25th CONGRESS,
3d SESSION.

H. R. 1138.

IN SENATE OF THE UNITED STATES.

MARCH 1, 1839.

Read twice, referred to the Committee on the Judiciary, and reported with amendments, viz: Strike out the words within [brackets,] and insert those printed in *italics*.

AN ACT

To provide for taking the sixth census or enumeration of the inhabitants of the United States.

1 *Be it enacted by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*, That
3 the marshals of the several districts of the United States, and of
4 the District of Columbia, and of the Territories of Wisconsin,
5 Iowa, and of Florida, respectively, shall be, and are hereby, re-
6 quired, under the direction of the Secretary of the Department
7 of State, and according to such instructions as he shall give, pur-
8 suant to this act, to cause the number of the inhabitants within
9 their respective districts and territories, (omitting, in such enu-
10 meration, Indians not taxed,) to be taken according to the direc-
11 tions of the act. The said enumeration shall distinguish the
12 sexes of all free white persons, and ages of the free white males
13 and females, respectively, under five years of age; those of five,
14 and under ten years of age; those of ten years, and under fif-

15 teen; those of fifteen, and under twenty; those of twenty, and
16 under thirty; those of thirty, and under forty; those of forty,
17 and under fifty; those of fifty, and under sixty; those of sixty,
18 and under seventy; those of seventy, and under eighty; those
19 of eighty, and under ninety; those of ninety, and under one
20 hundred; those of one hundred and upwards: and shall further
21 distinguish the number of those free white persons included in
22 such enumeration, who are deaf and dumb, under the age of
23 fourteen years; and those of the age of fourteen years, and un-
24 der twenty-five; and of the age of twenty-five years and up-
25 wards: and shall further distinguish the number of those free
26 white persons included in such enumeration who are blind: and
27 also, in like manner, of those who are insane, or idiots, distin-
28 guishing further such of the insane and idiots as are a public
29 charge. The said enumeration shall distinguish the sexes of all
30 free colored persons, and of all other colored persons bound to
31 service for life or for a term of years, and the ages of such free
32 and other colored persons, respectively, of each sex, under ten
33 years of age; those of ten, and under twenty-four; those of
34 twenty-four, and under thirty-six; those of thirty-six, and under
35 fifty-five: those of fifty-five, and under one hundred; and those
36 of one hundred and upwards: and shall further distinguish the
37 number of those free colored and other colored persons included
38 in the foregoing, who are deaf and dumb, without regard to age,
39 and those who are blind: and also, in like manner, of those who

are insane, or idiots, distinguishing further such of the insane and idiots as are a public charge. For effecting which, the marshals aforesaid shall have power, and are hereby required, to appoint one or more assistants in each city and county in their respective districts and territories, residents of such city or county for which they shall be appointed, and shall assign to each of the said assistants a certain division of territory, which division shall not consist, in any case, of more than one county, but may include one or more towns, townships, wards, hundreds, precincts, or parishes, and shall be plainly and distinctly bounded. The said enumeration shall be made by an actual inquiry by such marshals or assistants, at every dwelling house, or by personal inquiry of the head of every family. The marshals and their assistants shall, respectively, before entering on the performance of their duty under this act, take and subscribe an oath or affirmation, before some judge, or justice of the peace, resident within their respective districts or territories, for the faithful performance of their duties. The oath or affirmation of the marshal shall be as follows: "I, A B, marshal of the district (or territory) of , do solemnly swear, (or affirm,) that I will truly and faithfully cause to be made, a full and perfect enumeration and description of all persons resident within my district, (or territory,) and return the same to the Secretary of State, agreeably to the directions of an act of Congress, entitled 'An act to provide for taking the sixth census or enumeration of the inhabitants of the

United States,' according to the best of my ability." The oath or affirmation of an assistant shall be as follows: "I, A B, appointed an assistant to the marshal of the district (or territory) of , do solemnly swear, (or affirm,) that I will make a just, faithful, and perfect enumeration and description of all persons resident within the division assigned to me for that purpose by the marshal of the district (or territory) of , and make due return thereof to the said marshal, agreeably to the directions of an act of Congress, entitled 'An act to provide for taking the sixth census or enumeration of the inhabitants of the United States,' according to the best of my ability, and that I will take the said enumeration and description by actual inquiry at every dwelling house within said division, or personal inquiry of the head of every family, and not otherwise." The enumeration shall commence on the first day in January, in the year one thousand eight hundred and forty, and shall be completed and closed within ten calendar months thereafter. The several assistants shall, within nine months, and on or before the first day of October, one thousand eight hundred and forty, deliver to the marshals by whom they shall be appointed, respectively, two copies of the accurate returns of all persons, except Indians not taxed, to be enumerated as aforesaid, within their respective divisions, which returns shall be made in a schedule, and which shall distinguish, in each county, city, town, township, ward, precinct, hundred, district, or parish, according to the civil divisions of the

*

90 States or Territories, respectively, the several families, by the
91 name of [their master, mistress, steward, overseer, or other prin-
92 cipal persons therein] *the head thereof.*

1 SEC. 2. *And be it further enacted,* That every assistant fail-
2 ing or neglecting to make a proper return, or making a false
3 return of the enumeration to the marshal, within the time
4 limited by this act, shall forfeit the sum of two hundred dollars,
5 recoverable in the manner pointed out in the next section
6 hereof.

1 SEC. 3. *And be it further enacted,* That the marshals
2 shall file one copy of each of the several returns aforesaid,
3 and, also, an attested copy of the aggregate amount hereinafter
4 directed, to be transmitted by them, respectively, to the Secre-
5 tary of State, with the clerks of their respective districts or
6 superior courts, as the case may be, who are hereby directed to
7 receive, and carefully to preserve, the same; and the marshals,
8 respectively, shall, on or before the first day of December, in the
9 year one thousand eight hundred and forty, transmit to the Sec-
10 retary of State one copy of the several returns received from
11 each assistant, and also the aggregate amount of each description
12 of persons within their respective districts or territories, and
13 every marshal failing to file the returns of his assistants, or the
14 returns of any of them, with the clerks of the respective courts,
15 as aforesaid, or failing to return one copy of the several returns
16 received from each assistant, and, also, the aggregate amount of

17 each description of persons in their respective districts or terri-
18 tories, as required by this act, and as the same shall appear from
19 said returns, to the Secretary of State, within the time limited
20 by this act, shall, for every such offence, forfeit the sum of one
21 thousand dollars; which forfeiture shall be recoverable in the
22 courts of the districts or territories where the said offences shall
23 be committed, or within the circuit courts held within the same,
24 by action of debt, information, or indictment; the one half there-
25 of to the use of the United States, and the other half to the in-
26 former; but, where the prosecution shall be first instituted on
27 behalf of the United States, the whole shall accrue to their use;
28 and, for the more effectual discovery of such offences, the judges
29 of the several district courts, in the several districts, and of the
30 supreme courts in the territories of the United States, as afore-
31 said, at their next session, to be held after the expiration of the
32 time allowed for making the returns of the enumeration hereby
33 directed to the Secretary of State, shall give this act in charge
34 to the grand juries in their respective courts, and shall cause the
35 returns of the several assistants, and the said attested copy of the
36 aggregate amount, to be laid before them for their inspection.
37 And the respective clerks of the said courts shall within thirty
38 days after the said original returns shall have been laid before
39 the grand juries, aforesaid, transmit and deliver all such original
40 returns, so filed, to the Department of State.

1 SEC. 4. *And be it further enacted*, That every assistant
2 shall receive at the rate of two dollars for every hundred persons
3 by him returned, where such persons reside in the country; and
4 where such persons reside in a city or town containing more
5 than three thousand persons, such assistant shall receive at the
6 same rate for three thousand, and at the rate of two dollars for
7 every three hundred persons over three thousand, residing in such
8 city or town; but where, from the dispersed situation of the in-
9 habitants in some divisions, two dollars will not be sufficient for
10 one hundred persons, the marshals, with the approbation of the
11 judges of their respective districts or territories, may make such
12 further allowance to the assistants in such divisions as shall be
13 deemed an adequate compensation: *Provided*, The same does not
14 exceed two dollars and fifty cents for every fifty persons by them
15 returned: *Provided, further*, That before any assistant, as afore-
16 said, shall, in any case, be entitled to receive said compensation,
17 he shall take and subscribe the following oath or affirmation, be-
18 fore some judge or justice of the peace, authorized to administer
19 the same, to wit: "I, A B, do solemnly swear (or affirm) that
20 the number of persons set forth in the return made by me,
21 agreeably to the provision of the act entitled 'An act to provide
22 for taking the sixth census or enumeration of the inhabitants of
23 the United States,' have been ascertained by an actual inquiry at
24 every dwelling-house, or a personal inquiry of the head of every
25 family, in exact conformity with the provisions of said act; and

that I have, in every respect, fulfilled the duties required of me by said act, to the best of my abilities; and that the return aforesaid is correct and true, according to the best of my knowledge and belief."

The compensation of the several marshals shall be as follows:

The marshal of the district of Maine, four hundred dollars;

The marshal of the district of New Hampshire, four hundred dollars;

The marshal of the district of Massachusetts, four hundred and fifty dollars;

The marshal of the district of Rhode Island, two hundred and fifty dollars;

The marshal of the district of Vermont, four hundred dollars;

The marshal of the district of Connecticut, three hundred and fifty dollars;

The marshal of the southern district of New York, four hundred and fifty dollars;

The marshal of the northern district of New York, four hundred and fifty dollars;

The marshal of the district of New Jersey, three hundred and fifty dollars;

The marshal of the eastern district of Pennsylvania, four hundred dollars;

*

50 The marshal of the western district of Pennsylvania, four
51 hundred dollars;
52 The marshal of the district of Delaware, two hundred and
53 fifty dollars;
54 The marshal of the district of Maryland, four hundred and
55 fifty dollars;
56 The marshal of the eastern district of Virginia, four hun-
57 dred dollars;
58 The marshal of the western district of Virginia, four hun-
59 dred dollars;
60 The marshal of the district of Kentucky, four hundred and
61 fifty dollars;
62 The marshal of the district of North Carolina, four hun-
63 dred and fifty dollars;
64 The marshal of the district of South Carolina, four hundred
65 and fifty dollars;
66 The marshal of the district of Georgia, four hundred and
67 fifty dollars;
68 The marshal of the district of East Tennessee, two hundred
69 dollars.
70 The marshal of the district of West Tennessee, two hun-
71 dred dollars;
72 The marshal of the middle district of Tennessee, two hun-
73 dred dollars;
74 The marshal of the district of Ohio, five hundred dollars;

75 The marshal of the district of Indiana, four hundred and
76 fifty dollars;
77 The marshal of the district of Illinois, three hundred dollars;
78 The marshal of the northern district of Mississippi, two
79 hundred dollars;
80 The marshal of the southern district of Mississippi, two
81 hundred dollars;
82 The marshals of the districts of Louisiana, two hundred
83 dollars each;
84 The marshal of the northern district of Alabama, two hun-
85 dred dollars;
86 The marshal of the southern district of Alabama, two hun-
87 dred dollars;
88 The marshal of the District of Columbia, one hundred and
89 fifty dollars;
90 The marshal of the district of Michigan, two hundred and
91 fifty dollars;
92 The marshal of the district of Arkansas, two hundred and
93 fifty dollars;
94 The marshals of the Territory of Florida, respectively, fifty
95 dollars;
96 The marshals of the Territory of Wisconsin, two hundred
97 and fifty dollars;
98 The marshals of the Territory of Iowa, two hundred and
99 fifty dollars.

1 SEC. 5. *And be it further enacted*, That every person
2 whose usual place of abode shall be in any family on the said
3 first day of January, one thousand eight hundred and forty, shall
4 be returned as of such family; and the name of every person
5 who shall be an inhabitant of any district or Territory, without
6 a settled place of residence, shall be inserted in the column of
7 the schedule which is allotted for the heads of families in the
8 division where he or she shall be on the said first day of January,
9 and every person occasionally absent at the time of enumeration,
10 as belonging to the place in which he or she usually resides in
11 the United States.

1 SEC. 6. *And be it further enacted*, That each and every
2 free person, more than sixteen years of age, whether heads of
3 families or not, belonging to any family within any division, dis-
4 trict, or Territory, made or established within the United States,
5 shall be, and hereby is, obliged to render to the assistant of the
6 division, if required, a true account, to the best of his or her
7 knowledge, of every person belonging to such family, respect-
8 ively, according to the several descriptions aforesaid, on pain of
9 forfeiting twenty dollars, to be sued for and recovered in any
10 action of debt, by such assistant; the one half to his own use,
11 and the other half to the use of the United States.

1 SEC. 7. *And be it further enacted*, That each and every
2 assistant, previous to making his return to the marshal, shall
3 cause a correct copy, signed by himself, of the schedule con-

4 taining the number of inhabitants within his division, to be set
5 up at two of the most public places within the same, there to
6 remain for the inspection of all concerned; for each of which
7 copies the said assistant shall be entitled to receive five dollars:
8 *Provided*, Proof of the schedule having been set up shall be
9 transmitted to the marshal, with the return of the number of
10 persons; and in case any assistant shall fail to make such proof
11 to the marshal, with the return of the number of persons, as
12 aforesaid, he shall forfeit the compensation allowed him by this
13 act.

1 SEC. 8. *And be it further enacted*, That the Secretary of
2 State shall be, and hereby is, authorized and required to trans-
3 mit to the marshals of the several districts and Territories, regu-
4 lations and instructions, pursuant to this act, for carrying the
5 same into effect; and, also, the forms contained therein of the
6 schedule to be returned, and such other forms as may be neces-
7 sary in carrying this act into execution, and proper interrogato-
8 ries to be administered by the several persons to be employed in
9 taking the enumeration.

1 SEC. 9. *And be it further enacted*, That, in those States
2 composing two districts, where a part of a county may be in
3 each district, such county shall be considered as belonging to
4 that district in which the court house of said county may be
5 situate.

*

1 SEC. 10. *And be it further enacted*, That, in all cases
2 where the superficial content of any county or parish shall ex-
3 ceed twenty miles square, and the number of inhabitants in said
4 parish or county shall not exceed three thousand, the marshal-
5 or assistants shall be allowed, with the approbation of the judges
6 of the respective districts or territories, such further compensa-
7 tion as shall be deemed reasonable: *Provided*, The same does
8 not exceed four dollars for every fifty persons by them returned;
9 and when any such county or parish shall exceed forty miles
10 square, and the number of inhabitants in the same shall not ex-
11 ceed three thousand, a like allowance shall be made, not to ex-
12 ceed six dollars for every fifty persons so returned.

1 SEC. 11. *And be it further enacted*, That, when the aforesaid
2 enumeration shall be completed and returned to the office of the
3 Secretary of State by the marshals of the States and Territories,
4 he shall direct the printers to Congress to print, for the use of
5 Congress, ten thousand copies of the aggregate returns received
6 from the marshals: *And provided*, That if any marshal, in any
7 district within the United States or Territories, shall, directly or
8 indirectly, ask, demand, or receive, or contract to receive, of any
9 assistants to be appointed by him under this act, any fee, reward,
10 or compensation for the appointment of such assistant to dis-
11 charge the duties required of such assistants under this act, or
12 shall retain from such assistant any portion of the compensation
13 allowed to the assistant by this act, the said marshal shall be

14 deemed guilty of a misdemeanor in office, and shall forfeit and
15 pay the amount of five hundred dollars for each offence, to be
16 recovered by suit or indictment in any circuit or district court
17 of the United States or the Territories thereof, one half to the
18 use of the Government, and the other half to the informer; and
19 all contracts which may be made in violation of this law shall
20 be void, and all sums of money or property paid may be recov-
21 ered back by the party paying the same, in any court having ju-
22 risdiction of the same.

1 SEC. 12. *And be it further enacted*, That there shall be
2 allowed and paid to the marshals of the several States, Ter-
3 ritories, and the District of Columbia, the amount of postage
4 by them respectively paid on letters relating to their duties un-
5 der this act.

1 SEC. 13. *And be it further enacted*, That the aforesaid mar-
2 shals and their assistants shall also take a census of all persons
3 receiving pensions from the United States for revolutionary or
4 military services, stating their *names and* ages; and, also, shall
5 collect and return, in statistical tables, under proper heads, ac-
6 cording to such forms as shall be furnished, all such information
7 in relation to mines, agriculture, commerce, manufactures, and
8 schools, as will exhibit a full view of the pursuits, industry, ed-
9 ucation, and resources of the country, as shall be directed by the
10 President of the United States. And it shall be the duty of
11 the Secretary of State, under the direction of the President, to

12 prepare such forms, regulations, and instructions, as shall be ne-
13 cessary and proper to comply with the provisions of this act.

1 SEC. 14. *And be it further enacted*, That the sum of
2 twenty thousand dollars is hereby appropriated, out of any mo-
3 ney in the Treasury not otherwise appropriated, for the purpose
4 of carrying this act into effect.

Passed the House of Representatives February 28, 1839.

Attest: H. A. GARLAND, *Clerk.*