The Decline of Virginia’s Voting Strength in Congress

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[2 OCL 292]
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ABSTRACT.
The voting strength of the original thirteen states declined as new states entered the union and population moved west. OCL tables these changes as they impacted the strength of Virginia’s congressional delegation. The discussion backgrounds Calhoun’s speech (March 4, 1850) against the Compromise of 1850.

KEY WORDS: apportionment, new state-making

A. INTRODUCTION. The size of the House of Representatives is a function of two formulas, each one rather deeply embedded. [1] The reader may find it convenient to read the entire text of Article I, Section 2, Clause 3.

Trimmed to its essentials: “Representatives … shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by … actual Enumeration [which] shall be made … in such Manner as they shall by Law direct.”

But this is not the only formula by which Congress regulates the size of the House of Representatives. “New States may be admitted by the Congress into this Union,” Article IV, Section 3 informs the reader. This passage must be combined with this (from Article I, Section 2, Clause 3): “each State shall have at Least one Representative.”

B. TWO WAYS TO SEAT THE HOUSE. Congress fixes the size of the House after each decennial census. Congress may proceed by (1), if population changes so oblige, taking a seat from State A and giving it to State B, so that the apportionment principle [“Representatives … shall be apportioned among the several States which may be included within this Union, according to their respective Numbers”] will be honored. Or (2) if Congress admits a new state to the union, then it is obliged to assign one new Congressman to the new state, thereby fulfilling the mandate that “each State shall have at Least one Representative.”

C. TIMING TRIGGERS: WHEN DOES/MUST CONGRESS CHANGE THE SIZE OF THE HOUSE? Assume that the population of a federal territory reaches a point that is acceptable to Congress (among other factors); Congress is ready to admit the state. Is the admission date a function of the ten year (decennial census) cycle?

There’s nothing in the text that compels this conclusion; Table 292B points out that there is no historical pattern which times new state-making to the decennial census.

(That’s not the end of the matter as far as OCL is concerned, but checking off text and patterns of behavior allows OCL to move the analysis forward.)

However, when people move into an existing state – in sufficient number – that state gets a new Congressman, but not until the last digit of the year goes to zero. Subtraction occurs every ten years as well.

So the loss of political strength (and risk of loss) in the House can occur at any time and in any one of three ways: Take existing state Y: (1) a new state is admitted, (2) other states have relatively greater population growth and get more Congressmen, or (3) other states have so much more population growth that Y loses a Congressman. The latter two events occur once every ten years; the first can occur whenever the mood to expand moves Congress.

D. BLOCKING POWERS THAT BLOCK BOTH WAYS. As explained in The War Between The Stats: An Introduction to Taney’s Regrets, 2 OCL 568: When Congress expanded to \( \frac{1}{2} + 1 \) non-southern states then the southern region lost the strength to block the admission of new states and shape the size of the House to favor its agenda.
This threshold affords the depressing vision of the potential loss of strength to block the proposal of new constitutional amendments in Congress \((2/3^{rd} +1)\) and that loss, in turn, previews loss of strength to block ratification of new constitutional amendments by state legislatures or conventions \((3/4^{ths} +1)\).

This recitation of disaster for a slow-growing region of a federal republic will now incorporate the subject matter of this article: states wishing to forestall decline in their relative strength in the House must take into account that it is Congress that sets the size of the House of Representatives. How this latter factor plays out is introduced.

E. A DIGRESSION. There is a logical oddity buried in Article I, Section 2, Clause 3. Increasing the size of the House every ten years to ‘compensate’ states (who would otherwise lose House seats) won’t work.

OCL introduces the problem as follows:

- Time = 1 [that is, pre-decennial census]; inventory of states = 20; inventory of Congressmen = 200. Arcadia has 10 representatives.
- Time = 2 [that is, post-census]; 1; inventory of states = 20; inventory of Congressmen = 200. Corinth’s population is now deserving of only 9 congressmen; Thebes deserves 11.

False solution = give Thebes an extra seat by creating a new one.

- Time = 2a; inventory of states = 20; inventory of Congressmen = 201. Corinth has 10, Thebes has 11.

Strength by percentage before: Corinth: 5%; Thebes: 5%.

Strength by percentage after: Corinth: 4.98%; Thebes: 5.47%

The issues devolve from rounding (up or down) during the various mathematical steps involved (in the various procedures suggested) so that the formula “Representatives … shall be apportioned among the several States which may be included within this Union, according to their respective Numbers” is honored. [2]

F. A TWO-FRONT WAR. There are two discrete fronts which require a (nervous) region’s attention: (a) how does admission of new state/s affect our region’s relative strength? (b) should we favor increasing the size of the House of Representatives, and, if so, by how much? [3]

This discussion throws into relief the highly distinct nature of each political challenge. To block the admission of new states, political will and strength are required. To exercise blocking power after population shifts have occurred, however, may be compared to pushing water uphill. OCL will catalog the economic and social options that were available to a region seeking to avoid political catastrophe. These options have to be weighed in light of the logic anterior to each of the two constitutional formulae which we have introduced in this article.

G. WINNING BY KEEPING EVEN. Take the most obvious feasibility: There is one way for state X to deal with declining strength in the House. That is to make sure that state X’s population increases from one decennial census to the next so much that demographic state-to-state shortfalls (as population flows into other states and/or as other states gain new inhabitants) are made up and new state-making losses are also made up.

Provide and advertise cheap land and water, equality of economic opportunity and a state culture that welcomes newcomers. Table 292A makes the results clear. Virginia was not as attractive to settlement and population growth as it needed to be.

Keep in mind that all the states were in the same boat. They all signed on to the same race. They all took the same risks. They all treasured the same rewards and hoped for the best, measured in the stress of political fray.

All states were obliged to cast a jealous eye at any new family settling in a neighboring state as well as at any next-state couple creating a population boom for the next census taker. And they were all obliged to take note if the decennial census recorded the admission of new states. It would be 1930 before the census did not reflect such an event!

H. TABLE 292A. The voting power of the original thirteen states lessened as new states entered the union and population moved westward. The annexed table depicts the changes in Virginia’s voting strength measured in its delegation in the House of Representatives. The date in the second column is the first day of the first session of that congress (early special session dates are ignored).
When the First Congress began doing business 59 members were seated; it ended with the full complement of 65 constitutionally, that is, transitionally assigned, seats filled.

The table measures the decline as Virginia went from 16.95% strength in the House of Representatives to 5.56% strength.

I. CONCLUSION. The United States of America was created relentlessly ambitious about its own ambitions.

To be anything in America – from the most humble of residents to the anthropomorphically imagined sovereign state – was to be thrown forwards in time, into a state, if you will, of uncertainty about tomorrow; in short, to survive in America one had to be willing to think the unthinkable; enter the constitutional logics, feasibilities and semantics.

J. TABLE ANNEXED. On SelectedWorks, the table appears as a separate file. See Table Annexed to this Article. For this and other works see http://works.bepress.com/peter_aschenbrenner/

K. REFERENCES.
[1] More precisely, there are multiple formulae which can be teased from each of these constitutional texts. See also Employing Spatial and Discrete Logic in Understanding Congressional Apportionment, 2 OCL 297 [forthcoming];
[2] The reader may refer to Fair Representation: Meeting the Ideal of One Man, One Vote, H. Peyton Young and Michel L. Balinski, Brookings Institution Press 2001. This is the only study of logic anterior to crafting constitutional text, albeit this purpose is implicit rather than explicit in the authors’ investigation.

Dr. Franklin’s Dilemma, 2 OCL 111 explores the mathematical logic (per capita vs. per stirpes voting in the United States Senate) which would become apparent once the constitution went into operation. Dr. Franklin’s address to the convention viewed (the future) constitution-in-operation from the convention’s point of view. It is, therefore, an instance of a convention delegate resourcing constitutional logic to evaluate choices in available formulae.
[3] OCL shifts the analysis from a single state’s point of view to a regional perspective in the course of this article. The issues raised by this shift will be addressed in the future. Venue supplies opportunities for an assembly’s representatives – in proximity with one another – to discuss the implications of the logics which are the (implicit) subject of this article.

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