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**THE FEW, THE HAPPY FEW:
HOW MANY DELEGATES WOULD BE REQUIRED
TO ORGANIZE THE UNITED STATES OF AMERICA?
[2 OCL 108]**

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ABSTRACT.

The fifty-five credentialed delegates who attended (at least one or more) sessions of the Philadelphia convention supplied thirty-nine delegate signatories. But this figure is not the fewest number of delegates who could have organized the United States of America; that is, a new government which would substitute for (or secede from) the United States in Congress Assembled, the style of the (then existing) government under the Articles of Confederation.

KEY WORDS: federal convention, quorum

A. INTRODUCTION. The reader is referred to a previous article in this series titled *Introduction to the Quorum Issues at the Federal Convention*, 2 OCL 105, which details quorum and action requirements adopted by the federal convention as combined with the internal quorum/action requirements by which states established standards for delegate answerability to their state legislatures.

Table 108A, annexed hereto, copies Table 105A, for the reader's ease of reference. See http://works.bepress.com/peter_aschenbrenner/

B. THE MATH. Table 108B shows that as few as fourteen delegates could have organized the federal government at Philadelphia. Seven states were required to form a quorum and overcome the presumption of rejection (which presumption burdens the [projected] efforts of all deliberative bodies. *The Parable of the Generous Pasha (And the Presumptions of Rejection*, 2 OCL 111; four states could then act for all nine or thirteen, your choice, as is explained herein.

OCL now sorts the data with the object of locating the states with the lowest internal quorum requirements.

Five states could act with the concurrence of ten delegates: Maryland and Connecticut with one delegate each; South Carolina, New York and

Georgia, through the concurrence of two delegates. This subtotals ten delegates expending their efforts to sway five states.

As for the other two?

OCL can call on any two of the following six states: Virginia, North Carolina, Massachusetts, New Hampshire, New Jersey, and Delaware.

With three delegates required to act for any two on this list, that subtotal of six delegates, added to our previous subtotal of eight, yields a minimum of fourteen delegates to make a new nation. Or secede from the doddering USCA.

C. CENTRIPETAL FORCE AND ITS CONSEQUENCE. Discussion at the convention addressed the possibility that states could reconfigure themselves into regional confederacies. [1] The mathematical logic of internal/convention quorum/action requirements actually made this more likely; in short, break-up and reorganization by region was always in play.

The mathematical logic of (combined) internal/convention quorum/action requirements actually made centrifugal outcomes this likely; in short, break up and reorganization by region was always in play.

Counterintuitively, if an assembly is more likely to break-up, or, to put it slightly differently, if break up is easier because fewer voices/states have the power to break off and reestablish themselves as a rump assembly, then the pressure to take cognizance of every actor's needs is heightened.

No (one) state can over-play the 'little confederacy' card, which is: 'if we don't get our way, we'll join up with two or three other states of like mind and put up our own (semi-national or regional) government.' Whinging is always an all-American option.

This is so obviously an option that it need not be expressed all the time. Conversely, concessions to individual states are always in play. If concessions to states based on population or size

were the stick, then the ‘walk out’ threat of fewer states and smaller delegations would not have been written into the rules. But they were. So the ‘four and seven’ convention rule, thanks to Standing Order I, recognized the obvious. The sensibilities of state delegations would be handled gently; only Rhode Island got the ‘bum’s rush’ and that’s because it was too ashamed to show its face, hiding under a show of bravado.

D. BIG STATE LOGISTICS. However, another dynamic presents itself once a tipping point is achieved and the states, by numbers, accept the tendency that secession from Rhode Island will become a reality, as the move towards a new government finds concrete expression in text being crafted.

Any nine states can secede from the other three; this math is enabled/required by the non-participation of Rhode Island. Thus, in computing how many states can be frozen out, one must keep in mind that Rhode Island is the state most likely to be ‘voted off the island.’

With Rhode Island as a permanent member of the ‘superfluous’ or ‘excess’ states, those wishing to secede from these excess states could select at most another three to suffer freeze-out.

This point is discussed in *Were Early Arrivers in Philadelphia More Likely to Support the Constitution?* 2 OCL 101.

E. CONSPIRACY THEORIES; QUITE A FEW. Since we have five states in the ‘happy few’ list – supplying the minimum number of human beings who could have organized the United States – how do we name the other two states to supply delegates?

The number of different permutations of two states drawn from a pool of six is readily computed, with $N=6$ and $R=2$, given the formula for solving ${}_2C_6$:

$${}_R C_N = N! / (N-R)! R!$$

Which formula yields, in intermediate steps:

$6! / 4! * 2!$
 $720 / 24 * 2$
 $720 / 48$
15

The answer is fifteen. Those observing early warning signs of convention break-up or freeze-out would have to be aware of fifteen different combinations by which fourteen delegates could command a seven state quorum. Of course, four states would be required to propose a constitution to any nine states for their ratification.

But the four states would need the seven to serve up the quorum to permit the four to act. It is therefore the quorum requirement that supplies our Happy Few and OCL’s nod to Stendahl’s quotation at the end of c. XXX, from *Le Rouge et le Noir*.

The computation supplied supposes that Pennsylvania is left out of any small state delegation conspiracy, just because with eight delegates, it’s just too darn many. And they were unlikely conspirators, at least until they were solicited to join a nascent secessionist movement.

F. ANOTHER WAY TO SEE THIS. The rule of ‘four and seven’ and the rule of ‘nine’ (as they played out at the convention) may be put into context as follows: if the delegates were really on edge over the (combined) mathematical logic of SO I and the proposed ratification ‘magic number’ set at nine, then there would be more debate on this point. Another article discusses the events of July 6, 1787. *What Happened on July 6, 1787 and Why It Matters*, 2 OCL 116.

There *was* debate on the ‘magic number’ for the majoritarian principle in the House of Representatives, for example. “The plan now before us gives the power to four states to govern nine states. As they will have the purse, they may raise troops, and can also make a king when they please.” Sherman of Connecticut makes this point on June 28, which is a long way into the meat-and-potatoes of the convention. Table 108C.

But a reading of the references to this issue – the results are combined with the ‘Magic Number’ for ratification – show that delegates couldn’t make up their minds on majoritarianism and the miseries of its alternatives.

If the House is obliged to act by a majority of 60%, then 41% can block any action. Since there was no particular enthusiasm to sort through this mess, the supermajoritarian opportunity was not addressed as a matter of ‘one size fits all.’

But that’s not the point here.

The point here is that there is such a concept as ‘constitutional obviousness.’ If you can’t put up a fight on the convention floor over how many states (other than a majority) will govern in a *per stirpes* system or how many representatives, *per capita* voting exercising its sway, can act for the House, then it’s unlikely that you are willing to fight the Standing Orders to death on Day One.

Requiring that more states or delegates or Congressmen approve an idea doesn’t necessarily make the idea a better idea. If it were this easy, then supermajoritarian quorum/action requirements would be the norm rather than the exception. And worst of all, the Articles of Confederation were littered, literally, with a four-way split of issues requiring varying levels of assent. Did that make the United States in Congress Assembled a veritable engine of political wisdom?

I rest my case.

G. CONCLUSION. As a program, Our Constitutional Logic searches for logics anterior to the crafting of constitutional text. In other words, before any proposals are laid before the convention, and we know this to be May 29, 1787, the date of Randolph’s speech, what were the logical possibilities, impossibilities, unreliabilities and indeterminacies which impinged, shaped or molded the effort involved in crafting the eighty-seven sentences we call the original constitution?

We know from this study that fourteen delegates could act for the nation; indeed, any fourteen from a total of fifteen possible combinations of seven states have been tabled for the reader’s consideration.

In the beginning of the convention the walk-out logic (produced by internal/convention quorum/action requirements) generates a centripetal force, requiring initial cooperation and consensus building among the delegates.

‘If we don’t get along at the very beginning,’ the natural expression of this logic commands, ‘we’re sunk and we’ll have five Americas for foreign regimes to subjugate at leisure.’

Towards the end of the convention, the centrifugal power of Article V takes over and forces would be ‘walk out’ states to reconsider their options to let the majority organize a new government. Anyone inclined to whine that one-

quarter plus one blocking power (thanks to Article V) is too difficult for whiners to assemble, is obliged to give serious consideration to ‘going to the mattresses’ on this point.

H. FOR FURTHER STUDY. It’s worth noting that logics anterior to crafting of constitutional text take into account situational pressures: here, the centrifugal and centripetal forces are entirely a product of procedural rules; many other logics exist entirely independent of any process by which human beings, in assembly, craft text as output.

The reader may as well become acclimatized to these three logics: predicate, spatial and discrete which are supplemented by process logic, which includes parliamentary procedure. These are the four logics that exist prior to the crafting of constitutional text.

I. STATUS. Complete.

J. CITATION FORMAT. Please cite as 2 Our Constitutional Logic 108 *or* 2 OCL 108.

K. SERVER LOCATION. This file is maintained on the I/D server.

L. LAST REVISED. This file was last revised on June 15, 2012; it is version 008.

M. FILE FORMAT. The format of this file is MS Word 2010; the format of the associated table is also MS Word 2010.

N. REFERENCES.

[1] “The people would be best secured by union against the danger it may be exposed to by *just* causes of war given to other nations; and those reasons show that such causes would not only be more rarely given,” John Jay broached the topic in Federalist No. 4, “but would also be more easily accommodated, by a national government than either by the State governments or the proposed little confederacies.”