULARLY REPORTED)

*After the Virginia State Legislature later ratified *Article the Third* through *Article the Twelfth* (some for the second time) on December 15, 1789, the November 3, 1791 singular ratification of *Article the First* was reported for a second time, this time in a collective instrument of ratification of all twelve proposed amendments.

(SECOND NOVEMBER 3, 1791 RATIFICATION REPORTED A SECOND TIME WITH OTHER ELEVEN AMENDMENTS)

(4.) **Maryland State Legislature:** Ratified *Article the First* by the United States Constitution's Article V's standards on December 19, 1789.
(REPORTED)

(5.) **North Carolina State Legislature:** Ratified *Article the First* by the United States Constitution's Article V's standards on December 22, 1789.
(REPORTED)

(6.) **South Carolina State Legislature:** Ratified *Article the First* by the United States Constitution's Article V's standards on January 19, 1790.
(REPORTED)

(7.) **New Hampshire State Legislature:** Ratified *Article the First* by the United States Constitution's Article V's standards on January 25, 1790.
(REPORTED)

(8.) **New York State Legislature:** Ratified *Article the First* by the United States Constitution's Article V's standards on February 24, 1790.
(REPORTED)

(*May 29, 1790 now Thirteen States in the Union: Rhode Island ratified the *United States Constitution* at statewide convention of May 29, 1790 and joined the Union of States.)

(9.) **Rhode Island State Legislature:** Ratified *Article the First* by the United States Constitution's Article V's standards on June 7, 1790.
(REPORTED)

(*March 3, 1791 now Fourteen States in the Union: Vermont was admitted as the Fourteenth State in the Union by Act of Congress taking effect March 4, 1791.)

(10.) **Pennsylvania State Legislature:** Ratified *Article the First* by the United States Constitution's Article V's standards on September 24, 1791.
(REPORTED)

(11.) Vermont State Legislature: Ratified *Article the First* by the United States Constitution's Article V's standards on November 1, 1791.
(REPORTED)

(*June 1, 1792 now Fifteen States in the Union: Kentucky was admitted as the Fifteenth State in the Union by Act of Congress taking effect June 1, 1792.)

(12.) Kentucky State Legislature: Ratified *Article the First* by the United States Constitution's Article V's standards on June 21, 1792.
(UNREPORTED)

[*See How "Less" is "More": The Story of the Real First Amendment to the United States Constitution,* by Eugene Martin LaVergne, published by First Amendment Free Press, New York, New York (2016) at pages 521-522].

5.65. Many have erroneously concluded *Article the First* was not ratified by simply presuming the federal government's inability to find reports of some State ratifications meant they never occurred. For example, Yale Law School's AVALON PROJECT "Documents in Law History and Diplomacy" reports in its internet article[104] regarding Congress March 14, 1789 Resolution submitting the First twelve Amendments to the Constitution to the States that:

> "[t]he proposed amendments were transmitted to the legislatures of the several States, upon which the following actions was takers [sic]:
>
> By the State of New Hampshire.-Agreed to the whole of the said amendments, except the 2d article.
>
> By the State of New York,-Agreed to the whole of the said amendments, except the 2d article.
>
> By the State of Pennsylvania.-Agreed to the 2d, 4th, 5th, 6th, 7th, 8th, 9th, l0th, 11th, and 12th articles of the said amendments.
>
> By the State of Delaware.-Agreed to the whole of the said amendments, except the 1st article.

[104] http://avalon.law.yale.edu/18th_century/resolu02.asp#b1 (Accessed November 27, 2017)

By the State of Maryland.-Agreed to the whole of the said twelve amendments.

By the State of South Carolina.-Agreed to the whole said twelve amendments.

By the State of North Carolina.-Agreed to the whole of the said twelve amendments.

By the State of Rhode Island and Providence Plantations.-Agreed to the whole of the said twelve articles.

By the State of New Jersey.-Agreed to the whole of the said amendments, except the second article.

By the State of Virginia.-Agreed to the whole of the said twelve articles (Elliot's Debates, Vol. I, pp. 339-340.[105])

No returns were made by the states of Massachusetts, Connecticut, Georgia, and Kentucky. The amendments thus proposed became a part of the constitution - the first and second of them excepted: which were not ratified by a sufficient number of the state legislatures. (Journal of the Federal Convention[106], 1819, Supplement, p. 481.).

5.66. Yale's analysis misses the mark because the Connecticut State Legislature ratified *Article the First* in October 1789 or May, 1790. Pennsylvania ratified *Article the First* on September 24, 1791. The Kentucky State Legislature ratified *Article the First* on June 21, 1792.

5.67. Regardless of whether Massachusetts and Georgia ratified any of the Amendments, *Article the First* was ratified by the State Legislatures of three fourths of the States in accordance

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[105] https://memory.loc.gov/cgi-bin/ampage?collId=lled&fileName=001/lled001.db&recNum=355&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28ed0018%29%29%230010007&linkText=1 (accessed December 2, 2017)

[106] https://archive.org/stream/journalactsproce1819unit#page/480/mode/2up (accessed December 2, 2017)

with the Constitution's Article V's standards and therefore has been fully ratified and consummated as a permanent part of the United States Constitution since at least June 21, 1792, if not earlier.

5.68. Wikipedia also erroneously concludes *Article the First* was not ratified, notwithstanding the text of its article appears to concede *Article the First* was ratified. In its section entitled Congressional Apportionment Amendment[107] Wikipedia suggests *Article the First* never went into effect because Connecticut never properly ratified it. In this regard, Wikipedia states:

> On September 21, 1789, a conference committee convened to resolve the numerous differences between the two Bill of Rights proposals. On September 24, 1789, the committee issued its report that finalized 12 Constitutional amendments for the House and Senate to consider. Regarding the apportionment amendment, the House passed version prevailed with one change, the final instance of the word "less" was changed to "more". The amendments were finally approved by both Houses on September 25, 1789.
>
> Having been approved by Congress the twelve Bill of Rights amendments were sent to the states for ratification. This proposed amendment was placed first among the twelve and was ratified by the legislatures of the following states:
>
> 1. New Jersey: November 20, 1789
> 2. Maryland: December 19, 1789
> 3. North Carolina: December 22, 1789
> 4. South Carolina: January 19, 1790
> 5. New Hampshire: January 25, 1790
> 6. New York: February 24, 1790
> 7. Rhode Island: June 7, 1790
> 8. Pennsylvania: September 21, 1791 (after rejecting it on March 10, 1790)
> 9. Vermont: November 3, 1791
> 10. Virginia: November 3, 1791
> 11. Kentucky: June 27, 1792
>
> When originally submitted to the states, nine ratifications would have made this amendment part of the Constitution. That number rose to ten on May 29, 1790, when Rhode Island ratified the Constitution. It rose to eleven on March 4, 1791,

[107] https://en.wikipedia.org/wiki/Congressional_Apportionment_Amendment (accessed November 23, 2017)

> when Vermont joined the Union. By the end of 1791, the amendment was only one state short of adoption. However, when Kentucky attained statehood on June 1, 1792, the number climbed to twelve, and, even though Kentucky ratified the amendment that summer (along with the other eleven amendments), it was still one state short.
>
> The lower house of the Connecticut General Assembly approved the amendment along with ten others in October 1789, but the upper house of the Assembly deferred taking any action on the amendments until after the next election. In May 1790, following that election, the lower house rejected the amendment while approving the ten amendments that would become the Bill of Rights. The upper house then approved all of the amendments, hindering Connecticut's ratification effort with both houses unable to reconcile their ratification bills.

5.69. As the above sources suggest for over 150 years Connecticut was reported as never having ratified the first twelve amendments to the Constitution even though we now know (and everyone acknowledges including Wikipedia) this is unequivocally untrue. CFR Plaintiff-Intervenors allege that Connecticut's lower house, its assembly, ratified all twelve Articles, including *Article the First* in October 1778, and that its upper house ratified *Article the First* in October 1789 at which point *Article the First* was ratified by Connecticut in a way which could not be undone.

5.70. Accordingly, Wikipedia's legal analysis regarding Connecticut is flawed. Article V requires ***only that a State Legislature meet and cast an affirmative vote of assent to ratify an amendment***. There is no requirement that bicameral state legislatures take action at the same session or even in the same year. Article V states, a proposed amendment: "… *shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States* …". The fact that the special Federal action taken by a State's Legislature may not be formally memorialized in a Resolution or Legislative Journal until some

later date is of no consequence. ***Federal Article V action is complete upon the affirmative vote of assent***. As LaVergne plaintiffs correctly assert and CFR Plaintiff Intervenors reallege here:

> The *United States Constitution's* Article V is an automatic and self enacting process in that a proposed amendment is automatically consummated as positive Federal Constitutional Law when the threshold "three fourth" State's Legislature has affirmatively voted to adopt and ratify an amendment. No further action is constitutionally required other than the actual affirmative vote or assent of "… *the Legislatures of three fourths of the several States* …".

5.71. Both Avalon's and Wikipedia's mathematical analysis that three-quarters of the Union's state legislatures never ***timely*** ratified the Constitution are just plain wrong. The standard math practice at the time of the Ratification of the Constitution was truncation. With what is known now it is evident beyond any reasonable doubt that nine State Legislatures ratified *Article the First* by Article V's constitutional amendment standards prior to March 1, 1791, when there were 13 States in the Union, although Virginia and Connecticut did not timely report their binding ratifications at the time they occurred. *See* LaVerne, Eugene Martin, *How Less is More the Story of the Real First Amendment to the United States Constitution*, First Amendment Free Press, p 488 (2016)

5.72. In order to insure a mandatory ratio of 1/30,000 in the first decennial apportionment of the House was completed, both Pennsylvania and Virginia ratified *Article the First.* Pennsylvania did so on September 1, 1791. Virginia did so (for a second time November 3, 1791). Vermont, which had just become a State in March 1791 also ratified *Article the First* (along with the other amendments) on November 3, 1791. Thus as of November 3, 1791 eleven out of the fourteen States had ratified *Article the First*, which constituted ratification by three quarters of the then 14 States.

5.73. When Kentucky joined the Union on June 1, 1792, as the fifteenth State thereof, that State's legislature also ratified *Article the First*. So as of that date in 1792 twelve states out of fifteen had ratified *Article the First*. This clearly met the three-quarters of the state legislature's requirement imposed by Article V for ratification of *Article the First*. But it appears no one cared; perhaps because State leaders decided they really did not want a people's house tasked with actually representing the population of inhabitants.

5.74. As LaVergne asserts in his book, there is abundant evidence that many conspired together to prevent *Article the First* from being recognised. These efforts culminated in 1939 when several States tried to alter their historical actions through *later ceremonial ratifications* of *only* Articles 3 - 13, which by that time had been falsely declared as the United States Bill of Rights, i.e. the First Ten Amendments to the United States Constitution. *See* LaVerne, Eugene Martin, *How Less is More the Story of the Real First Amendment to the United States Constitution,* First Amendment Press, 489-515 (2016).

5.75. The website of the National Archives supports the notion the history of the first twelve amendments to the Constitution has been tampered with by the government. See e.g.: "Ratifying the Bill of Rights … in 1939[108]".

This article states:

> On December 15 we observe the 225th anniversary of the ratification of the Bill of Rights. One-by-one, from 1789 to 1791, the states ratified 10 amendments to the nation's new Constitution. The process had begun when the First Federal Congress sent the states 12 proposed amendments, via a joint resolution passed on September 25, 1789, for their consideration. When Virginia became the 11th state to ratify the amendments on

[108] https://prologue.blogs.archives.gov/2016/11/25/ratifying-the-bill-of-rights-in-1939/ (accessed November 24, 2017)

December 15, 1791, amendments 3 through 12 became part of the Constitution, and these first 10 amendments were thereafter known as our Bill of Rights.

One might think that 1791 was the end of the story of the ratification of the Bill of Rights, but there is a footnote: three states ratified the 10 first amendments a century and a half later, in 1939.

Once the Bill of Rights was ratified by three-fourths of the states in 1791, it became part of the law of the land, and there was no legal need for any further ratifications. At the time Virginia ratified, Massachusetts, Connecticut, and Georgia had not sent their approvals to Congress. [THIS IS UNTRUE.]

In 1939, the 150th anniversary of Congressional approval of the amendments, all three states symbolically ratified the Bill of Rights. [THIS IS ALSO UNTRUE, AS BOTH CONNECTICUT AND KENTUCKY BOTH RATIFIED ARTICLE THE FIRST WELL BEFORE 1939] (emphasis supplied.)

Unless it was removed, a copy of Connecticut's belated false ratification can be seen on this website: https://prologue.blogs.archives.gov/2016/11/25/ratifying-the-bill-of-rights-in-1939/

G. The Scrivener's Error

5.76. It did not take a genius to figure out that the people's participation in self-governance would become *de minimis* if the members of the House of Representatives did not increase with the population of the States.

5.77. Representative James Madison of Virginia proposed an amendment establishing a formula for determining the appropriate size of the House of Representatives. Madison's original proposal for *Article the First* capped the number of the people's representatives, but left the cap open for Congress to decide upon. Madison proposed:

> That in Article I, Section 2, Clause 3, these words be struck out, to wit: "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;" and in place thereof be inserted these words, to wit: "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 by Congress, 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"

5.78. Neither the Senate nor the House of Representatives approved of Madison's proposal because it did not provide a mechanism for the people's house to grow as the population of the States increased.

5.79. Accordingly, the version of *Article the First* proposed by the House of Representatives as of August 24, 1789 required the House perpetually grow with the increasing populations of each State. This House proposal stated:

> After the first enumeration, required by the first Article of the Constitution, there shall be one Representative so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons

5.80. On September 9, 1789 the Senate adopted the following version of *Article the First*, which changed the House version, but still provided for perpetual growth of members elected to the House of Representatives as the populations of the States increased. The Senate struck some language out of the House version and replaced it with the the italicized and bolded language set forth below:

> After the first enumeration, required by the first article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred; ***to which number one Representative shall be added for every subsequent increase of forty thousand, until the Representatives shall amount to two hundred, to which number one Representative shall be added for every subsequent increase of sixty thousand persons.***

5.81. Chapter 7 of LaVergne's book, titled: "The First Federal Congress Proposes Amendments to the Constitution, the Legislative Evolution of the Apportionment Amendment,

and the actual correct text of *Article the First*, as voted and approved by a ⅔ Vote in the Senate and House of Representatives to be sent to the State Legislatures for Ratification" accurately sets forth the legislative history adopting *Article the First* for purposes of it being ratified by the States and is accordingly incorporated herein as CFR Intervenors' allegations of facts in this regard.

5.82. Chapter 8 of LaVergne's book, titled: "Lost in Translation: The Clerk's Mistake, Scrivener's and Printer's Error in *Article the First*, the Printing Error in *Article the Tenth*, and how the 1791 'Officially Corrected' Re-Printings of the Laws and Acts Unknowingly Reaffirmed for all Time the 'Less' to 'More" Mistake in Line Three of Article the First," is incorporated herein. This Chapter accurately sets forth those facts establishing that the following language was approved by the Congress for purposes of being ratified by the State Legislatures as the First Amendment to the United States Constitution:

> **[Line 1]** 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,
> **[Line 2]** after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor ***more*** than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred,
> **[Line 3]**after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons.

5.83. *Article the First*, as ratified on or before June 21, 1792, is an important part of the checks and balances which reinforces the structural components of the United States Constitution including the Separation of Powers and Federalism.

H. *The Impact of the Civil War on Apportionment and California's Admission to the Union*

5.84. On February 2, 1848 while the national debate over slavery was continuing the Treaty of Guadalupe Hidalgo was signed. This treaty established the boundaries between the United States and Mexico. At the time the treaty was signed a significant number of the people living in California were Native Americans. After Statehood Native Americans, were treated as property and slaves.

5.85. In 1848, the movement for women's suffrage began to organize at the national level. In July of that year, reformers Elizabeth Cady Stanton and Lucretia Mott organized the first women's rights convention at Seneca Falls, New York (where Stanton lived). More than 300 people—mostly women, but also some men—attended, including former African-American slave and activist Frederick Douglass (1818-1895).

5.86. On June 3, 1849, General Bennett C. Riley formed 10 California electoral districts by using the 5 established Mexican districts and then drawing the boundaries for 5 more, as well as California's state boundaries. These County districts were used for the elections of local officials and the members of the California Constitutional Convention held in Monterey, in 1849.

5.87. On August 1, 1849, the California Counties (referenced above) with varying populations held elections for local governing officials and members of the California Constitutional Convention.

5.88. September 1, 1849, California held its first Constitutional Convention, during which, those assembled voted to eliminate the Indians' right to vote because they feared the

control Indians might exercise through suffrage. A History of American Indians in California[109], pp. 7.

5.89. When the Convention concluded on October 13, 1849, the proposed Constitution was presented to the voters for ratification on November 13, 1849 and passed by a simple majority.

5.90. Four California delegates were then sent to Washington D.C. to petition for Statehood and the petition was granted. California became a State of the United States on September 9, 1850.

5.91. The first California Constitution formed a bicameral State Legislature with a Senate and Assembly.

5.92. Each County was represented at that time by at least one member of the legislature.

5.93. The Assembly was required to have between 24 and 36 members, and the California Constitution anticipated the members of the Assembly include 80 members after the population of the State reached or exceeded 100,000 people.

5.94. California's population exceeded 100,000 in 1851.

5.95. California's 1849 Constitution provided the number of Senators was to be not more than one half and not less than one third the number of Assembly members.

5.96. The Assembly initially had 36 members in 1850. In 1852, the Assembly was increased to 63 members and finally to 80 members in 1854. These increases maintained an approximate representation ratio of one Assembly representative per 2,500 people until 1854.

5.97. In 1850, California's Senate was initially apportioned with 16 members to the

[109] http://ohp.parks.ca.gov/pages/1054/files/american%20indians%20in%20california.pdf (accessed November 27, 2017)

Counties. And at that same time, each state Senator represented an average of 5,787 people. In 1858, the Senate was increased to 35 members and then each Senator represented about 9,215 people. In 1862, the Senate was increased to 40 members and each Senator represented about 10,000 persons.

5.98. By 1855 the number of Native American Indians living in California (estimated to be more than 300,000 before 1769) had been greatly reduced for various reasons, including repeated genocides. History of American Indians in California, pp. 2-9. ("The savages were in the way; the miners and settlers were arrogant and impatient; there were no missionaries or others present with even the poor pretense of soul saying or civilizing. ***It was one of the last human hunts of civilization, and the basest and most brutal of them all***." citing Bancroft, 1963a:474 (Emphasis Supplied)).

5.99. Indians were authorized to be treated as slaves and ***non-persons*** by California statutes. *Id.*, pp. 6-8.

5.100. Notwithstanding the United States Constitution's embrace of slavery, disputes regarding its morality (especially with regard to black people during the mid-1800s) increasingly divided the States and their peoples.

5.101. In 1857 the federal judicial branch, operating pursuant to the Separation of Powers, decided *Dred Scott v Sanford*[110], 60 US 393 (1857) by which many believe the Southern justices on that Court hoped to forever legitimize the institution of Slavery in the United States. The holding of that case was that human beings of African American ancestry - slaves, *as well as*

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110 https://scholar.google.com/scholar_case?case=3231372247892780026&q=SCOTT+V+SANFORD&hl=en&as_sdt=4,60 (accessed December 2, 2017)

those African Americans who were free - were not persons or citizens under the Constitution and therefore could not access Article III federal courts.

5.102. The Supreme Court's rationale for holding that all persons of African American descent were property and nothing more in the United States of America is illuminated by that Court's discussion of the Declaration of Independence, which opines in pertinent part:

> In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence show, that neither the class of persons who had been imported as slaves nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.
>
> It is difficult at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken.
>
> They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.
>
> And in no nation was this opinion more firmly fixed or more uniformly acted upon than by the English Government and English people. They not only seized them on the coast of Africa, and sold them or held them in slavery for their own use; but they took them as ordinary articles of merchandise to every country where they could make a profit on them, and were far more extensively engaged in this commerce than any other nation in the world.
>
> The opinion thus entertained and acted upon in England was naturally impressed upon the colonies they founded on this side of the Atlantic. And, accordingly, a negro of the African race was regarded by them as an article of property, and

> held, and bought and sold as such, in every one of the thirteen colonies which united in the Declaration of Independence, and afterwards formed the Constitution of the United States. The slaves were more or less numerous in the different colonies, as slave labor was found more or less profitable. But no one seems to have doubted the correctness of the prevailing opinion of the time.
>
> The legislation of the different colonies furnishes positive and indisputable proof of this fact.

S*cott v. Sandford*, 60 U.S. at 407-408. *But compare* Federalist Paper No. 54 (February 12, 1788) (Slaves are both people and property.)

5.103. On March 4, 1861, President Lincoln in his first inaugural address sought to avert a civil war between the States. In that address, Lincoln observed the problematic nature of the Supreme Court's assertion of authority, vis a vis, the other federal departments of government (*i.e.* the legislative and executive branches) on the issue of establishing slavery as an institution for the true sovereign - the people, not their government nor any branch thereof. *See Lincoln's First Inaugural Address* [111].

5.104. In that same Inaugural Address President Lincoln also correctly observed:

> This country, with its institutions, belongs to the people who inhabit it. ***Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it***, ***or their revolutionary right to dismember, or overthrow it***. ***I can not be ignorant of the fact that many worthy, and patriotic citizens are desirous of having the national constitution amended.*** While I make no recommendation of amendments, I fully recognize the rightful authority of the people over the whole subject, to be exercised in either of the modes prescribed in the instrument itself; and I should, under existing circumstances, favor, rather than oppose, a fair opportunity being afforded the people to act upon it. *Id.* (emphasis supplied)

5.105. The Civil War began on April 16, 1861 and ended May 9, 1865.

5.106. Most historians agree the Supreme Court's decision in *Dred Scott v Sanford* was a

[111] http://www.ushistory.org/documents/lincoln1.htm (November 27, 2017)

primary cause of the Civil War, which the New York Times[112] has estimated caused the deaths of over 750,000 Americans. This is far more than the number of Americans killed in any other war and estimated by some to be more than the number of Americans killed in all other wars.

5.107. Following the Civil War, the Constitution was amended to repudiate the Dred Scott decision, including its interpretation of the meaning of the Declaration of Independence following the Civil War. *See e.g.* Tsesis, Alexander, Self-Government and the Declaration of Independence[113], 97 Cornell L. Rev. 693 (2011-2012).

5.108. The Thirteenth Amendment of the Constitution[114] was proposed on January 31, 1865 and ratified less than a year later on December 6, 1865. The Thirteenth Amendment states:

> 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.
>
> 2. Congress shall have power to enforce this article by appropriate legislation.

5.109. A consequence of this Amendment should have been that no persons of any race should be considered property in the United States, including Native American Indians, Africans, Chinese, Mexicans, and other persons of Asian descent[115]. But the Thirteenth Amendment

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[112] http://www.nytimes.com/2012/04/03/science/civil-war-toll-up-by-20-percent-in-new-estimate.html (accessed December 1, 2017)

[113] https://pdfs.semanticscholar.org/bdc9/705605e0072f388a18244491c0a3ad611634.pdf (accessed December 1, 2017)

[114] https://www.usconstitution.net/xconst_Am13.html (accessed November 27, 2017)

[115] By referencing racial classes, the authors in no way intend to suggest that Thirteenth Amendment's prohibition against slavery and involuntary servitude are based on race. The language prohibits slavery and involuntary servitude for anyone. There has long been a question whether the United States, through Congress, honors it duties pursuant to the Thirteenth Amendment and International Customary law. See e.g. Joey Asher, Comments: *How The United States is Violating its International Agreements to Combat Slavery,* 8 Emory Int'l L. Rev. 215, (2008) accessed December 2, 2017 at:

proved to be only words, which even today does not prevent slavery in the United States by the wealthy over the poor. DeGarmo, John Dr., HuffPost U.S. Edition, Modern Day Slavery DOES Exist in America: How Our Children Are Victims Today[116] (February 21, 2017); Tizon, Alex, The Atlantic "My Family's Slave,[117]" (June, 2017); Hawley, Josh, CNN, "Slavery still exists in the land of the free -- we must confront it[118]" (April 3, 2017)

5.110. The Fourteenth Amendment of the Constitution[119] was proposed on June 13, 1866 and ratified approximately two years later on July 9, 1868. It states:

> 1: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of *citizens of the United States*; nor shall any State deprive *any person* of life, liberty, or property, without due process of law; nor deny to *any person* within its jurisdiction the equal protection of the laws.
>
> 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, *excluding Indians not taxed*. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one

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https://advance.lexis.com/api/document/collection/analytical-materials/id/3S3V-59M0-00CV-K1PG-00000-00?page=255&reporter=8341&cite=8%20Emory%20Int

[116] https://www.huffingtonpost.com/entry/modern-day-slavery-does-exist-in-america-how-our-children_us_58ac3afae4b029c1d1f88ead (accessed November 30, 2017)

[117] https://www.theatlantic.com/magazine/archive/2017/06/lolas-story/524490/ (accessed November 27, 2017)

[118] http://www.cnn.com/2017/04/03/opinions/josh-hawley-missouri-human-trafficking/index.html (acessed November 27, 2017)

[119] https://www.usconstitution.net/xconst_Am14.html (accessed November 27, 2017)

years of age in such state.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

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

(Emphasis Supplied)

5.111. The Fourteenth Amendment specifically modifies Article I, § 2, cl. 3, and after its ratification required Members of the House of Representatives "shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State . . . ." From this point on former slaves were required to be counted as whole persons in the census for apportionment purposes both with regard to determining representation in the House of Representation and the imposition of direct taxes on the States.

5.112. The Fifteenth Amendment[120] of the U.S. Constitution was proposed on February 27, 1869 and ratified less than a year later on February 3, 1870. This Amendment states:

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have the power to enforce this article by appropriate

[120] https://www.usconstitution.net/xconst_Am15.html (Accessed November 29, 2017)

legislation.

5.113. Although mandated by the Constitution since 1870, suffrage for the blacks did not come easy and has been thwarted for over a century by those who seek to make persons other than wealthy white males second class citizens.

5.114. In 1872 Congress enacted 2 U.S.C. 6[121], which states:

> §6. Reduction of representation
> Should any State deny or abridge the right of any of the male inhabitants thereof, being twenty-one years of age, and citizens of the United States, to vote at any election named in the amendment to the Constitution, article 14, section 2, except for participation in the rebellion or other crime, the number of Representatives apportioned to such State shall be reduced in the proportion which the number of such male citizens shall have to the whole number of male citizens twenty-one years of age in such State.

(R.S. §22.)

5.115. Women also continued to seek suffrage during the period of the ratification of these amendments. Women argued that they became entitled to the right to vote under the Fourteenth Amendment. But In Minor v Happersett, 80 US 162 (1975)[122] the Supreme Court held the Fourteenth and Fifteenth Amendments did not extend citizenship to women as they already were citizens under the original Constitution. The Court held suffrage was not a right of citizenship and therefore the privileges and immunities clause of the Fourteenth Amendment did not give women the right to vote. Nor, the Court ruled, did the Fifteenth Amendment provide women any rights to suffrage, because this Amendment only purported to expand the right to

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121 http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title2-section6&num=0&edition=prelim (Accessed December 4, 2017)

122 https://scholar.google.com/scholar_case?case=5117525999793250938&q=Minor+v.+Happersett+&hl=en&as_sdt=3,48 (November 29, 2017)

vote for men of all races over 21; not women.

5.116. California held a second Constitutional Convention in 1878, almost a decade after the passage of the Thirteenth, Fourteenth, and Fifteenth amendments to the U.S. Constitution.

5.117. During that convention, the delegates opined that humans of Chinese descent were not people who would be represented in the California legislature because they were property, *i.e.* "chattel or stock."[123]

5.118. Several proposals were made to change the size of the Senate and Assembly during the 1878 California Constitutional convention. However, the delegates of the Convention decided to memorialize this cap on legislative growth (40 Senators and 80 Assembly representatives) for purposes of creating an oligarchy based on invidious discrimination against persons who were not white.

5.119. Notwithstanding the Thirteenth, Fourteenth, and Fifteenth Amendments to the

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[123] During the debates on the 1878 -1879 Constitution where representation in the State legislature was set at 40 Senators and 80 Assembly members the following dialog took place:

> MR. HEISKELL: "Do you want the Chinese to be represented–enumerated in the apportionment?"
> MR. O'DONNELL: "Well, we do not represent them. . . ***I want to be represented according to the Census of the United States. We don't mean the Chinese. We count them as chattel or stock***."

Debates and Proceedings of the California Constitutional Convention of 1878, Pg. 755.

Notwithstanding the language of the United States Thirteenth, Fourteenth, and Fifteenth Amendments Article XIX to the 1879 California Constitution triggered an all-out ethnic cleansing attempt of Chinese communities in obvious violation of the Fourteenth Amendment and treaties made by the President and ratified by the Senate. See Greg Seto, " The Chinese Must Go': The Workingmen's Party and the California Constitution of 1879" California Supreme Court Historical Society 2013 Student Writing Competition Second Place Prize winning Entry, pp. 15-31 (2013). (https://www.cschs.org/wp-content/uploads/2014/03/CSCHS_2013-Seto.pdf (accessed November 27, 2017) and Article XIX accessed at http://jhameia.tumblr.com/post/791838445/article-xix-chinese-section-1-the-legislature

United States Constitution set forth above, Article XIX[124] to the 1879 California was titled "Chinese" and was enacted for purposes of triggering all-out ethnic cleansings against non-whites, i.e. including genocides, which were in obvious violation of the Fourteenth Amendment and treaties made by the United States with other countries during this time period.

5.120. Although California federal courts declared California Article XIX unconstitutional as early as 1880, *see In re Parrott*[125], 1 F. 481, 6 Sawy. 349 (C.C.D. Cal. Mar. 1, 1880), California state courts as well as the rest of the California State government, inappropriately, unconstitutionally, and corruptly enforced Article XIX up until 1952, when the California oligarchy finally repealed this obviously unconstitutional California constitutional provision, which was part of the basis for California's enactment of the invidiously discriminatory cap on the members of its legislators.

5.121. In 2009 the "capped", 80 member California Assembly, publicly admitted California's intentional, invidious and unconstitutional discrimination against the Chinese. *See* California Assembly Concurrent Resolution 42, Chapter 79[126]. California's judicial department

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[124] http://jhameia.tumblr.com/post/791838445/article-xix-chinese-section-1-the-legislature (accessed November 28, 2017)

[125] https://advance.lexis.com/document/?pdmfid=1000516&crid=8dcfac9d-5c45-4181-bd10-c04e876f5f9d&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A3S4X-3D20-003B-J00G-00000-00&pddocid=urn%3AcontentItem%3A3S4X-3D20-003B-J00G-00000-00&pdcontentcomponentid=6393&pdshepid=urn%3AcontentItem%3A7XWP-RSW1-2NSD-P2D1-00000-00&pdteaserkey=sr0&pditab=allpods&ecomp=tyffk&earg=sr0&prid=489e6e28-284e-463d-9b90-0d67eb5ce85c This is a Lexis/Nexis link which may cost non-subscribers money to access. (Access December 1, 2017)

[126] http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/acr_42_bill_20090717_chaptered.html (assessed November 30, 2017)

acknowledged the role it played in the invidious discrimination based on race in *In re Hong Yen Chang on Admission (posthumously)*, 60 Cal.4th 1169 (2015)[127]. Of course, it has always been known that historically, California had been inhospitable to any people, other than white people *unless they were wealthy*. *See e.g. Khan Academy,* "*Chinese immigrants and Mexican Americans in the age of westward expansion*[128]."

5.122. Native Americans Indians were not granted United States citizenship status by the Fourteenth Amendment. Elk v. Wilkins[129], 112 U.S. 94, 107 (1884) because they were considered "Indians not taxed."

I. *The Expansion of Suffrage is Accompanied by the End of Meaningful Representation*

5.123. In Pollock v. Farmers' Loan & Trust Co., 157 US 429 (1895) reconsidered at Pollock v. Farmers' Loan & Trust Co[130]., 158 US 601 (1895) the United States invalidated a direct tax on income or rents on real estate holdings as being unconstitutional under the apportionment clause. In that case (perhaps one of the last in which the Constitutional relationship between apportionment, representation, and slavery was discussed in depth with regard to Article I, §2) the Court stated:

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127 https://scholar.google.com/scholar_case?case=4664637927940824220&q=In+re+HONG+YEN+CHANG+on+Admission+(posthumously)+60+Cal.4th+1169+(2015)&hl=en&as_sdt=4,5 (accessed November 28, 2017)

128 https://www.khanacademy.org/humanities/ap-us-history/period-6/apush-american-west/a/apush-chinese-immigrants-and-mexican-americans-westward-expansion (accessed April 30, 2017)

129 https://scholar.google.com/scholar_case?case=15118083235858813035&q=112+U.S.+94&hl=en&as_sdt=4,60 (accessed November 27, 2017)

130 https://scholar.google.com/scholar_case?case=14112562519763534846&q=158+U.S.+601&hl=en&as_sdt=3,48 (accessed November 27, 2017)

> The compromise, in embracing the power of direct taxation, consisted not simply in including part of the slaves in the enumeration of population, but in providing that as between State and State such taxation should be proportioned to representation. The establishment of the same rule for the apportionment of taxes as for regulating the proportion of representatives, observed Mr. Madison in No. 54 of the Federalist, was by no means founded on the same principle, for as to the former it had reference to the proportion of wealth, and although in respect of that it was in ordinary cases a very unfit measure, it "had too recently obtained the general sanction of America, not to have found a ready preference with the convention," while the opposite interests of the States, balancing each other, would produce impartiality in enumeration. By prescribing this rule, Hamilton wrote (Federalist, No. 36) that the door was shut "to partiality or oppression," and "the abuse of this power of taxation to have been provided against with guarded circumspection;" and obviously the operation of direct taxation on every State tended to prevent resort to that mode of supply except under pressure of necessity and to promote prudence and economy in expenditure.

157 U.S. at 564.

5.124. The Federal Reserve Education Organization website observes about its history during this time period:

> 1871-1907: Financial Panic Prevails
>
> Although the National Banking Act of 1863 established some measure of currency stability for the growing nation, bank runs and financial panics continued to plague the economy. In 1893, a banking panic triggered the worst depression the United States had ever seen, and the economy stabilized only after the intervention of financial mogul J.P. Morgan. It was clear that the nation's banking and financial system needed serious attention.
>
> 1907: A Very Bad Year
>
> In 1907, a bout of speculation on Wall Street ended in failure, triggering a particularly severe banking panic. J.P. Morgan was again called upon to avert disaster. By this time, most Americans were calling for reform of the banking system, but the structure of that reform was cause for deep division among the country's citizens. Conservatives and powerful "money trusts" in the big eastern cities were vehemently opposed by "progressives." But there was a growing consensus among all Americans that a central banking authority was needed to ensure a healthy banking system and provide for an elastic currency.
>
> 1908 - 1912: The Stage is Set For Decentralized Bank

> The Aldrich-Vreeland Act of 1908, passed as an immediate response to the panic of 1907, provided for emergency currency issue during crises. It also established the national Monetary Commission to search for a long-term solution to the nation's banking and financial problems. Under the leadership of Senator Nelson Aldrich, the commission developed a banker-controlled plan. William Jennings Bryan and other progressives fiercely attacked the plan; they wanted a central bank under public, not banker, control. The 1912 election of Democrat Woodrow Wilson killed the Republican Aldrich plan, but the stage was set for the emergence of a decentralized central bank.
>
> 1912: Woodrow Wilson as Financial Reformer
>
> Though not personally knowledgeable about banking and financial issues, Woodrow Wilson solicited expert advice from Virginia Representative Carter Glass, soon to become the chairman of the House Committee on Banking and Finance, and from the Committee's expert advisor, H. Parker Willis, formerly a professor of economics at Washington and Lee University. Throughout most of 1912, Glass and Willis labored over a central bank proposal, and by December 1912, they presented Wilson with what would become, with some modifications, the Federal Reserve Act.
>
> The above information is available at History of the Federal Reserve at

https://www.federalreserveeducation.org/about-the-fed/history (accessed November 28, 2017)

5.125. The Sixteenth Amendment[131] to the United States Constitution, which was proposed on July 12, 1909 was ratified on February 3, 1913. That Amendment provides:

> The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

5.126. The Seventeenth Amendment[132] to the United States Constitution, which was proposed on May 13, 1912 was ratified on April 8, 1913. That Amendment states:

> The Senate of the United States shall be composed of two Senators from each State, ***elected by the people thereof***, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

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[131] https://www.usconstitution.net/xconst_Am16.html (accessed December 2, 2017)

[132] https://www.usconstitution.net/xconst_Am17.html (accessed December 2, 2017)

> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.
>
> This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

The Seventeenth Amendment was remarkable because it transferred the entire electoral franchise for Senators from the state legislatures to the people of each State.

5.127. On December 23, 1913 Congress passed the Federal Reserve Act.

5.128. The Federal Reserve Education Organization website observes:

> 1913: The Federal Reserve System is Born
>
> From December 1912 to December 1913, the Glass-Willis proposal was hotly debated, molded and reshaped. By December 23, 1913, when President Woodrow Wilson signed the Federal Reserve Act into law, it stood as a classic example of compromise—a decentralized central bank that balanced the competing interests of private banks and populist sentiment.
>
> 1914: Open for Business
>
> Before the new central bank could begin operations, the Reserve Bank Operating Committee, comprised of Treasury Secretary William McAdoo, Secretary of Agriculture David Houston, and Comptroller of the Currency John Skelton Williams, had the arduous task of building a working institution around the bare bones of the new law. But, by November 16, 1914, the 12 cities chosen as sites for regional Reserve Banks were open for business, just as hostilities in Europe erupted into World War I.
>
> 1914-1919: Fed Policy During the War
>
> When World War I broke out in mid-1914, U.S. banks continued to operate normally, thanks to the emergency currency issued under the Aldrich-Vreeland Act of 1908. But the greater impact in the United States came from the Reserve Banks' ability to discount bankers acceptances. Through this mechanism, the United States aided the flow of trade goods to Europe, indirectly helping to finance the war until 1917, when the United States officially declared war on Germany and financing our own war effort became paramount.

https://www.federalreserveeducation.org/about-the-fed/history (accessed November 28, 2017)

5.129. The decade between 1910 and 1920 represented a period of upheaval, not only in world politics but also in the distribution of the United States population.

5.130. World War I[133] began in July 1914. The United States entered World War I April 1917 and the war ended a year later in 1918.

5.131. With the United States' entry into World War I, many of the nation's young men were sent off to war. A significant number of those who remained moved from the rural areas of the nation to the major cities in order to help with the war effort. Also, waves of immigrants flooded urban areas in the U.S during World War I.

5.132. When the war came to an end, the nation found its population distribution in a state of flux. Many of its soldiers were still stationed in Europe, while still more of its formerly rural workers remained in the urban centers. The United States had in a matter of just ten years gone from having a mostly rural population to having a mostly urban one, and much of that population was demanding suffrage.

5.133. The Nineteenth Amendment[134] to the United States Constitution was proposed on June 4, 1919, and ratified less than two years later August 8, 2020. The Nineteenth Amendment provides:

> The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.
>
> Congress shall have power to enforce this article by appropriate legislation."[135]

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[133] https://en.wikipedia.org/wiki/World_War_I (accessed November 29, 2017)
[134] https://www.usconstitution.net/xconst_Am19.html (accessed November 27,(2017)
[135] There is little case law discussing the history of the Nineteenth Amendment. One commentator has suggested this is unfortunate because the failure to understand the roots of the

5.134. The Twentieth Amendment[136] was proposed on March 20, 1932 and ratified less than a year later on January 23, 1933. The Twentieth Amendment provides:

> 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.
>
> 2. ***The Congress shall assemble at least once in every year***, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.
>
> 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.
>
> 4. ***The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.***
>
> 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.
>
> 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

5.135. In 1934 the Nais were rapidly consolidating their hold over Germany. Adolf Hitler

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amendment, detracts from its significance. Siegel, Reva B., "*She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family*" (2002). Accessed at http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2116&context=fss_papers

[136] https://www.usconstitution.net/xconst_Am20.html (accessed December 1, 2017)

had been Chancellor for over a year and on November 5th, 1934 the most preeminent lawyers of the Third Reich were meeting to discuss how Germany would craft its race and genocide laws. Whitman, James Q., Princeton University Press, Hitler's American Model: The United States and the Making of Nazi Race Law[137] (2017)

5.136. The Nazi lawyers began by discussing American law. Their minister of justice presented a memorandum on American race law that included a great deal of detailed discussion of the laws of American states. American law continued to be a principal topic throughout that meeting and beyond. The most vicious among the lawyers present — were the most enthusiastic for the American example. *See* Moyer, Bill, "FOR THE RECORD**:** How the Nazis Used Jim Crow Laws as the Model for Their Race Laws[138]" (October 13, 2017)

5.137. American law was a model for everybody in the early 20th century who were interested in creating a race-based order or race state. America was the leader in a whole variety of realms in racist law in the first part of that century. Some of this involved American immigration law, which was designed to exclude so-called "undesirable races" from immigration. Other laws created second-class citizenship — for African-Americans, of course, but also for other populations including Asians, Native Americans, Filipinos and Puerto Ricans. Indeed, there were statutes in 30 American states forbidding and sometimes criminalizing interracial marriage. All of these American laws were of special interest to the Nazis as they devised their own attacks on non-Aryan races.

5.138. In 1939 World War II broke out. It lasted until 1945.

5.139. In 1940 California's 80 Assembly members each represented approximately

[137] https://press.princeton.edu/titles/10925.html (accessed November 30, 2017)
[138] http://billmoyers.com/story/hitler-america-nazi-race-law/ Accessed November 30, 2017.

86,875 people. California's 40 state senators each represented approximately 173,750 people.

5.140. By 1940 each member of the U.S. House of Representatives represented approximately 304,483 people. As always, each State had only two Senators, but now they were purportedly elected by the people at large.

5.141. In 1940, it was determined by the United States Attorney General that there were no longer any American Indians who should be classified as "not taxed" under the Fourteenth Amendment. 39 Op. Att'y. Gen. 518 (1940).

5.142. In October 1941, the mayor of Port Orford, Oregon Gilbert Gable proposed that the southern Oregon counties of Curry, Josephine, Jackson, and Klamath should join with the northern California counties of Del Norte, Siskiyou, and Modoc to form the new state of Jefferson as these rural areas were "underrepresented" by their respective State governments. There was nothing illegal or unconstitutional about seeking to create another State in this fashion as the original U.S. Constitution provided a procedure for doing so. *See* U.S. Const., Art IV, Sec 3[139].

5.143. The movement to split California and Oregon into three States in order to achieve self-governance for the people of the Oregon's Southern and California's northern counties lost momentum following 1) Japan's December 7, 1941 attack on Pearl Harbor and 2.) the United States subsequent entry in World War II on behalf of the Allies.

5.144. The war in Europe concluded with the unconditional surrender of Germany on May 8, 1945. The United States and its allies issued the Potsdam Declaration July 26, 1945 setting forth the terms of the surrender it would accept from Japan.

[139] https://www.usconstitution.net/xconst_A4Sec3.html (accessed on November 29, 2017)

5.145. In April and June, 1945, representatives of 50 nations met in San Francisco to complete the Charter of the United Nations. The U.S. Senate approved the UN Charter[140] on July 28, 1945, by a vote of 89 to 2.

5.146. Japan refused to surrender under the terms of the Potsdam Declaration. The United States dropped atomic bombs on the Japanese cities of Hiroshima and Nagasaki. Japan surrendered thereafter on August 15, 1945.

5.147. The United Nations came into existence on October 24, 1945, after 29 nations ratified its Charter.

5.148. Following Japan's surrender, the United States and its allies appointed United States General Douglas MacArthur as the Supreme Commander for the Allied Powers to oversee the occupation of Japan. MacArthur suspended Japanese laws restricting political, civil and religious liberties. MacArthur announced a general election to be held in April 1946 and also required the Japanese Diet (legislature) to pass a new election law providing for free democratic elections, which for the first time in the history women obtained the right to vote in Japan.

5.149. The Twenty Second Amendment[141] to the United States Constitution was proposed March 21, 1947 and was ratified on February 27, 1951. This Amendment provides:

> 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President, when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President

[140] http://www.un.org/en/sections/un-charter/un-charter-full-text/ (accessed November 29, 2017)

[141] https://www.usconstitution.net/xconst_Am22.html (accessed November 28,(2017)

during the remainder of such term.

2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

5.150. On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights[142] ("UDHR") G.A. Res. 217 A (III), U.N. Doc. A/810 was passed in (1948). Section 21 of this Declaration provides:

> Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

5.151. The Basic Law (Grundgesetz) for the Federal Republic of Germany[143] was promulgated by the Parliamentary Council (including the United States and its allies) for the Federal Republic of Germany on May 23, 1949. Article 21 of The Basic Law states in part:

> (1) The Federal Republic of Germany is a democratic and social federal state.
> (2) All state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive and judicial bodies.
> (3) The legislature shall be bound by the constitutional order, the executive and the judiciary by law and justice.
> (4) All Germans shall have the right to resist any person seeking to abolish this constitutional order, if no other remedy is available.

5.152. The American Declaration of the Rights and Duties of Man[144] ("American

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[142] http://www.un.org/en/universal-declaration-human-rights/ (accessed November 28, 2017)
[143] https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html (Accessed November 28, 2017.)
[144] http://www.globalhealthrights.org/instrument/american-declaration-of-the-rights-and-duties-of-man/ (accessed November 28, 2017)

Declaration"), was passed by the Organization of American States (OAS) in 1948 during this same period of time following World War II. Section XX of this Declaration provides:

> Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

5.153. District of Columbia residents have never had legislative representation in either the United States Senate or House of Representatives. The Twenty-Third Amendment[145] to the United States Constitution was proposed on June 17, 1960 and ratified less than a year later on February 27, 1961. This amendment treats the District of Columbia as if it were a State for purposes of appointing electors to the Electoral College, which elects the President and Vice-President. The Twenty- Third Amendment states:

> 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.
>
> 2. The Congress shall have power to enforce this article by appropriate legislation.

5.154. The Twenty-Third Amendment is consistent with the ***republican*** form of government our original founders contemplated and not inconsistent with America's renewed commitment to self-governance as has been evidenced by the ratification of subsequent Constitutional Amendments, including *Article the First* and enactment of statutes, treaties and

[145] https://www.usconstitution.net/xconst_Am23.html (accessed December 1, 2017)

the evolution of customary international law.

5.155. The Twenty-Fourth Amendment[146] to the United States Constitution was proposed on August 22, 1962 and ratified on January 24, 1964. This amendment provides:

> 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax[147] or other tax.
>
> 2. The Congress shall have power to enforce this article by appropriate legislation

5.156. On June 15, 1964, the United States Supreme Court decided Reynolds v Sims,[148] 377 U.S. 533 (1964). The Supreme Court ruled that the voting districts of state legislatures must have roughly equal populations. *Reynolds* was based on the Equal Protection Clause of the U.S. Constitution and it together with Wesberry v. Sanders[149], 376 U.S. 1, 7 (1964) established the "one person, one vote" rule, which remains the recognized opinion today. Consistent with this legal theory the Supreme Court has observed: "unconstitutional discriminations occur only when the electoral system is arranged in a manner that will consistently degrade a voter's or a group of voters' influence on the political process as a whole." Davis v. Bandemer[150], 478 U.S. 109,

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146 https://www.usconstitution.net/xconst_Am24.html (accessed November 29, 2017)

147 https://www.usconstitution.net/glossary.html#POLLTAX (accessed November 29, 2017)

148 https://scholar.google.com/scholar_case?case=3707795010433249200&q=reynolds+v+sims&hl=en&as_sdt=3,48 (accessed November 29, 2017

149 https://scholar.google.com/scholar_case?case=6357954371173516293&q=Wesberry+v.+Sanders&hl=en&as_sdt=3,48 (accessed November 29, 2017)

150 https://scholar.google.com/scholar_case?case=16393705826542726377&q=davis+v+bandemer&hl=en&as_sdt=3,48 (November 28, 2017

111(1986).

5.157. Based on information and belief the automatic apportionment act is intended to and does consistently degrade each plaintiff's influence on the political process as a whole by capping the apportionment of members of the house of representatives.

5.158. The Judicial Department's jaunt into the political thicket would not have been necessary if the obvious ratification of *Article the First* had been recognised as members of the U.S. House of Representative would represent only 50,000 persons in their district. Further, one person/one vote had been the law before the House of Representatives stopped increasing its members.

5.159. The Voting Rights Act[151] was enacted into law on August 1965. This statute outlawed discriminatory voting practices adopted by States to prevent citizens of the United States from exercising their rights to vote. The statute makes clear that it applies to the rights of self-governance, not just voting. In this regard the law states:

> A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that *the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.* (Emphasis Supplied)

5.160. The International Covenant on Civil and Political Rights[152] (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly with resolution 2200A (XXI) on December 16, 1966, which has been in force from March 23, 1976 in accordance with

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[151] https://www.justice.gov/crt/title-52-voting-and-elections-subtitle-1-voting-rights-chapter-103-enforcement-voting-rights (accessed November 28, 2017)

[152] http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx (accessed November 30, 2017)

Article 49 of the covenant. The United States is a signatory to this treaty, which provides in part:

> **Article 1**
>
> 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
>
> * * *
>
> 3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.
>
> * * *
>
> **Article 25**
> Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:
>
> (a) To take part in the conduct of public affairs, directly or through freely chosen Representatives;
>
> (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
>
> (c) To have access, on general terms of equality, to public service in his country.

5.161. While the United States was in the throes of the Vietnam War and protests were underway, Congress enacted a law allowing those who were old enough to be drafted, ie. 18 years old, the right vote in State and Federal elections. A sharply divided Supreme Court held in Oregon v Mitchell[153] , 400 U.S. 112 (1970) that Congress had the power to lower the voting age to 18 for national elections, but not for State and local elections.

5.162. The Twenty-Sixth Amendment to the United States Constitution was proposed on March 23, 1971 and ratified less than five months later on July 1, 1971. That Amendment

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153 https://scholar.google.com/scholar_case?case=18035308696879166506&q=400+U.S.+112&hl=en&as_sdt=3,48 (November 29 (2017)

provides:

> 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
>
> 2. The Congress shall have power to enforce this article by appropriate legislation.

5.163. In 1984 Congress passed the Voting Accessibility for the Elderly and Handicapped Act[154] to promote the fundamental right for handicapped and elderly (over 65 years of age) people to have accessible registration and polling places to vote in Federal elections.

5.164. People with disabilities include disproportionate amounts of disempowered communities including the elderly, the poor, people of color, women, and veterans. Congress enacted the ADA to insure disabled rights of self-governance. ARTICLE: Contemporary Voting Rights Controversies Through the Lens of Disability[155], 68 Stan. L. Rev. 1491 (2016)

5.165. In 1992 the Jefferson movement to achieve meaningful representation for the people living in Northern California counties resurfaced. State Assemblyman Stan Statham proposed advisory votes in 31 counties asking if California should be split into two. Of the 31 counties which voted on the measure 27 approved it. Based on these results, Statham introduced legislation in California Assembly to consider the self-governance of Northern California, *but the bill died in committee*.

5.166. On May 7, 1992, the Twenty Seventh Amendment[156] to the United States was

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[154] https://www.law.cornell.edu/uscode/text/52/subtitle-II/chapter-201 (accessed November 30, 2017)

[155] https://www.thefreelibrary.com/Contemporary+voting+rights+controversies+through+the+lens+of...-a0460507856 (accessed November 30, 2017)

[156] https://www.usconstitution.net/xconst_Am27.html (accessed December 1, 2017)

ratified. As will be recalled this Amendment was proposed by Congress as *Article the Second* on September 25, 1789. This Amendment states: "No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened."

5.167. The Convention on the Rights of People with Disabilities [157]was adopted in 2006 and entered into force in 2008. Article 29 of that Convention states in pertinent part:

> Article 29: Participation in political and public life States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, …
>
> These rights include and incorporate those related to self-governance and access to justice.

5.168. People in the State of Jefferson Movement in California continued to express their concern about lack of representation in the California legislature. This concern caused several northern counties to petition to separate from the State in 2013 and 2014. Ultimately, a lawsuit was filed this year (a copy of the proposed amended complaint is attached Exhibit 1 hereto) with the United States District Court in the Eastern l District Court, Sacramento Division challenging the constitutional requirement that representation of California's 40,000,000 people be forever limited to 120 legislators because the United States has enacted a law limiting the members of the House of Representatives to only 435 members.

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157 https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html (accessed on December 2, 2017)

J. *Facts Related to Apportionment of Representatives Over Time in the United States*

5.169. Attached hereto as Exhibit 2[158] is a copy of an apportionment table, which documents Congress apportionment following enumerations from the beginning of the Union until 2010, the last time a decennial census was performed. CFR Intervenor plaintiffs would ask this Court take judicial notice that Congress has never attempted to comply with the mandates of *Article the First*.

5.170. From 1790 until 1840 as States were added to the Union and as the actual national population increased, Congress by statute also increased the total number of members in the United States House of Representatives until 1840.

5.171. Because of a change in the way apportionment was calculated the apportionment of House members actually decreased based on the Sixth Decennial Census Congress in 1840 for the first and only time.

5.172. Following the Seventh and Eighth Decennial Census in 1850 and 1860 Congress again increased the total number of Representatives elected to the House of Representatives.

5.173. There was a dramatic change in the way the Numbers were calculated for apportionment purposes following the Ninth Decennial Census in 1870 because of the outcome of the Civil War and the passage of the Fourteenth Amendment §2[159], which increased the number apportionment value of slaves for both representation and direct tax purposes from ⅗ of a person to whole persons.

5.174. Every ten years thereafter going forward each successive Act of Congress apportioning the House of Representatives resulted in an increase in the number of

[158] https://foxx.house.gov/uploadedfiles/state_apportionment.pdf (accesssed December 4, 2017)
[159] https://www.usconstitution.net/xconst_Am14.html (accessed December 1, 2017)

Representatives as the number of States and the population continued to increase over time until 1910.

5.175. By the time of the Thirteenth Decennial Census in 1910 there were now 46 States in the Union that had a purported population of 92,228,496 People.

5.176. To put these facts in perspective, after the first official census the number of Representatives grew from 65 to 106. Bureau of the Census, U.S. Department of Commerce, 1990 CPH-2-1, 1990 Census of Population and Housing: Population and Housing Unit Counts[160] 3–4 tbl.3 (1992), By 1880, this number had risen to 332, and by 1911 (just 31 years later), the number of representatives had jumped to 435 for 92,228,496 people.

5.177. In other words, the average number of inhabitants represented by each House member increased from 33,000 in 1790 to 176,000 by 1890. However, if *Article the First*, which had been ratified in 1792 had been compiled with, this apportionment growth passed by Congress both for purposes of representation and taxes could not have withstood Constitutional muster because there was required to be one U.S. Representative for every fifty thousand people or approximately 3 times more than existed in 1890.

5.178. In the Spring of 1911 Congress passed, and the President signed, an Act Apportioning the United States House of Representatives relying upon a math theory known as the "Method of Major Fractions". Relying upon the "Method of Major Fractions" Congress now apportioned ***only*** 433 Representatives among the 46 States, and made provision for 1 Representative for each of the then Territories of Arizona and New Mexico, both of whom were

[160] https://www.census.gov/prod/cen1990/cph2/cph-2-1-1.pdf (Accessed December 1, 2017)

pending Statehood. This apportionment was to remain in effect until the next Decennial Apportionment, which was constitutionally required to occur in 1920, ***but never did.***

5.179. In 1920 the Fourteenth Decennial Census reported a national population of 106,021,537. This was the first time that the nation's recorded national population exceeded 100 million People.

5.180. The 1920 Census established the United States' population was more populous, diverse, urban, and younger than it had been just a decade prior. If Congress were to reapportion and augment its numbers as required by the Constitution, many of the more rural states whose citizens had relocated to more urban states would lose representatives.

5.181. Furthermore, states which had seen a recent influx of ethnically diverse immigrants—states which tended to be more urban— would receive a significant increase in political clout. At the same time, rural representatives from urban states had a vested interest in preventing reapportionment, as the anti-gerrymandering laws passed over the previous decades required the states to adhere to the principle of one person, one vote.

5.182. Under such a system, any state whose population had shifted internally from rural to urban areas would have to reallocate its representatives accordingly, potentially redistricting out many rural representatives.

5.183. Finally, the National Association for the Advancement of Colored People (NAACP) and other civil rights groups had begun to aggressively lobby Congress to enforce Section 2 of the Fourteenth Amendment, which required Congress to decrease the basis of

representation for any state that denied non-white males the right to vote. *See e.g.* Chicago Race Riot of 1919[161].

5.184. These forces—the rural interests, representatives from areas guilty of racial discrimination, slow growing states, and the xenophobes—carried enough weight to block Congress from reapportioning the House in 1920 as was constitutionally mandated for the first time in United States history.

5.185. Congress was enabled to refuse to perform its Constitutional obligation to apportion the U.S. House of Representatives in 1920 not only by the desire of most of its members to do so, but also by the passage of the Sixteenth Amendment in 1913 which uncoupled income taxes from those direct taxes which had to be apportioned under Art. I, §2 and the Fourteenth Amendment, §2 to operate the federal government.

5.186 In that same year (1913) Congress also passed the Federal Reserve Act, which allowed the government to borrow money from Bankers in order to to keep the federal government operating.

5.187. The Sixty Seventh Congress convened on March 4, 1921 with 435 Representatives in the United States House of Representatives (as Arizona and New Mexico had now become States).

5.188. Notwithstanding that the United States Const. Art. 1 §2[162] as modified by the Fourteenth Amendment[163] § 2 mandated the House of Representatives be apportioned based on the 1920 census (Fourteenth Decennial Census) among the then existing 48 States, Congress

[161] https://en.wikipedia.org/wiki/Chicago_race_riot_of_1919 (accessed December 1, 2017)
[162] https://www.usconstitution.net/xconst_A1Sec2.html (accessed December 1, 2017)
[163] https://www.usconstitution.net/xconst_Am14.html (accessed December 1, 2017)

refused to do so. The reason the people's house refused to perform this constitutional duty was because its members no longer represented the people in the way the Constitution contemplated.

5.189. For all practical purposes the federal government's failure to perform its constitutional duty to apportion, coupled with each State enacting new ballot access and restriction laws, amounted to a coup on the House of Representatives by the dominant political parties, namely the Republican and Democratic parties.

5.190. Following the House's illegal and unconstitutional failure to apportion the house from 1920 until 1930 minority parties became extinct in the people's house a/k/a the United States House of Representatives, when prior to this they were not.

5.191 In June of 1929 Congress passed an act which has become known as the "Automatic Apportionment Act of 1929". The act provided for an apportionment under: (1) the method of the last preceding apportionment; (2) the method of major fractions; and (3) the method of equal proportions. It provided the president should submit to the Congress the apportionment population of every state showing the apportionment for each state according to the then existing membership of the House under each of the three methods. Then if the Congress did not enact a new act, each state was entitled in the second succeeding Congress and each subsequent Congress thereafter to the number of representatives shown by the method used in the last preceding census. The requirements of the reapportionment act of 1929 were complied with in December, 1930 and the Congress took no action since the method used in the last preceding apportionment in 1910 was that of major fractions that method was followed. There was no change in the size of the House notwithstanding that the population of the country and

the States within it had changed dramatically. *See* Emanuel Celler, *Congressional Apportionment--Past, Present and Future*[164], 17 Law & Contemp Probs 268 (1952).

5.192. Due to the enactment of the Twentieth Amendment, it was impossible for the president in 1940 to comply with the requirements of the act of 1929 to submit a report since the census had not been taken in January of 1940. Remedial legislation was enacted by requiring the report to be submitted within one week of the beginning of the first session of the Seventy-Seventh Congress, and each fifth Congress thereafter. *Id.*

5.193. The automatic reapportionment act of 1929 was amended in 1941 by changing the method to that of equal proportions. *Id.*

5.194. In 1951 Congressman Emmanuel Cellars, then Chairman of the the Judiciary Committee for the United States House of Representatives, wrote the article referred to in ¶ 5.191 above. In that article Cellar's pointed out that instead of using *Article the First* (which he did not mention) as the source of its authority for setting the number of house members, Congress was using U.S. Const. Art 1, §4, which does not specifically provide that authority. Further, Cellars urged the Supreme Court to take up several of apportionment issues, which the Court did in the early sixties, notwithstanding that simply following *Article the First* would have resolved virtually all of them.

5.195. The size of the United States House of Representatives has remained at the arbitrary number of 435 Representatives except for a brief period at the end of 1950 when the number was temporarily increased to 437 when 1 Representative was temporarily added for

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164 https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2524&context=lcp (accessed December 1, 2017)

Alaska and 1 Representative was temporarily added for Hawaii to remain in place until after the next Decennial Apportionment unless Congress ordered otherwise. As Congress later took no independent action, after the Eighteenth Decennial Census in 1960, the size of the House of Representatives was reduced back to 435 Representatives apportioned among the now 50 States at Eighteenth Decennial Apportionment.

5.196. In 1992 there were two judicial challenges to the Automatic Apportionment Act: *Department of Commerce v. Montana*[165], 503 *U.S.* 422 (1992) and Franklin v. Massachusetts[166], 505 U.S. 708 (1992). Neither court challenge to the apportionment procedures claimed the apportionment violated *Article the First* or that such article was a valid Constitutional Amendment. Neither the *Montana* nor *Massachusetts* decisions involved claims by individuals based on structural Separation of Powers or Federalism violations which adversely affected their individual liberty interests. In *Department of Commerce v Montana* a unanimous Supreme Court stated:

> The District Court suggested that the automatic character of the application of the method of equal proportions was inconsistent with Congress' responsibility to make a fresh legislative decision after each census. We find no merit in this suggestion. ... To the extent that the potentially divisive and complex issues associated with apportionment can be narrowed by the adoption of both procedural and substantive rules that are consistently applied year after year, the public is well served, ***provided, of course, that any such rule remains open to challenge or change at any time***. … (emphasis supplied)

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165 https://scholar.google.com/scholar_case?case=9639403801322368657&q=Department+of+Commerce+v.+Montana&hl=en&as_sdt=4,60 (accessed on December 1, 2017)

166 https://scholar.google.com/scholar_case?case=17648124652753755136&q=Franklin+v.+Massachusetts&hl=en&as_sdt=4,60 (accessed December 1, 2017)

5.198 After further amendment in 1996 (Public Law 104-186, Title II, Section 201, August 20, 1996 (110 *Stat.* 1724)) the "Automatic Apportionment Act of 1929" is still in effect today, still operates automatically, and still relies exclusively upon the "Method of Equal Proportions" against the base number of 435, 50 States, and each State's population. It is codified at 2 U.S.C. 2 and is unconstitutional for the reasons stated herein.

K. *The Correct Apportionment under Article the First*

5.199. When the Constitutional requirements of *Article the First*, which require the growth of members of the House of Representatives be calculated pursuant to the constitutional requirement that "*… that there shall be not less than two hundred Representatives, nor more than one Representative for every fifty thousand persons …*" the actual amount of representatives for the United States House of Representatives based on the apportionment population of each State as per the 2010 apportionment population in each State should be:

Correct Apportionment under Article the First based upon 2010 Census				
State	***# of Reps***		***State***	***# of Reps***
Alabama	96		**Montana**	20
Alaska	15		**Nebraska**	37
Arizona	129		**Nevada**	55
Arkansas	59		**New Hampshire**	27
California	747		**New Jersey**	177
Colorado	101		**New Mexico**	42
Connecticut	72		**New York**	389
Delaware	19		**North Carolina**	192
Florida	379		**North Dakota**	14

Georgia	195		**Ohio**	232
Hawaii	28		**Oklahoma**	76
Idaho	32		**Oregon**	77
Illinois	258		**Pennsylvania**	255
Indiana	131		**Rhode Island**	22
Iowa	62		**South Carolina**	93
Kansas	58		**South Dakota**	17
Kentucky	88		**Tennessee**	128
Louisiana	112		**Texas**	506
Maine	25		**Utah**	56
Maryland	116		**Vermont**	13
Massachusetts	132		**Virginia**	161
Michigan	199		**Washington**	136
Minnesota	107		**West Virginia**	38
Mississippi	60		**Wisconsin**	114
Missouri	121		**Wyoming**	12

5.200. While suffrage has been greatly expanded, the value of each plaintiff's' individual vote and right to self governance has been unconstitutionally abridged and and diluted by the failure to increase California's representatives pursuant to the mandates of *Article the First* and/or pursuant to the Separation of Powers, Federalism, and Checks and Balances structure of our Constitution.

V. CAUSES OF ACTION

1st CAUSES OF ACTION* - *Relief Compelling Officials Of The States Of Virginia, Connecticut And Kentucky To Provide "Official Notice" Of Their State's Actions, If Any, With Regard To The Ratification Of Article The First

6.1. CFR Intervenors re-allege all of the allegations previously stated herein.

6.2. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a), 28 *U.S.C.* §2202, 28 *U.S.C.* §1361 and *Cheney v. United States District Court,* 542 *U.S.* 367 (2004) and / or 28 *U.S.C.* §1367 and the *Code of Virginia* §8.01 – 184, *Connecticut General Statute* 59-29 and *Kentucky Revised Statutes* 418.045, 418.050 and 418.055 to an order or judgment directing by way of *mandamus* and compelling the named Virginia State Officials, Connecticut State Officials and Kentucky State Officials to take measures and to actually provide "official notice" of the unreported ratification actions of their respective State Legislatures as enumerated in Plaintiffs' Complaint to Defendant Archivist of the United States;

***2nd CAUSE OF ACTION* - Relief Compelling United States Archivist To Certify And Publish That Article The First Is A Valid Amendment To The United States Constitution.**

6.3. CFR Intervenors re-allege all of the allegations previously stated herein.

6.4. CFR Intervenors are entitled pursuant to the United States Constitution, 5 *U.S.C.* §702, 28 *U.S.C.* §2201(a), 28 *U.S.C.* §2202, 28 *U.S.C.* §1361 and *Cheney v. United States District Court,* 542 *U.S.* 367 (2004) to an order directing and compelling Defendant David Ferriero, Archivist to the United States, upon receipt of "official notice" from the named Virginia State Officials, Connecticut State Officials and Kentucky State Officials of the unreported ratification actions of their respective State Legislatures regarding *Article the First* as enumerated in Plaintiffs' and Intervenor CFR plaintiff's Complaint, to then in turn immediately declare, certify and publish that *Article the First* is valid, to all intents and purposes, as a part of the Constitution of the United States, as he is ministerially required to do by 1 *U.S.C.* §106(b).

3rd CAUSE OF ACTION - Application Of Scrivener's Error Doctrine

6.5. CFR Intervenors re-allege all of the previous allegations stated herein.

6.6. This Court should apply the "Scrivener's Error Doctrine" and declare and confirm that the correct, fully ratified and consummated, literal text of *Article the First* is as follows:

> **[Line 1]** 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,
> **[Line 2]** after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor ***more*** than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred,
> **[Line 3]**after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons.

4th CAUSES OF ACTION - 2 U.S.C. §2(a) Is Unconstitutional

6.7. CFR Intervenors re-allege all of the previous allegations stated herein.

6.8. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.* §2202 to an order and judgment declaring that the specific text in 2 *U.S.C.* §2(a) that reads "…*under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions* ..." is unconstitutional and / or has been superseded with the non-discretionary legal standards for Apportioning the United States House of Representatives as stated in Line 3 of *Article the First,* an amendment to the *United States Constitution.*

6.9. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.* §2202 to an order and judgment that the specific text in 2 *U.S.C.* §2(a) that reads "…*under an apportionment of the then existing number of Representatives by the*

method known as the method of equal proportions ..." be severed from the United States such statute and replaced with the mandatory non-discretionary legal standards for Apportioning the United States House of Representatives as stated in Line 3 of *Article the First,* an amendment to the *United States Constitution,* to wit: "*… that there shall be not less than two hundred Representatives, nor less than one Representative for every fifty thousand persons …*";

6.10. CFR Intervenors are entitled pursuant to the United States Constitution, 5 *U.S.C.* §702, 28 *U.S.C.* §2201(a), 28 *U.S.C.* §2202, 28 *U.S.C.* §1361 and *Cheney v. United States District Court,* 542 *U.S.* 367 (2004) to an order and judgment compelling Defendant Honorable Wilbur Ross, United States Secretary of Commerce, to recalculate and transmit to the President of the United States a corrected and revised "Table" showing the apportionment population of each State, as well as the number of Representatives to which each State is entitled to at and after the One Hundred and Fifteenth Congress, based on the mandatory non-discretionary constitutional standard in Line 3 of *Article the First* "*… that there shall be not less than two hundred Representatives, nor more than one Representative for every fifty thousand persons …*". The number of Representatives that this Court should order each State is entitled to under *Article the First* is set forth in paragraph 5.199 hereof.

6.11. CFR Intervenors are entitled pursuant to the United States Constitution, 5 *U.S.C.* §702, 28 *U.S.C.* §2201(a), 28 *U.S.C.* §2202, 28 *U.S.C.* §1361 and *Cheney v. United States District Court,* 542 *U.S.* 367 (2004) to an order and judgment compelling Defendant the Honorable Donald J. Trump, President of the United States, to use information in the revised "Table" set forth in Paragraph 5.199 hereof to prepare a revised "President's 2 *U.S.C.* §2(a) Apportionment Statement", and for the President to transmit to Congress this revised

"President's Apportionment Statement" "… showing the whole number of persons in each State, … and the number of Representatives to which each State would be entitled …", with the number of Representatives Apportioned to each State in the One Hundred and Fifteenth Congress and thereafter in the revised "President's 2 *U.S.C.* §2(a) Apportionment Statement."

6.12. CFR Intervenors are entitled pursuant to the United States Constitution, 5 *U.S.C.* §702, 28 *U.S.C.* §2201(a), 28 *U.S.C.* §2202, 28 *U.S.C.* §1361 and *Cheney v. United States District Court,* 542 *U.S.* 367 (2004) an order and judgment directing that Defendant Karen L. Hass, Clerk of the United States House of Representatives, upon receipt of the revised "President's Apportionment Statement", to send to the executive of each State a revised and corrected "House Clerk's 2 *U.S.C.* §2(b) Certificate" enumerating the number of Representatives to which such State is entitled in the United States House of Representatives at the One Hundred and Fifteenth Congress and thereafter, and the present number of vacancies for Representatives at the One Hundred and Fifteenth Congress and thereafter, for each State under an Apportionment conducted in accordance with the standards of *Article the First,* an amendment to the United States Constitution, to wit:

Apportionment under Article the First						
State	***# of Reps***	***# Vacancies***		***State***	***# of Reps***	***# Vacancies***
Alabama	96	89		**Montana**	20	19
Alaska	15	14		**Nebraska**	37	34
Arizona	129	120		**Nevada**	55	51
Arkansas	59	55		**New Hampshire**	27	25
California	747	694		**New Jersey**	177	165
Colorado	101	94		**New Mexico**	42	39
Connecticut	72	67		**New York**	389	362

Delaware	19	18	**North Carolina**	192	179
Florida	379	352	**North Dakota**	14	13
Georgia	195	181	**Ohio**	232	216
Hawaii	28	26	**Oklahoma**	76	71
Idaho	32	30	**Oregon**	77	72
Illinois	258	240	**Pennsylvania**	255	237
Indiana	131	122	**Rhode Island**	22	20
Iowa	62	58	**South Carolina**	93	86
Kansas	58	54	**South Dakota**	17	16
Kentucky	88	82	**Tennessee**	128	119
Louisiana	112	106	**Texas**	506	470
Maine	25	23	**Utah**	56	52
Maryland	116	108	**Vermont**	13	12
Massachusetts	132	123	**Virginia**	161	150
Michigan	119	105	**Washington**	136	126
Minnesota	107	99	**West Virginia**	38	35
Mississippi	60	56	**Wisconsin**	114	106
Missouri	121	113	**Wyoming**	12	11

6.13. CFR Intervenors are entitled pursuant to the United States Constitution, 5 *U.S.C.* §702, 28 *U.S.C.* §2201(a), 28 *U.S.C.* §2202, 28 *U.S.C.* §1361 and *Cheney v. United States District Court,* 542 *U.S.* 367 (2004) to an order and judgment compelling Defendant Governors in each of the 50 States to issue, pursuant to the authority of Article I, Section 2 of the *United States Constitution,* Writs of Election to fill the vacancies remaining in each respective State, and the Defendant named State Officials from each of the States to administer, at large special

elections in each State as required for vacancies in accordance with 2 *U.S.C.* §2(c), as are set forth in the preceding paragraph.

6.14. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.* §2202 to an order and judgment declaring that with a minimum number of 6,230 Representatives constitutionally required to be Apportioned among the 50 States, that 3,116 Representatives must appear, present their credentials, and be sworn in and take their seats before the United States House of Representatives at the One Hundred and Fifteenth Congress will have achieved the Majority i.e. "*Quorum to do Business*" required by Article I, Section 5 of the *United States Constitution;*

6.15. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.* §2202 to an order and judgment specifically declaring "Resolution 2" of January 3, 2017 of Defendant United States House of Representatives finding a *Quorum* present for the One Hundred Fifteenth Congress to conduct business is invalid and void as the required 3,116 Majority "*i.e. Quorum to do Business*" required by Article I, Section 5 of the *United States Constitution* Representatives had not yet appeared, presented their credentials, been sworn in and been seated;

6.16. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.* §2202 to an order and judgment declaring the January 3, 2017, vote of Defendant United States House of Representatives for the One Hundred Fifteenth Congress purportedly electing Defendant Honorable Paul Ryan to the constitutional position of "Speaker of the House" for the One Hundred Fifteenth Congress void as the required 3,116 Majority i.e. "*Quorum to do Business"* required by Article I, Section 5 of the *United States Constitution*

Representatives had not yet appeared, presented their credentials, been sworn and taken their seats;

6.17. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.*§2202 to an order and judgment specifically declaring any and all Business and votes taken by Defendant United States House of Representatives for the One Hundred Fifteenth Congress void *ab initio* because the required 3,116 Majority *i.e.* "*Quorum to do Business*" required by Article I, Section 5 of the *United States Constitution* Representatives had not yet appeared, presented their credentials, been sworn and taken their seats;

6.18. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.* §2202 to an order and judgment specifically enjoining and restraining each individually named Representative, whether acting individually or together with other Representatives, who have to date appeared, presented their credentials, been sworn, and taken their seats, from conducting any Article I legislative business unless and until such time as 3,116 Representatives, the Majority "… *Quorum to do Business …"* required by Article I, Section 5 of the *United States Constitution* Representatives, have appeared, presented their credentials, been sworn and taken their seats;

6.19. CFR Intervenors are entitled pursuant to the United States Constitution, 28 *U.S.C.* §2201(a) and 28 *U.S.C.* §2202, 5 *U.S.C.* §702, 28 *U.S.C.* §2201(a), 28 *U.S.C.* §2202, 28 *U.S.C.* §1361 and *Cheney v. United States District Court,* 542 *U.S.* 367 (2004) to an order and judgment declaring that each State shall have the following number of members appointed to the Electoral College pursuant to *Article the First* and U.S. Const. Art. 2,§ 1 in 2020:

Correct Apportionment for the Electoral College				
State	***# Electors***		***State***	***# Electors***
Alabama	98		**Montana**	22
Alaska	17		**Nebraska**	39
Arizona	131		**Nevada**	57
Arkansas	61		**New Hampshire**	29
California	749		**New Jersey**	179
Colorado	103		**New Mexico**	44
Connecticut	74		**New York**	391
Delaware	21		**North Carolina**	194
Florida	381		**North Dakota**	16
Georgia	197		**Ohio**	234
Hawaii	31		**Oklahoma**	78
Idaho	34		**Oregon**	79
Illinois	260		**Pennsylvania**	257
Indiana	133		**Rhode Island**	24
Iowa	64		**South Carolina**	95
Kansas	60		**South Dakota**	19
Kentucky	100		**Tennessee**	130
Louisiana	114		**Texas**	508
Maine	27		**Utah**	58
Maryland	118		**Vermont**	15
Massachusetts	134		**Virginia**	163
Michigan	201		**Washington**	138
Minnesota	109		**West Virginia**	40
Mississippi	62		**Wisconsin**	116
Missouri	123		**Wyoming**	14

5th CAUSES OF ACTION* - *2 U.S.C. §2(a) Is Unconstitutional Because It Violates The Separation Of Powers As Well As The Checks And Balances Of The United States Constitution

6.20. Alternatively, if *Article the First* has not been ratified, 2 U.S.C. §2(a) is still unconstitutional because it violates the Separation of Powers structure of the United States Constitution in ways which concretely and adversely affect those individual liberties of Plaintiff Intervenors in ways intended to be protected the Constitution and in a manner which this Court can redress through an exercise of Article III judicial power.

6.21. The great experiment and promise of Independence - "We The People" – launched the American Revolution that led to The United States of America, which was based on the fundamental founding principles of "No taxation, without Representation" & "Give me Liberty, or give me death."

6.22. The paramount principle of representative government - that the people themselves provide the basis for governmental sovereignty and legitimacy - has been abridged by the United States House of Representatives which has through 2 U.S.C. 2a unconstitutionally reconstituted itself as an oligarchy or aristocracy, where each member presently represents approximately 700,000 and will soon likely represent more . This neglect of "We the People" as the organic basis for this nation's self-governance stems from the 435 cap on House members the Congress has placed on the number of members in the United States House of Representatives. This cap is contrary to to the number of representatives per capita contemplated by our founders (between 30,000 and 60,000 per Representative) and the purposes of this nation's founding and evolution.

6.23. Prior to 1910 the apportionment of representatives and direct taxes grew organically based on the increases in numbers of each State and the addition of new States to the Union. This stopped in 1913 when the Federal Reserve Bank was created to lend money to the United States and the power to levy income taxes was constitutionally declared not to be a direct tax, which had to be apportioned pursuant to Art. 1, §2. Relieved of the responsibility to apportion for purposes of financing the government, the government chose to never again apportion the number of representatives in a meaningful way which reflected the purposes for the people's house, i.e. the United States House of Representatives.

6.24. Although suffrage was thereafter dramatically increased it meant nothing in terms of increasing the people's representation in government. Indeed, increased suffrage has directly decreased the people's representation in government generally and the House of Representatives specifically. This is because members of the people's chamber (United States House of Representatives) have become tethered to obtaining the money necessary to win elections in in bloated legislative districts as opposed to representing their constituents who are now so numerous as to have little in common.

6.25. Giving suffrage to millions of additional citizens without increasing the numbers of people who represent them has not increased the political power of the people, it has lessened it. New voters are dumped into a vast mass of people, who have little in common and no means by which to evaluate those candidates who want to represent them and so many others.

6.26. The primary means of ensuring agent loyalty in a democracy is supposed to be electoral accountability. However, when the election of a political actor is decoupled from loyalty to their constituents, representatives will naturally fall under the sway of the actor to

whom they owe their position. In the current system, with its patchwork system of campaign finance reform, the primary means of election has become the two party political apparatus, which has made itself necessary to achieve election in the House of Representatives.

6.27. Those parties cannot be expected to, and have not, done anything to restore the agency relationship between the people and their representative because to do so will harm their own interests in controlling the affairs of government for those who enable their election by the vast numbers of people who reside in their election districts.

6.28. Decreasing the size of federal districts for members of the House of Representatives to those contemplated by Congress (60,000 or less) will promote the ability of constituents to have a meaningful relationship with those who are elected to represent them and make those representatives more accountable to their constituents as opposed to those who can finance campaigns in districts of over 700,000 people.

6.29. When the ratio of representation rises to the level where the offices holder's primary loyalty no longer lies with the electorate, this justification of democratic republican government becomes less compelling because it no longer works.

6.30. Thus, an adequate ratio of representation serves as more than just a check on the representatives—it also represents a key component of mainstream theories of democratic legitimacy, such have been continuously expressed by the people and their States through their amendments to the Constitution, changes in statutes, and adoption of international agreements.

6.31. The United States cannot expect that turning over its government to two political parties who have their own interests to vindicate and as a result have created an oligarchy in the people's house is something which should not be discussed. But that is exactly the result of the

automatic apportionment clause which causes these fundamental issues tending to destroy the vision of our founders structure of government to never be discussed by the legislative branch of government.

6.32. Congress delegation of authority to the Article II Executive Branch to simply announce that the House of Representatives still has only 435 members, without any discussion of whether this is appropriate, violates the Separation of Powers structure of our government because it ignores the purpose as to why governmental power is separated.

6.33. On information and belief, this is the reason so many of us in the United States are considered second class citizens because we can't afford a place at the table where only one in 700,000 is invited.

6.34. Four-hundred thirty five (435) Representatives, especially when they must obtain millions of dollars in contributions to be elected, does not provide that level of representation mandated by the Separation of Powers, which intends that as part of their representation of the people they will perform oversight of the other branches of government and the States. Even if Representatives were not spending most of their time "dialing for dollars", 435 representatives would not be sufficient to perform these responsibilities as is indicated by the allegations of Cindy Brown and Tanya Nemcik with regard to the corruption and/or competence of the State and Federal judiciary.

6.35. Further, arbitrarily limiting the number of representatives denigrates the role the people were intended to play in the election of electors, who elect the President, the head of the United States Article II executive branch of government. By keeping the number of representatives stagnant, while the population of those represented increases dramatically, their

voices are not heard in proportion to the power they were intended to have by our founders and the States which ratified the Constitution.

6.36. 2 U.S.C 2a inappropriately delegates the Constitutional law making responsibility of decennial apportionment of representatives in the House of Representatives required by article 1 section 2 and the Fourteenth Amendment exclusively to the the Article II executive branch of government without the requirement that any of the liberty interests reserved to the people be considered. Consequently, the direction to simply accept the previous apportionment of 435 representatives avoids consideration of those structural components of the Constitution designed to promote justice and the people's liberty interests in preserving the Separation of Powers and the checks and balances related thereto, including without limitation: Art I, § 2 ("Apportionment Clause); Article I, Section II of the Fourteenth Amendment, Article I; Section I, §11 ("Vesting Clause"), Article 1, § 7, Cl. 2 ("Bicamerality Clause") Article I, §7 Cl. 3 ("Presentment Clause") and Article II, Section I and the 12th and 23rd Amendments (Fair representation in the Electoral College") of the United States Constitution.

<u>6th CAUSES OF ACTION</u> - 2 U.S.C. §2(a) Is Unconstitutional Because It Violates Our Federalism Structure As Well As The Checks And Balances Of The United States Constitution Related Thereto

6.37. Plaintiffs incorporate all of their previous allegations herein.

6.38. Federalism, central to this nation's constitutional design, adopts the principle that both the Federal government and each State government have elements of sovereignty the other is bound to respect.

6.39. A central purpose for the federal structure of the United States is to protect the

liberty interests of the people. *Bond v. United States*[167], 564 U.S. 211, 222-224 (2011).

6.40. James Madison contended "[i]n the compound republic of America a double security arises to the rights of the people. ... The different governments will control each other, at the same time that each will be controlled by itself." The Federalist No. 51[168]. Alexander Hamilton in The Federalist No. 28[169] observed: "Power being almost always the rival of power, the general government will at all times stand ready to check the usurpations of the state governments, and these … will have the same disposition towards the general government."

6.41. Thomas Jefferson agreed the way "to have a good government is not to trust it all to one, but to divide it among the many…" According to Jefferson "[t]he elementary republics of the wards, the county republics, the State republics, and the Republic of the Union, would form a gradation of authorities … holding every one its delegated share of powers…" Letter from Thomas Jefferson to Joseph C. Cabell (Feb. 2, 1816)[170].

6.42. 2 U.S.C. 2a has created an de facto and de jure oligarchy/aristocracy in the House of Representatives where most representatives cannot and do not actually represent the more than 700,000 inhabitants they are supposed to serve. Accordingly, each Representative acts primarily as only legislator representing political parties, rather than constituents (as opposed to representatives who legislate on behalf of the interests of a discernable constituency). This undermines the people's' role as sovereign at both the State and Federal level and encourages

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[167] https://scholar.google.com/scholar_case?case=12691789482415909888&q=564+US+211&hl=en&as_sdt=806 (accessed December 2, 2017)

[168] http://avalon.law.yale.edu/18th_century/fed51.asp (accessed December 2, 2017)

[169] http://avalon.law.yale.edu/18th_century/fed28.asp (accessed December 2, 2017)

[170] http://press-pubs.uchicago.edu/founders/documents/v1ch4s34.html (accessed December 2, 2017)

similar oligarchies by the States. CFR Intervenors allege California is a particularly good example of this because it has constitutionally capped its number of legislators to only 120 members notwithstanding that its population is now approximately 40,000, 000 people and growing.

6.44. This nation' oligarchy at both the federal and state level in California intentionally discourages millions of eligible voters from voting and violates the people's right to self-governance.

6.45. 2 U.S.C. 2a allows oligarchies, instead of republics, to govern on behalf of the people in both the United States house of Representatives and the legislature of the State of California.

7th CAUSES OF ACTION - 2 U.S.C. §2(a) Is Unconstitutional Because It Violates The "Nondelegation Doctrine"

6.46. Plaintiffs incorporate all of their previous allegations herein.

6.47. The 2010 Decennial Apportionment conducted by the Article II Executive Branch pursuant to 2 U.S.C. 2a is unconstitutional because it is a rare, but obvious violation of the "Nondelegation Doctrine".

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray the Court as follows:

1. A declaration from this Article III Court that the actions of the defendants as described herein, have operated to violate CFR Intervenor plaintiffs Constitutional Rights;

2. An order and declaration establishing that *Article the Firs*t has been ratified as a Codicil Amendment to the United States Constitution as having met the requirements of Art. V

of the United States Constitution's ratification process;

3. An order and judgment directing by way of *mandamus* and compelling the named Virginia State Officials, Connecticut State Officials and Kentucky State Officials to take measures and to actually provide "official notice" of the unreported ratification actions of their respective State Legislatures as enumerated in Plaintiffs' Complaint to Defendant Archivist of the United States;

4. An order and judgment or writ directing and compelling Defendant David Ferriero, Archivist to the United States, upon receipt of "official notice" from the named Virginia State Officials, Connecticut State Officials and Kentucky State Officials of the unreported ratification actions of their respective State Legislatures regarding *Article the First* as enumerated in Plaintiffs' and Intervenor CFR plaintiff's Complaint, to then in turn immediately declare, certify and publish that *Article the First* is valid, to all intents and purposes, as a part of the Constitution of the United States, as he is ministerially required to do by 1 *U.S.C.* §106(b).

5. An order and judgment that the "Scrivener's Error Doctrine" applies to *Article the First* and the language of this article which was the First Amendment to the United States Constitution provides:

> **[Line 1]** 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,
> **[Line 2]** after which the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor ***more*** than one Representative for every forty thousand persons, until the number of Representatives shall amount to two hundred,
> **[Line 3]**after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor less than one Representative for every fifty thousand persons.

6. An order and judgment declaring that the specific text in 2 *U.S.C.* §2(a) that reads "…*under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions* ..." is unconstitutional and / or has been superseded with the non-discretionary legal standards for Apportioning the United States House of Representatives as stated in Line 3 of *Article the First,* an amendment to the *United States Constitution.*

7. An order and judgment that the specific text in 2 *U.S.C.* §2(a) that reads "…*under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions* ..." be severed from the United States such statute and replaced with the mandatory non-discretionary legal standards for Apportioning the United States House of Representatives as stated in Line 3 of *Article the First,* an amendment to the *United States Constitution,* to wit: "… *that there shall be not less than two hundred Representatives, nor less than one Representative for every fifty thousand persons* …";

8. An order and judgment compelling Defendant Honorable Wilbur Ross, United States Secretary of Commerce, to recalculate and transmit to the President of the United States a corrected and revised "Table" showing the apportionment population of each State, as well as the number of Representatives to which each State is entitled to at and after the One Hundred and Fifteenth Congress, based on the mandatory non-discretionary constitutional standard in Line 3 of *Article the First* "… *that there shall be not less than two hundred Representatives, nor less than one Representative for every fifty thousand persons* …".

9. An order and judgment compelling Defendant the Honorable Donald J. Trump, President of the United States, or an appropriate member of the Article II Executive Branch of

government to use information in the revised "Table" set forth in Paragraph 5.199 hereof to prepare a revised "President's 2 U.S.C. §2(a) Apportionment Statement", and for the President or such member of the Executive Branch to transmit to Congress this revised "President's Apportionment Statement" "… showing the whole number of persons in each State, … and the number of Representatives to which each State would be entitled …", with the number of Representatives Apportioned to each State in the One Hundred and Fifteenth Congress and thereafter in the revised "President's 2 U.S.C. §2(a) Apportionment Statement."

10. An order and judgment directing that Defendant Karen L. Hass, Clerk of the United States House of Representatives, upon receipt of the revised "President's Apportionment Statement", to send to the executive of each State a revised and corrected "House Clerk's 2 *U.S.C.* §2(b) Certificate" enumerating the number of Representatives to which such State is entitled in the United States House of Representatives at the One Hundred and Fifteenth Congress and thereafter, and the present number of vacancies for Representatives at the One Hundred and Fifteenth Congress and thereafter, for each State under an Apportionment conducted in accordance with the standards of *Article the First,* an amendment to the United States Constitution, to wit:

Apportionment under Article the First						
State	***# of Reps***	***# Vacancies***		***State***	***# of Reps***	***# Vacancies***
Alabama	96	89		**Montana**	20	19
Alaska	15	14		**Nebraska**	37	34
Arizona	129	120		**Nevada**	55	51
Arkansas	59	55		**New Hampshire**	27	25
California	747	694		**New Jersey**	177	165
Colorado	101	94		**New Mexico**	42	39

Connecticut	72	67		**New York**	389	362
Delaware	19	18		**North Carolina**	192	179
Florida	379	352		**North Dakota**	14	13
Georgia	195	181		**Ohio**	232	216
Hawaii	28	26		**Oklahoma**	76	71
Idaho	32	30		**Oregon**	77	72
Illinois	258	240		**Pennsylvania**	255	257
Indiana	131	122		**Rhode Island**	22	20
Iowa	62	58		**South Carolina**	93	86
Kansas	58	54		**South Dakota**	17	16
Kentucky	88	82		**Tennessee**	128	119
Louisiana	112	106		**Texas**	506	470
Maine	25	23		**Utah**	56	52
Maryland	116	108		**Vermont**	13	12
Massachusetts	132	123		**Virginia**	161	150
Michigan	119	105		**Washington**	136	126
Minnesota	107	99		**West Virginia**	38	35
Mississippi	60	56		**Wisconsin**	114	106
Missouri	121	113		**Wyoming**	12	11

11. An order and judgment compelling Defendant Governors in each of the 50 States to issue, pursuant to the authority of Article I, Section 2 of the *United States Constitution,* Writs of Election to fill the vacancies remaining in each respective State, and the Defendant named State Officials from each of the States to administer, at large special elections in each State as required for vacancies in accordance with 2 *U.S.C.* §2(c), as are set forth in the preceding paragraph.

12. An order and judgment declaring that with a minimum number of 6,230

Representatives constitutionally required to be Apportioned among the 50 States, that 3,116 Representatives must appear, present their credentials, and be sworn in and take their seats before the United States House of Representatives at the One Hundred and Fifteenth Congress will have achieved the Majority i.e. "*Quorum to do Business*" required by Article I, Section 5 of the *United States Constitution;*

13. An order and judgment specifically declaring "Resolution 2" of January 3, 2017 of Defendant United States House of Representatives finding a *Quorum* present for the One Hundred Fifteenth Congress to conduct business is invalid and void as the required 3,116 Majority "*i.e. Quorum to do Business*" required by Article I, Section 5 of the *United States Constitution* Representatives had not yet appeared, presented their credentials, been sworn in and been seated;

14. An order and judgment declaring the January 3, 2017, vote of Defendant United States House of Representatives for the One Hundred Fifteenth Congress purportedly electing Defendant Honorable Paul Ryan to the constitutional position of "Speaker of the House" for the One Hundred Fifteenth Congress void as the required 3,116 Majority i.e. "*Quorum to do Business"* required by Article I, Section 5 of the *United States Constitution* Representatives had not yet appeared, presented their credentials, been sworn and taken their seats;

15. An order and judgment specifically declaring any and all Business and votes taken by Defendant United States House of Representatives for the One Hundred Fifteenth Congress void *ab initio* because the required 3,116 Majority *i.e.* "*Quorum to do Business*" required by Article I, Section 5 of the *United States Constitution* Representatives had not yet appeared, presented their credentials, been sworn and taken their seats;

16. An order and judgment specifically enjoining and restraining each individually named Representative, whether acting individually or together with other Representatives, who have to date appeared, presented their credentials, been sworn, and taken their seats, from conducting any Article I legislative business unless and until such time as 3,116 Representatives, the Majority "… *Quorum to do Business …"* required by Article I, Section 5 of the *United States Constitution* Representatives, have appeared, presented their credentials, been sworn and taken their seats;

17. An order and judgment declaring what number of electors each State shall have the following number of members appointed to the Electoral College pursuant to number of representatives each State is entitled to under *Article the First* and U.S. Const. Art. 2,§ 1.

18. A preliminary, and then permanent injunction prohibiting the collective defendants from treating the 2 U.S.C 2a "2010 Decennial Apportionment Census" prepared by the Article II Executive Branch as a valid decennial apportionment of the House of Representatives as mandated by Art. I, §2 and the Fourteenth Amendment, § 2 of the United States Constitution;

19. A preliminary, and then permanent injunction prohibiting the collective defendants from treating the 50s separate 2 U.S.C 2a(b) "Certificates of Entitlement"Sent to the governors of the 50 states as federal law and as a valid Decennial Apportionment of the House of Representatives as mandated by Art. 1, §2 and the Fourteenth Amendment, § 2 of the United States Constitution;

20. A declaration that 2 U.S.C. 2a is unconstitutional on its face and/or as applied to CFR Intervenor plaintiffs for its violation of the Federalism structure of the United States

Constitution, including without limitation the cumulative violations of one or more of the following provisions which among other things establish our Federalism structure of the Constitution in 2017 including without limitation: Article I, §1 ("Vesting Clause"), Article I, § 2 ("Apportionment Clause) as modified by the Fourteenth Amendment §2, Article I, § 7, Cl. 2[171] ("Bicamerality Clause") Article I, §7 Cl. 3 ("Presentment Clause"), Article II, Section I as modified by the 12th and 23rd Amendments ("Fair representation in the Electoral College"), Article III, §§ 1 & 2 ("Judicial Department"), Article IV, § 1[172]("Full Faith and Credit); Article IV, § 2, cl 1[173] as modified by the Thirteenth Amendment ("Privileges and Immunities"), Article IV, §3 ("New States"), Article IV, § 4 [174]("Republican Government"), Article V ("Amendment"), Article VI, Cl. 2 ("Supremacy Clause"), Article 7[175] ("Ratification"), Amendment 9[176] ("Construction of Constitution"), Amendment 10[177] ("Powers of States and People"), Amendment 11 ("Judicial Limits"), Amendment 12 ("Choosing President, Vice President"), Amendment 13 ("Slavery Abolished") Article 14 ("Citizenship Rights"), Amendment 15 ("Race No Bar to Vote"), Amendment 16 ("Status of Income Tax Clarified"); Amendment 17 ("Senators Elected by Popular Vote"), Amendment 19 ("Women's Suffrage"), Amendment 20 ("Presidential, Congressional Terms"), Amendment 22 ("Presidential Term Limits", Amendment 23 ("Presidential Vote for the District of Columbia"), Amendment 24 ("poll Tax Barred"), Amendment 25[178] ("Presidential Disability and Succession"), and Amendment 26 (Voting Age

[171] https://www.usconstitution.net/xconst_A1Sec7.html (accessed December 3, 2017)
[172] https://www.usconstitution.net/xconst_A4Sec1.html (accessed December 3, 2017)
[173] https://www.usconstitution.net/xconst_A4Sec2.html (accessed December 3, 2017)
[174] https://www.usconstitution.net/xconst_A4Sec4.html (accessed December 3, 2017)
[175] https://www.usconstitution.net/xconst_A7.html (accessed December 3, 2017)
[176] https://www.usconstitution.net/xconst_Am9.html (accessed December 3, 2017)
[177] https://www.usconstitution.net/xconst_Am10.html (accessed December 3, 2017)
[178] https://www.usconstitution.net/xconst_Am25.html (Accessed December 3, 2017)

Set to Eighteen Years").

21. A declaration that 2 U.S.C. 2(a) is unconstitutional on its face and/or as applied to CFR Intervenor plaintiffs for its violation of the Separation of Powers structure of the United States Constitution, including without limitation the cumulative violations of one or more of the following provisions which among other things establish the Separation of Powers structure of the Constitution in 2017 including without limitation: Article I, §1 ("Vesting Clause"), Article I, § 2 ("Apportionment Clause) as modified by the Fourteenth Amendment §2, Article I, § 7, Cl. 2 [179] ("Bicamerality Clause") Article I, §7 Cl. 3 ("Presentment Clause"), Article II, Section I as modified by the 12th and 23rd Amendments ("Fair representation in the Electoral College"), Article III, §§ 1 & 2 ("Judicial Department"), Article IV, § 2, cl 1[180] as modified by the Thirteenth Amendment ("Privileges and Immunities"), Article V ("Amendment"), Article VI, Cl. 2 ("Supremacy Clause"), Article 7[181] ("Ratification"), Amendment 1[182]("Freedom of Religion Press & Expression"), Amendment 2 (Right to Bear Arms), Amendment 3[183], Amendment 4 ("Search and Seizure"), Amendment 5[184] ("Trial and Punishment, Compensation for Takings"), Amendment 6[185] ("Right to Speedy Trial, Confrontation of Witnesses"), Amendment 7 ("Trial by Jury in Civil Cases"), Amendment 8[186] ("Cruel and Unusual Punishment"), Amendment 9[187] ("Construction of Constitution"), Amendment 10[188] ("Powers of States and People"),

[179] https://www.usconstitution.net/xconst_A1Sec7.html (accessed December 3, 2017)
[180] https://www.usconstitution.net/xconst_A4Sec2.html (accessed December 3, 2017)
[181] https://www.usconstitution.net/xconst_A7.html (accessed December 3, 2017)
[182] https://www.usconstitution.net/xconst_Am1.html (accessed December 3, 2017)
[183] https://www.usconstitution.net/xconst_Am3.html (accessed December 3, 2017)
[184] https://www.usconstitution.net/xconst_Am5.html (accessed December 3, 2017)
[185] https://www.usconstitution.net/xconst_Am6.html (accessed December 3, 2017)
[186] https://www.usconstitution.net/xconst_Am8.html (accessed December 3, 2017)
[187] https://www.usconstitution.net/xconst_Am9.html (accessed December 3, 2017)
[188] https://www.usconstitution.net/xconst_Am10.html (accessed December 3, 2017)

Amendment 11 ("Judicial Limits"), Amendment 12 ("Choosing President, Vice President"), Amendment 13 ("Slavery Abolished") Article 14 ("Citizenship Rights"), Amendment 15 ("Race No Bar to Vote"), Amendment 16 ("Status of Income Tax Clarified"); Amendment 17 ("Senators Elected by Popular Vote"), Amendment 19 ("Women's Suffrage"), Amendment 20 ("Presidential, Congressional Terms"), Amendment 22 ("Presidential Term Limits", Amendment 23 ("Presidential Vote for the District of Columbia"), Amendment 24 ("poll Tax Barred"), Amendment 25[189] ("Presidential Disability and Succession"), and Amendment 26 (Voting Age Set to Eighteen Years").

22. A declaration that 2 U.S.C. 2(a) is unconstitutional on its face and/or as applied to CFR intervenor plaintiffs as violating the "Nondelegation Doctrine";

23. An Order granting such further relief as the Court deems fair, just, equitable, under the facts alleged herein.

Dated this 6th day of December, 2017.

Respectfully Submitted,

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[189] https://www.usconstitution.net/xconst_Am25.html (Accessed December 3, 2017)

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on this date I electronically filed the foregoing documents with the Clerk of the Court using the CM/ECF system which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

DATED this 6th day of December, 2017 at Arlington, Washington.

BY: /s/ *Pam Miller*
Pam Miller, Paralegal