

Lesson 19. Article 1, section 2.

The House of Representatives – Part II

“No taxation without representation!”

Sound familiar? One of the keystone reasons for the revolutionary war. Does it sound as if the citizens at that time resented paying any tax? No, they just wanted a say in how taxes were levied.

Taxation and representation go together. But you have to have representation *before* you can have taxation for it to be fair. (Question 1) Recall that one of the main failures of the Articles of Confederation was the inability to collect taxes. So right in Article 1, once the House of Representatives was defined, they go straight into taxation and representation.

### **Provision 17 of 286**

“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers...”

Is population the only way to “apportion” taxes? What about the value of land? Or personal wealth? Or income?

There are some problems with taxing “value,” even though many local taxes are apportioned in just this way.

Someone has to determine what the value is. There may be differing opinions regarding the value of a piece of land. Also, property values change. Business and industrial land is valued higher than agricultural land. Would this be fair to the states with large industrial base?

Taxing personal wealth would be problematic in verification.

Taxing income, might be easier to verify, but at what cost to your privacy and individual freedom?

After much debate, the founders settled on population as the basis for direct taxation at the federal level. (Question 2) In fact, they codified a prohibition *against* income and property taxes in Article 1, Section 9: “No capitation, or other direct tax, shall be laid unless in proportion to the census...”

Can you detect an inevitable problem with assessing a “per head” tax? If the tax burden comes out to, say, \$10,000 per person, wouldn't the wealthy be better able to pay? This was the logic behind the “progressive” income tax. But that's another story...

Does anyone see what might have been a problem enumerating the population of each state in 1787 with regard to both representation and taxation?

Slaves.

The states with large slave populations thought it was a good idea to include them in the census for purposes of representation, but not for taxation. (Question 3) A fierce debate ensued. One delegate stated, “If Virginia can count its slaves (which they consider their property), then why cannot Maryland count its cows?”

Since representation and taxation were bundled together, a compromise had to be worked out. To continue from Article 1, Section 2: “... 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.” (Question 4)

The three-fifths rule was not designed to denigrate black people – although some people to this day insist it is – it was a compromise to help ensure the southern states did not have too much representation in the congress. The three-fifths rule was abolished by the 14<sup>th</sup> amendment.

### **Provision 18**

A census of the population of each state shall be taken within three years after this constitution is adopted, and every ten years thereafter. (Question 5)

If both taxation and representation are to be based on numbers, then there ought to be a way to get those numbers. The first census was performed in 1790, beating the deadline by a full year.

In addition to simply collecting totals, the census has become the governments main source of demographic information. The 20 page census form has questions regarding your race, wealth, lifestyle and 100 other things having nothing to do with simply how many people live at each address. Some folks balk at the perceived invasion of privacy, but the Supreme Court has verified that such prying has legitimate purposes in assisting congress to make more informed legislation.

### **Provision 19**

To avoid having too many members in the House of Representatives, each congressman must represent at least 30,000 people.

If we had kept this ratio, there would be around 10,000 members of the house today. Each one with a desk, an office, a staff, and a burning desire to stand behind the microphone. Even less would get done than is the case today.

The 30,000 was a minimum. As population increased so did the ratio of citizens to representatives. They tried to keep the number proportional until 1929 when they finally said ENOUGH; We've got 435 members now, and we'll never have more than 435, even though each congressman now represents around 700,000 people. (Question 6)

### **Provision 20**

Each state shall be entitled to have at least one representative even if it is disproportional to the other states.

Even if a state has fewer than 700,000 citizens (that is on average how many people are represented by each congressman) is still entitled to representation in the House. The book lists seven states that fall into this category (as of 1984).

### **Provision 21**

As a temporary expedient until the first census is taken, each state is entitled to a specific number of representatives.

### **Provision 22**

If the seat of a representative becomes vacant because of death, resignation, or some other cause, the governor of that state shall call for a new election to fill the vacancy.

It is interesting to note that no provision was made for an interim (fill-in) representative until the election could be scheduled – as is the case for a senator.

### **Provision 23**

The House of Representatives shall choose its own Speaker to preside over its proceedings.

Referring to the presiding officer as “Speaker” is a carryover from the British Parliament, where one member was elected to Speak to the king on their behalf.

The Speaker is elected by members of the majority party in the house. The power of the Speaker includes:

Supervising the daily business of the House. Especially which bills are to be voted on.

Recognizing members who wish to speak.

Appoints members to special conference committees.

He can vacate his chair to speak or vote.

He follows the vice president in line of succession to be president.

(Question 9)

### **Provision 24**

The House of Representatives shall choose other officers needed to function efficiently.

Giving the House the right to manage its affairs. Some appointments are set by the majority party.

Committee Chairmen: Assigned by the Speaker. Laws must pass through committee before being presented to the House for a vote. The committee chairmen decide which bills to debate, which to forward to the floor, and which ones languish, untouched, in the committee.

Floor Leaders and Party Whips: Designated by each party. They keep congressmen aware of upcoming legislation and try to make certain each congressman votes according to party desire.

Clerk of the House: Records all votes, certifies the passage of legislation.

Sergeant at Arms: Head of security for the House. Commands the Capital Police unit. Issues ID for members and their staff. He is in charge of the 46 inch mace, used to indicate when the house is in session or in committee of the whole. Since 1994, the Sergeant at Arms has also performed the duties of the Doorkeeper of the House.

Postmaster of the House:

Chaplain of the House: (proving the founders' desire for separation of church and state)

House Parliamentarian: Advises House officers on parliamentary rules. Indicates which committees have jurisdiction over which bills.

(Question 10)

Pages: High school students from across the country used as foot messengers.

### **Provision 25**

The House of Representatives shall have the exclusive authority to bring impeachment charges against federal judges or officials in the executive branch. (Question 11)

Modeled after the process used in the British Parliament, which came about as a compromise; Parliament got tired of making laws that the king's officers would refuse to enforce so Parliament refused to raise money for the king – until impeachment authority was granted them. (Question 12)

Impeach means to accuse. An Article of Impeachment is therefore similar to an indictment handed down from a grand jury. (Question 13) When charges are made against an official (president, vice president, cabinet official, or federal judge) the matter is usually referred to the judiciary committee in the House. (Question 14) The committee produces a report verifying the charges fit the vague description of “high crimes and misdemeanors.” The House votes on whether or not to impeach. If they do, Articles of Impeachment are written up for use in the trial, which takes place in the Senate.

A 2/3 vote is required in the Senate to convict.

Only two presidents have been impeached, Andrew Johnson and Bill Clinton. Neither was convicted. Three federal judges have been impeached and convicted.