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Demographic Roots of Political [In]Stability in the American State:
Historical Perspectives

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In his 2013 book, *What is Your Race?: The Census and Our Flawed Efforts to Classify Americans*, former Census Director Kenneth Prewitt discussed what he called the “dark underside of early population policies.”¹ He sardonically noted, “nations want to keep and attract the ‘right kind of people’ but to keep out or deport the ‘wrong kind of people.’” He continued, “This distinction has time and again been difficult to implement. Labor needed for economic growth does not always produce what prevailing political thought take to be the ‘right kind of people’....” “Negro slaves, Chinese coolies, Mexican guest workers or today’s undocumented have been good for the fields and factories, but not, presumably, for citizenship.”

With the untimely death of the original organizer of this session, Andrew Beveridge, and the crisis of governance and democracy that is the second Trump administration, it seemed only fitting to take the opportunity in this paper presentation to review what Andy [and I] were thinking about the data infrastructure needs of the current moment, the research infrastructure of the social sciences that is available currently and could be enhanced, and thus to describe “The Project,” as we called it, to serve the historical social sciences and for the very much needed political analysis of our current situation in the US.

Andy and I had hung around SSHA since its inception in the 1970s, presenting papers, networking, and building our respective careers. Only recently however did we “collaborate,” initially on the amicus briefs supporting the plaintiffs in the citizenship question litigation at the 2020 Census. From there we began a long and fruitful conversation about mutual interests. His were based on his sociological perspective, his role as an expert in civil rights lawsuits, the building of Social Explorer, and consultant to the *New York Times* for demographic research. Mine were anchored in my social history work on American demographic history, the role of data and the census as “evidence,” and my collaborations with statisticians, official and academic, on statistical policy. That included, for example, preparing books and articles on contemporary issues, serving as an expert for litigation on the census, and providing an “historical perspective” for the Committee on National Statistics [two consensus panels on the census and report reviewer].²

We both saw the intersection between the data we have about American life and politics and the very tight connection between those data collections and the political system [a politics of population, if you will].³

The US has always had a rapidly growing and diverse population, some 30-35% a decade for the first 80 years of the republic, dropping to 20-25 percent from the 1880s to the 1940s, and even now in the 10% range per decade: 3.9 million in 1790; 342+ million currently. Thus when the Constitution linked a decennial population count to political representation in the House of Representatives and Electoral College, it guaranteed that there would be instability in the political system that the contemporary political class would have to manage. The combination of these phenomena, a rapidly growing, racially, ethnically, and regionally diverse population with the requirement to take account of that demographic change to reapportion seats in the House every 10 years, has meant that even before one addresses the question of voting, who could vote, or political parties, the demography alone was going to be a central factor of political competition for advancing a political agenda. Going further, the demographic change also carried down to the state and local level, as states also reapportioned and redistricted their legislatures, and drew their county, town, and municipal boundaries to accommodate for growth and change.

That growth has always been differential, that is, some places grew faster than others, so the political class had to decide whether to take existing representation away from the slower growing or declining areas, or somehow enlarge the pie [add seats to the legislature, or House of Representatives, for example] to reward the demographic winners and soften the losses of the demographic losers.

All of this has meant that the basic population numbers produced in the census every decade are central to American political life.

The Constitutional mandate led to the creation of a national administrative structure to produce and publish a robust continuous decennial population “accounting” for the nation [1790-present]. The availability of such census “information” owes its existence to the foresight and diligence of people we would now call “official statisticians.” Government employees, whether patronage employees or civil servants, collected the data, reported it and importantly preserved it, on paper, on computer files, now “on line.” Andy built those aggregate data into Social Explorer.

The US also kept the “raw” schedule information it collected each decade.⁴ IPUMS harvested and harmonized those returns to produce continuous microdata population samples and now complete counts for demographic analysis. The data in turn permitted geographers to map the expansion of the nation, spatially and demographically.

On the political side of this issue, there is no official national data infrastructure for capturing the voting behavior and outcomes of American elections. The Constitution gave states the authority to draw legislative districts and run elections, so one must look to the diverse practices and reports of the states to find and compile historical election results, which in turn must be aggregated and harmonized into national patterns.

Political scientists and historians have retrieved voting results from across the country and over time to build models and theories of party systems, the history of apportionment and redistricting, and impact of wars, economic shifts and crises, and social change on the politics of the nation. In the 1960s, ICPSR, the Interuniversity Consortium for Political and Social Research, initially ICPR, the Interuniversity Consortium for Political Research, built the first national databases of voting returns, ICPSR1, and corresponding census files, ICPSR3 and their updates.⁵ Since, additional researchers have filled in the series, added variables, and election details, most of which is publicly available.⁶

Mapping both the demography and the electoral behavior has accompanied the collection and curation of the data themselves. However, until the development of electronic geographic information systems [GIS] in the 1980s, the visualization of the spatial relationships of demography, electoral districts, and election results was difficult, requiring skilled cartographers to literally draw the relationships on paper maps. The districting of seats within the House of Representatives was also a state function, so done in each state according to their own relevant political geography.

The Census Bureau only began tabulating and reporting population and housing data by congressional district after the 1960 census. Earlier mapping projects of electoral behavior were done by academics, media organizations, or state authorities.⁷

The Civil Rights revolution of the 1960s, particularly the Voting Rights Act, and the “one person, one vote” court decisions, brought renewed attention to the data, to the relationships, between electoral practices and outcomes, and the underlying population patterns in the nation. That led to efforts to improve the data and the mapping capacities to measure and evaluate discrimination in districting and election practices. As Congress passed PL 94-171 in 1975, it opened up a new era of federal/state collaboration in data production. Decennial census results used for redistricting would henceforth be reported at very fine levels of geography, the smallest being the block. States and the federal government confronted the relationships between statistical geography [what the Census Bureau produced], and political geography [what the states created and used to structure local governments, election practices, and election districts].⁸

That federal/state collaboration is now a half century old, and with the availability of GIS tools, has revolutionized the drawing of electoral districts nationwide, including, for example, reopening a much older political debate about

“gerrymandering,” namely the practice of political decision makers organizing electoral districts to their party, economic, or race/ethnic advantage.

Why “The Project”

Andy spent many years as an expert witness in civil rights lawsuits challenging discriminatory practices in mapping electoral districts, selecting jury pools, and setting up zoning regulations. He had developed the tools that integrated the historical demography and spatial patterns of the nation with the political patterns. I had spent much of my work on the history of the nation’s population history exploring how the political functions of the census, particularly the decennial reapportionment process, drove what was asked and tabulated in the census, and then used to inform, for example, immigration policy, the patterns of admission of new states, Reconstruction, and in the 20th century, the construction of the welfare state and the stabilization of capitalist growth.

Andy’s interests were very much anchored in the current litigation on voting rights, gerrymandering, and discrimination generally. His opponents in litigation often claimed “historical precedents” for what they were doing, an “it’s always been this way...” argument. So he interrogated what data existed, where it had holes, or classification obfuscations, for example, to counter such appeals to ‘tradition.’

I, in particular, wanted to run the current practices of American political institutions, anchored in the Constitution, backwards, to estimate how well the apportionment and electoral system addressed the crises of the past, before the data developments of the digital age. When and where did the Census Bureau, for example, come up with its notion of “on spine” and “off spine” geography? More broadly, was the American political system able to find mechanisms to manage what we know has been the transformation of a weak, “frontier rural” or “settler colonial” country along the Eastern seaboard, into a continent wide, imperial, post industrial, 21st century nation.⁹

We know it failed spectacularly in the mid 19th century as Civil War engulfed the nation. The war ended the slave economy, added three constitutional amendments to the structure of the state, but did not, in the aftermath of the war, eliminate the continued oppression of the American population of African descent. We also know that, after the Civil War, the country took up where it left off, if you will. The open immigration policy of the past continued for the next half century -- with the exception of the “exclusion” of the Chinese and other migrants who were deemed “not white.” Congress basically halted mass foreign immigration for 40 years in the 20th century, and then reopened international immigration under new legal provisions, particularly from the 1960s on. A variety of discriminatory practices against all immigrants continued throughout that era.¹⁰

We also know that the franchise expanded after the founding from men of property to almost all adult white men by the time of the Civil War, and finally was opened to

women nationally in 1920 [another constitutional amendment], and restored to descendants of slaves in the Second Reconstruction with the statutory changes of the 1960s.

Twenty first century America has a much bigger electorate than it did in 1789, in absolute numbers and proportion of the total population counted in the census. It has a much more elaborate data infrastructure to integrate the understanding of its demographic history and its political history. The extant records for the 1800 presidential election include a popular vote in 6 states for presidential electors, about 75,000 men out of a total population of 5.2 million. In the remaining states state legislators chose the electors. 155 million people voted in the 2024 presidential election [45% of the total population; 65% of the voting age population]. The politics of population continues.¹¹

Nevertheless, there are holes, or one might say silos: the analysis of voting; the analysis of population patterns; the analysis of the relationship between political structure and political policy; the analysis of intergovernmental relations – what the states do; what the feds do; what the ‘people’ do.

So there’s still a lot more to say about how the growth and diversity “worked” decade by decade to facilitate or impede the stability and economic and social “success” of the nation, what the preamble to the Constitution calls the “general Welfare” and “Blessings of Liberty” that the constitution was supposed to provide “to ourselves and out Posterity.”

It’s clearly not working right now.

To illustrate, for the sake of simplicity, let me take an example of what the framers “bequeathed” to their posterity in terms of data infrastructure and its political use, namely the decennial House reapportionment process after the census.¹²

Three Numbers and a Formula

The U.S. Constitution is an algorithm, a set of rules and procedures for how and when to make decisions. The apportionment provisions of Article 1, Section 2, Paragraph 3, are an algorithm for allocating political power and tax responsibilities among the states that make up the United States. That algorithm was a solution to a government crisis, namely that the newly independent United States of the 1780s was an ungovernable entity, collapsing as a functioning government, and thus vulnerable to being reconquered by Britain [or any of the other great powers of the day].¹³

At the outset, that much was clear, and one can view the *Federalist Papers* defense of the constitution as the framers explaining what they were trying to do with the algorithm. At the time, the framers were not into “democracy.” They were into survival and the minimal fairness that was needed in the algorithm to set up a

stronger national government, get it going. A lot of it looks offensive today, principally slavery, the Three Fifths Compromise, the exclusion of Indians not taxed for the census count.

So let's place the apportionment rules, in the original algorithm [see Appendix], into a framework that captures some of how that algorithm functioned for the past 240 years, how it's been changed, when and why. That allows us to contextualize the current practice: a House of 435 members, distributed across 50 states, in a population of 342 million people, and the "equal proportions" apportionment formula.

The Apportionment Algorithm

Let's start by examining the mathematical character of the apportionment algorithm.

Apportioning **seats** in the House among the **states** "according to their **respective numbers**" involves:

Three numbers:

1. the **numbers** in the population base – the census
2. the size of the body [seats] [**numbers**]
3. the **number** of states

One formula:

4. the mathematical **formula** for calculating the allocation based on the first three numbers.

For the system to work, all **four** of these elements have to be measured and deemed 'fair' – that is, the political decision makers must agree that one is using the 'right' population numbers; the right number of seats; the right number of states; and the right mathematical formula. In 1787, all this was quite new. The Constitution set a temporary House size of 65 members to get the government going, mandated a census be taken within 3 years of setting up the government, and anticipated 13 states be allocated House seats. No formula for allocating seats to states is specified in the Constitution.

The Census results showed 3.9 million people, distinguished between "free" and "slave" so the "slave" population could be discounted to 60% of the total for each state and then added to the free population to determine its "representative" population.

Then the fun began, because the absence of a "formula," and the growing recognition that the other three numerical elements would or should change, opened a troublesome Congressional debate about how to actually "apportion" the seats "according to their respective numbers." The concerns were serious, and the

mathematical skills of the legislators limited, while their political antennae were sharply attuned to their own and their constituencies' interests. Was the census accurate? Washington and Jefferson weren't so sure. Vermont [March 1791] and Kentucky [February 1792] were admitted to the union so there would be 15 states to receive seats, not 13. The Constitution had required that "Number of Representatives shall not exceed one for every thirty Thousand" but didn't specify how to determine whether any number above 30,000 should be determined.

The ensuing congressional debate, as Balinski and Young demonstrate,¹⁴ generated bills proposing a House of 105, 112, or 120 members. The bills used different apportionment formulas and rationales. Congress passed the bill mandating 120 members. Washington took counsel from the cabinet and advisors and vetoed that bill, using the presidential veto for the first time. The politics split along the emerging factions of Jeffersonians and Hamiltonians. Washington's veto message sided with Jefferson's understandings of the issues. Congress deferred to Washington's position, and passed an apportionment bill with a House size of 105 members. Every original state except Georgia saw its House delegation grow [11 states] or remain the same [Delaware with one member]. The American political class was beginning to recognize that the seemingly simple allocation of House seats – three numbers and a formula – was anything but.

At the 1800 presidential election, they learned even more about the impact of Article 1, Section 2, Paragraph 3 rules, since the apportionment rules for the House in the Constitution and the decennial apportionment statute also determined the number of electors in the Electoral College. During the 1790s, the "factions" had developed into "parties" that identified preferred candidates for the presidency. The original constitutional provision for electing the president specified that the top electoral vote getter became the president and the runner up, the vice president. This arrangement had clearly shown itself to be problematic in the 1796 presidential election. Adams [a Federalist] won the presidency; Jefferson [a Republican] came second and became vice president.

That was a clearly unsatisfactory result, and for the 1800 rematch between Adams and Jefferson, the political leaders created "tickets" of President and Vice President: Adams and Pinckney for the Federalists; and Jefferson and Burr for the Republicans. Unfortunately, since the constitutional provision had not changed, the result was a tie between Jefferson and Burr, and an election thrown into the House of Representative for determination.¹⁵

That 36 ballot saga in the House of Representatives has been told many times, including the furious failed political maneuvering by the Federalists to block Jefferson's election. Part of the controversy, however, also turned on the impact of the numbers generated by the Three Fifths Compromise.¹⁶ Adams would have won, Federalists claimed, if it hadn't been for "slave representation." Those numbers came from the constitutional categories for the census.

By 1800, the American political class had recognized that all three of their apportionment variables, census, house size, and number of states, also impacted political representation and political outcomes.

Doing It Over and Over Again

The final provision of Article 1, Section 2, paragraph 3 stated simply that this counting and reapportionment process would be decennial, namely, that “The actual Enumeration shall be made 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 Constitution recognized the need for scheduled elections and structured them for the House every two years; for the Senate every six years; for the Presidency, every four years.

The demography of the country was variable. The number of people grew; they moved; new people arrived, so the apportionment provisions also had to readjust the relative shares of power among the states and the people on a fixed schedule.

The framers built into the American constitutional system both predictable election processes and population counting processes to stabilize the state. The decennial census and apportionment process became the locus of debate and decision making for evaluating the “fairness” of these allocations of power.

Through all this, of course, “government,” however constituted, had to govern. The policy gaps between the Federalists and the Republicans were many, but among them, for my purposes, was another source of instability, namely the continuing military fragility of the American state itself, surrounded as it was geographically by three venerable European empires, the British to the North; the French to the West; the Spanish to the South. See map. The Napoleonic Wars raged, and would continue until 1815. In such an environment, policies to lessen the potential impact of European reconquest were top of mind. The Louisiana Purchase; the Embargoes; the War of 1812; the purchase of Florida resulted between 1803 and 1819. The United States expanded geographically, with the results of the integration of the “people” in those areas into the provisions for eventual statehood, and hence representation in the House and Electoral College. The population numbers weren’t large at the time. Louisiana was admitted to statehood in 1812; its census population in 1810 was 77,000. Missouri, admitted to statehood in 1821, reported a census population of 20,000 in 1810 and 67,000 in 1820. Florida reported a population of 35,000 in 1830 and was only admitted to statehood in 1845. Arkansas was admitted in 1836.

The absolute size of the population of the states from these territorial acquisitions was less important at the time -- they each received one House member at admission -- than their impact on the growing sectional split between North and

South over slavery, and the resulting balance of free and slave states in the Senate and the Electoral College. Louisiana, Missouri, Arkansas, and Florida the first four admissions from the territorial acquisitions, were slave states. By 1830, in comparison, four northern free states [NY with 40, OH with 19, PA with 28, and MA with 12] controlled 41% of the seats in the 240 member House. The four states composed 37% of the population [4.815 of 12.866 million].¹⁷

Growing the Nation, Expanding the Electorate and Voting

Notice, that to this point, I have not mentioned “the right to vote,” the “franchise,” or “suffrage,” as an issue. The question of who the larger “electorate” is and what they do, is not part of the “three numbers and a formula” constitutional algorithm. Presidents are still “elected” by the Electoral College. In the early national period, the presidential electors were sometimes chosen by the state legislatures, or elected by districts or at large within a state. Some states reported a “popular vote” for presidential electors; others didn’t. The eligibility of particular classes of voters or the level of electoral turnout also varied by state.

But, of course, the right to vote, voting rules, and turnout do matter in elections, if not directly in apportionments for those elections. And thus the newly formed political parties in the U.S. recognized quite early that one could “win” an election by convincing “people” to vote with you, or by finding new “people” to vote with you, i.e., by expanding the supply of one’s eligible voters and getting them to the polls,¹⁸ and if need be, excluding other people from voting who could undermine the party’s platforms.¹⁹ That recognition created a new twist on the “We, the People” claim in the Constitution’s preamble, because it demonstrated how sharply the “size of the electorate” and the size of the population differed.

During the era of the second party system, late 1820s through the coming of the Civil War in 1861, both the Democrats and the Whigs learned how to mobilize white male voters to expand their electoral power. They also operated in the era when the US population grew reliably 30-35% a decade so there were going to be new voters to be found and integrated in one’s party, particularly in the west, in new states, where growth was rapid.

At the same time, the census results and the decennial reapportionment process, even in a period of very rapid population growth, turned up new issues. How big should the House or Representatives be? It grew from 105 members in the 1792 apportionment statute to 240 members in 1830, yet the delegations from Virginia, Connecticut, Delaware and Vermont went down between 1810 and 1820. The delegations for Massachusetts and New Hampshire declined from 1820 to 1830. And an additional 8 states saw their House delegations decline for the first time between 1830 and 1840.²⁰ Declines in the size of delegations meant that the state legislatures, through the districting process, would have to reorganize the political geography of the state to account for a smaller delegation. The 1810 to 1820, and

1820 to 1830 changes affected 1 seat each in the 6 states affected. But the 1830 to 1840 changes were much larger, affecting 23 seats in the 8 states.

Not surprisingly, Congress took notice, and began a multi decade examination of the elements of the “three numbers and a formula” rules for allocating representation in the House. New formulas were proposed. The size of the House was reduced in the apportionment after the 1840 census [hence the sharp impact on the 8 states that saw smaller delegations for the first time]. They also examined rules for creating districts within the states, articulating an equal population standard for districts; a contiguous territory standard, and banning multimember districts:²¹

That in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts composed of contiguous territory equal in number to the number to which said State may be entitled, no one district electing more than one Representative.

Meanwhile, the issue of the future of the race based slave economy in the South and a vigorous abolition movement forced its way into “normal” politics. The “great compromises” of the revolutionary era provided models for similar ones to forestall federal consideration of what to do about slavery. The peculiar institution did not wither as had been hoped with the 1808 constitutional ban on the international slave trade. The decline of the tobacco economy was replaced by a robust cotton plantation economy. Northern states ended slavery, immediately or gradually.

Proposals for the admission of the state of Missouri as a free state or a slave state in 1819 brought the slavery expansion question back into federal political decision making, the “firebell in the night” as Jefferson called it, a signal of crises to come. Congress “compromised” once again, admitting Missouri as a slave state, and breaking Maine off from Massachusetts as a free state, to keep the sectional balance of power in the Senate. Over the next decades, Congress passed various other measures, e.g., the gag rule, to resist the popular pressure for federal consideration of the future of slavery.

In the same period American settlers in the Mexican territory of Coahuila y Tejas wrested the area from Mexico in the 1830s, first as the independent Lone Star Republic, then integrated into the United States in 1845. The Mexican War [1846-48] ended in the Mexican Cession, the transfer of more lands of the former Spanish Empire to the U.S. as territories, and eventual states. The 1849 California Gold Rush put the question of the admission of California to statehood on the immediate Congressional agenda. The Compromise of 1850, a collection of statutes, including admitting California as a free state, the regulation of slavery in the District of Columbia, and a Fugitive Slave Act requiring escaped slaves to be returned to their masters, forestalled further consideration of the abolition of slavery, but it satisfied neither Democrats or Whigs. The parties, particularly the Whigs, began to fracture.

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Table 1: New States Joining the Union, Antebellum Era

Northwest Territory States [free states]

Ohio 1803
Indiana 1816
Illinois 1818
Michigan 1837
Wisconsin 1848

South of the Ohio River [slave states]

Kentucky 1792
Tennessee 1796
Mississippi 1817
Alabama 1819

Slave States from New Acquisitions

Louisiana 1812
Missouri 1821
Arkansas 1836
Florida 1845
Texas 1845

Free State Split from Existing State

Maine [from Massachusetts] 1820

Free States from New Acquisitions

Iowa 1846
California 1850
Minnesota 1858
Oregon 1859
Kansas 1861

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By the time Abraham Lincoln took office in March 1861, there were 34 states in the union. It was also becoming clear to observers of the demographic development of the country that the populations of the free states were growing more rapidly than those of the slave states, whether one counted the white population or the total population, including slaves. Given the rules of “three numbers and a formula” apportionment, the antislavery cause was on its way to success even if the country’s political class tried to bury the issue in the moment. As Horace Bushnell put it in a discourse in 1854, “the laws of population are themselves abolitionists.”²²

The results of the 1860 census and the 1860 presidential election reinforced the point. The slave states were slated to lose 6 House seats from the 1860

apportionment; the free states would gain one. Southerners saw the handwriting on the wall and seceded. The country fought 4 years of civil war.

Picking up the Apportionment Pieces after the Civil War: Impact on Three Numbers and a Formula

The union survived. Race based slavery ended with the Thirteenth Amendment. The rebelling states were readmitted to the union. The Union army occupied the rebelling states until 1877 to 'reconstruct' the union. The Fourteenth Amendment clarified the constitutional and legal status of birthright citizenship, due process of law, equal protection of the laws, the fate of rebels, and the authorization of Congress to enforce it all. The Fifteenth Amendment guaranteed that the right to vote could not be restricted on the basis of race, color, or previous condition of servitude.

The decennial census and reapportionment process resumed in 1870, as did population growth, the admission of new states to the union, the debates about apportionment formulas, and the expansion of the size of the House of Representatives.

The two party system resolved itself into Republicans and Democrats, what the political historians call the third party system. Electoral participation of eligible voters remained very high, including provisions for "alien suffrage" in many states, and even "women's suffrage" by 1890 in Wyoming. An even more sophisticated politics of apportionment resumed as Republicans and Democrats vied for control of individual states, and to design House districts that would benefit their party strength in Congress. The political class had learned how to advantage their party in districting, gerrymandering, revisions of state constitutional apportionment rules, and state level litigation to challenge the fairness of it all. Politicians had learned how to craft tools to shape structures of representation as Peter Argersinger's study of Midwest apportionment practice richly describes.²³

Decennial population growth rates dropped to the 20-25% range on a higher base, rather than the 30-35% range, but industrialization and urbanization in parts of the country, in conjunction with continued frontier settlement guaranteed complicated political work for the parties managing their electoral efforts. The numbers, the population, the number of states, the number of seats, kept getting bigger, though proportionately not at the same rate. The House, had 242 members in the 1830s, and 243 members in the 1860s, but represented 11 more states. The House grew to 435 members in 1910 representing 46 states.²⁴

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Table 2: States Admitted to the Union, Civil War to 1920

During Civil War

West Virginia [split off from rebelling Virginia] 1863
Nevada 1864

After Civil War

Nebraska 1867
Colorado 1876
North Dakota 1889
South Dakota 1889
Montana 1889
Washington 1889
Idaho 1890
Wyoming 1890
Utah 1896
Oklahoma 1907
New Mexico 1912
Arizona 1912

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Three Numbers and a Formula Falters

And then, in the 1920s, the decennial reapportionment process came to a radical stop. New Mexico and Arizona were admitted to the union in 1912. The 1920 census proceeded as usual, but Congress was unable to pass the reapportionment bill in the 1920s [six consecutive Congresses, all controlled by Republicans]. Only in 1929 did Congress break the political logjam, which threatened to become a constitutional crisis. Congress passed a prospective reapportionment bill, for the 1930 and later censuses, maintaining a House size of 435 members, and removing the requirements that the states draw compact, contiguous and equally sized districts for their delegations. No new states were admitted until 1959, when 2 seats were added for Alaska and Hawaii, so the House size rose briefly to 437 members. It dropped back to 435 members after the 1960 and later censuses. The US House represented 92 million people in 1910. In the 2020s, it represents 342 million people. A district in 1910 encompassed 210,000 people on average. After the 2020 census, it is 761,000 people.

The constitutional algorithm of “three numbers and a formula” has effectively become: “one variable [the census population], 2 constants [house size and number of states], and a fixed formula [equal protections].” Demography is now the only “variable” that affects congressional apportionment. The House size has been fixed for 110 years. The number of states has been fixed for 66 years. The apportionment formula has been fixed for 83 years. Given that the framers recognized that growth

and diversity would continue to characterize the American state and society, I think they would be quite surprised right now.

So the next question is what the political class has done or tried to do instead to create “a more perfect union,” that is, why have we not, as a nation, revisited the algorithm that is Article 1, Section 2, Paragraph 3 more systematically.

The short answer is that in some ways we have. Fixing the flaws in the original algorithm took priority. All three wartime amendments, for example, had implications for the Three Fifths Compromise. Abolishing slavery ended the practice of counting slaves as “other persons” and discounting their totals in a state to 60% in the calculation of the “representative population.” Ironically, as Frederick Douglass recognized, the counting of slaves as “whole persons” in the formula increased the representation of the former Confederate states in the House as they were readmitted to the union. Unless the freedmen were enfranchised, the white electorate would control who got elected to the House. Section 2b of the Fourteenth Amendment was the first effort at addressing that issue. The section required discounting a state’s “basis of representation” by the proportion of the state’s adult male citizen population denied the vote. The Fifteenth Amendment went further and prevented a state from denying the right to vote on the basis of race, color, or previous condition of servitude.

The “Indians not taxed” exclusionary category in the algorithm was removed by a 1940 judicial finding that the 1924 Indian Citizenship Act required counting all Indians in the census.

Since, the census variable in the algorithm was a total population count by state, without regard to race or indigenous status.

But other aspects of the implications of the algorithm remained subject to state decision making, since the Constitution left election procedures to the states. We’ve already noted that during the second party system, both parties recognized that they could win elections by mobilizing new voters, and expanded the franchise for adult white men. The states enacted varied restrictions on other potential voters, aliens, people who were not ‘white,’ or not properly registered or resident in the voting jurisdiction. Since drawing district lines was also a state function, it was not constrained by the data in the census in the first place. States could take their own population counts, or redraw districts between the decennial counts.²⁵ As a result, the rules for elections and voting, voter eligibility, enfranchisement and disenfranchisement of particular groups of people in the US was a constant partisan contest, but not a source of major Congressional investigation and sanction, akin to Congress’ efforts to find a viable apportionment formula.

The legal mandates in the apportionment statutes from 1840 on, banning multimember or at large districts, or requiring districts of equal population size, did not generate federal legal challenges to what the states did. The House could decide

not to seat a member they considered improperly elected, but Congress did not enact enforcement mechanisms or mandates to produce data to challenge a potentially offending district.

As a result, removal of the compact, contiguous and equally sized districting criteria from the 1920 apportionment statute soon had serious consequences for American democracy. States whose House delegations didn't change after a new census, for example, didn't have to bother to redistrict on the basis of demographic change within the state. Two Supreme Court cases, *Wood v. Broom*, 297 U.S. 1 [1932] and *Colegrove v. Green*, 328 U.S. 549 [1946] challenged the districting practices of Mississippi and Illinois respectively. In both cases, the court refused to enter what they called "the political thicket" and left the obviously malapportioned districts in place. The court decisions even included tables of how malapportioned the seats were, using census tabulations of the largest and smallest districts within a state.

Data Matters

Ironically, perhaps, the failure of Congress to restore the districting standards after a decennial reapportionment, and the failure of the courts to take up the issue, slowly led to intensified scrutiny of the intrastate malapportionment of legislative seats. The growing areas of a state did not receive representation proportionate to their population numbers. Areas with population declines, often rural areas, maintained their legislative seats with fewer people. In the 1920s, the issue had been framed as an "urban/rural" conflict, since cities were growing faster than rural areas. By the 1950s, suburban areas were also significantly underrepresented in Congress and state legislatures, relative to both "urban" and "rural" places.

Litigants hoping to restore an "equally sized" district standard needed a new legal approach to access federal courts. They found it in 1961 in a challenge to Tennessee's legislative districts, which had not been redrawn since 1901, despite population change. This time, paralleling the arguments made to challenge school segregation, the litigants anchored their claim in the 14th Amendment's Equal Protection clause, claiming that the non reapportionments "diluted the strength of their votes."²⁶ The district court dismissed the case as non judiciable, but the Supreme Court reversed, holding for the first time that "federal courts did have subject matter jurisdiction to hear, decide, and fashion remedies for Equal Protection claims against legislative apportionment plans."

Baker v. Carr opened up a floodgate of lawsuits over malapportioned state legislatures, using district population numbers to demonstrate the equal protection violations. The cases proceeded, state by state. The challenges reached House district inequalities within states by 1964, in *Wesberry v. Sanders*, 376 U.S. 1 (1964). That case expanded the authority of the courts to challenge malapportioned districts within states, not just on the basis of a 14th amendment Equal Protection claim, but also a claim of a constitutional violation of Article 1, Section 2, interpreting the language to mean that "as nearly as is practicable, one man's vote in

a congressional election is to be worth as much as another's."²⁷ By the late 1960s, the catch phrase, "one man, one vote," now "one person, one vote" signified that the "reapportionment revolution" would ultimately encompass the examination and revision if violations found, of every legislative district in the country. The litigation on the basis of these landmark cases continues into the 21st century.

The problem is that Article 1, Section 2, did not mention "voting" when it mandated that representation should be "apportioned among the several states . . . according to their respective numbers." Nor did Congress, starting in 1840, once it recognized the impact of at large districts, multi member districts, gerrymandered districts, non contiguous districts, or unequally sized districts, define constitutional amendments and enforcement mechanisms to address unfairness from the districting process. Rather, I would suggest, that in practical terms, Congress dealt with such problems in the moment, using a political calculus designed to pass a reapportionment bill, decade by decade. Later in the 19th century Congress asked for advice from officials in the Census Bureau, on apportionment formula problems. They used the other flexibilities inherent in Article 1, Section 2 to manage the immediate need for a viable bill. Those included setting of the size of the House, pacing the admission of new states, or even modifying the apportionment formula, as mechanisms to craft a suitable reapportionment and move on to other matters.²⁸

That's what broke down in the 1920s, the non reapportionment decade. It took 40 years for Americans to figure out how to get the issues back on a public agenda, this time using the federal courts. In the process, though, while equally sized districts were restored, the other aspects of the Article 1, Section 2 algorithm got ignored and reinterpreted.

What Americans Did Instead

First, both the demographic world and the political world recognized that the data systems for decennial reapportionment and redistricting would have to be improved to provide the fine grained tabulations needed to assess population equality and draw district lines. One of the defenses of malapportioned legislative districts was that one couldn't do any better with the tabulations available. If the county was the smallest geographic reporting unit from the census in many parts of the country, districts had to be combinations of counties, as best as one could map them.

The new precision in districting also drew attention to the potential for error in the census itself. The late 1960s saw the emergence of the "undercount" controversies, as the public and politicians learned what demographers already knew, namely that the quality of the data were better for some places or groups than for others. The only "variable" left seriously varying in the apportionment formula could also lead to misleading allocations because of undercounts, overcounts, miscounts.

Both these phenomena led to more litigation²⁹ and to more legislation. e.g., PL 94-171 [1975], the collaboration between the states and the Census Bureau to produce the data file for draw new legislative districts one year after the decennial census.³⁰

They led to intense statistical work to improve the quality of the decennial census and/or correct for differential coverage. They led to innovations in mapping at small geographic scales, first to draw, then to evaluate, districting processes.

And the courts' interpretations of the relationship between 'equal protection' and voting, and 'voting' and apportionment "according to their respective numbers" led to the inclusion of new variables in census tabulations, particularly on age [voting age population]; on race and ethnicity, codified into Statistical Policy Directive 15 in 1977; on citizenship [citizen voting age population, or CVAP]. Total population was an appropriate variable for the "three numbers and a formula" apportionment algorithm, but insufficient to address the new concerns with violations of voting access.

Trumpian Rupture

I have argued here that the framers understood that they were crafting a revolutionary government for a country that was, at the time, fragile, diverse, volatile, and far from unified. They also understood that if they succeeded, they would establish a nation with the promise of great growth and prosperity. They built a set of political structures that tied the dynamic and diverse demography of the country to its political institutions. The framers anticipated that there would have to be periodic adjustments and reallocations of power and authority among the disparate people, interests, and sections of the country over time, and embedded a census and decennial reapportionment process to do so. These were the numerical rules for the allocation of power and decision-making among the states and the people of the US, "according to their respective numbers."

Almost a quarter millennium later, we can look back and see that their construction both worked and failed at various points in the nation's history. The country did grow and prosper, but it took eighty more years of political struggle and a devastating civil war to end race based slavery and begin to include people of African descent in the same breath as whites as "We the People." Politicians learned how to use the tools for allocating power to their advantage, and they learned how to manipulate and abuse them to prevent "other people" from having a real voice in the affairs of state. Americans learned how to conquer a continent, fight and win wars against people who got in their way, and figure out how to both oppress and integrate those people into the American polity. Americans invited migrants from around the world to work on their farms and factories, and came to reckon with the fact that they then had to integrate those people and their descendants into the polity.

The processes continue and we are in a very wobbly period at the moment, perhaps as close to true failure as during the Civil War era.

In that context, a focus on the analysis of political institutions and demographic change seems quaint, given the full on attack on the Constitution and law underway from the Trump administration. Yet I think a few examples of what the Trump administration is doing demonstrates that their attacks on immigrants, voting rights, the census and data systems, are of a piece. They are specifically designed to negate the power of the mechanisms for allocating power and responsibilities among the people and their representatives as mandated in the Constitution.

The administration has proposed taking a census in 2026, excluding “illegals” or “aliens” or “non citizens” depending on the media dispatch of the day. The administration is encouraging its supporters to redistrict [gerrymander] their congressional delegations to guarantee Republican Party control of the House after the 2026 off year elections. It is working to place restrictions on voting. The administration is in the process of trying to detain and deport the “illegal immigrant” population – some 12 million people, by force. It is denying visas to students admitted to American universities, revoking the legal status granted in prior years to refugees or asylum seekers, or people it considers national security threats. DEI policies, aimed at promoting diversity, equity and inclusion, are being eliminated. Official data collections designed to assess “disparate impact” in hiring, health care, education, etc., are to be ended.

The administration slogan, “make America great again” envisions a return to an imagined and static past when strong white men headed households, women took guidance from their husbands, and bore and raised many children. In such an imagined vision, the country would not need or want “labor” from non Christian, non White nations.

Yet, I would suggest, even as they crafted the Constitution, the framers knew such a vision wouldn’t be viable, or perhaps even desirable. By 1787, they knew that “the people out of doors” were a political force, and an economic necessity. They knew that the wealth of the tobacco economy was based on the labor of African ancestry slaves. The framers were building a republic, not yet a democracy. But they did recognize that they could not ignore their demographic reality or deny likely future changes in who “the people” were. If we acknowledge that, we can ask the question whether “three numbers and a formula” still works as the apportionment algorithm. And if, as I have suggested, it is in need of modification and reinterpretation once again, it is up to us, the framer’s posterity, to start to build the data systems to understand where we are and craft what we want to do next.

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Appendix: Article 1, Section 2, Paragraph 3, Annotated: Three Numbers and a Formula

Representatives and direct Taxes shall be apportioned **[mathematical formula]** among the several States **[numbers of states]** which may be included within this Union, according to their respective Numbers **[census 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 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 **[House size numbers]** shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative....

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¹ Kenneth Prewitt, *What is Your Race?: The Census and Our Flawed Efforts to Classify Americans* [Princeton, NJ: Princeton University Press, 2013], 36.

² For the amicus work, see Brief of Historians and Social Scientists, Margo Anderson, Andrew Beveridge, Rachel Buff, Morgan Kousser, Mae Ngai, and Steven Ruggles as Amici Curiae in Support of Respondents, Department of Commerce, et al., v. State of New York, April 1, 2019, https://www.supremecourt.gov/DocketPDF/18/18-966/94933/20190401143851826_2019-04-01%200745%20Amicus%20Brief%20for%20Historians%20and%20Social%20Scientists.pdf and Brief of Amici Curiae Historians of the Census in Support of Appellees, Trump, et al., v. New York, et al., November 16, 2020, https://www.brennancenter.org/sites/default/files/2020-11/AmicusBrief_Historians.pdf?inline=1. See also Margo Anderson and Andrew A. Beveridge, “The 2020 Census: Trump, the Pandemic, and Threats to Democracy,” *New Labor Forum* (published electronically, April 25, 2022), 1-10, <https://doi.org/10.1177%2F10957960221090981>; Andrew Beveridge and Margo Anderson, “Proposed Changes in Federally Mandated Race and Ethnic Classifications May Undermine Their Original Purpose,” *Survey Practice* 16 (1); November 2023 <https://doi.org/10.29115/SP-2023-0027>. Andy Beveridge died suddenly in the spring of 2025. Queens College has set up an endowment, the Andrew Beveridge Memorial Endowment Fund in his name, <https://qccommunity.qc.cuny.edu/pages/funds/andrew-beveridge> that describes his long and productive career.

³ The terms are old and not mine. See for example, William Petersen, *The Politics of Population* [Garden City, NY: Doubleday, 1964]; William Alonso and Starr, eds., *The Politics of Numbers* [NY: Russell Sage Foundation, 1989].

⁴ See IPUMS USA, <https://usa.ipums.org/usa/index.shtml>. The schedules for the 1890 census burned in a fire in the early 1920s, so are not apart of the IPUMS collections. The confidentiality rules that govern the census require that the original responses are kept confidential for 72 years after the census date. The most recent publicly available “raw” census is from 1950.

⁵ See United States Historical Election Returns, 1824-1968 (ICPSR 1), <https://www.icpsr.umich.edu/web/ICPSR/series/59>; Historical, Demographic, Economic, and Social Data: The United States, 1790-1970 (ICPSR 3), updated to Historical, Demographic, Economic, and Social Data: The United States, 1790-2002 (ICPSR 2896), <https://www.icpsr.umich.edu/web/ICPSR/studies/2896>.

⁶ <https://earlyamericanelections.org/data/> for the period from 1787 to 1825; derived from Philip J. Lampi, et al., *A New Nation Votes: American Election Returns, 1787-1825*, American Antiquarian Society (2007), and the Tufts archive of these data, <https://elections.lib.tufts.edu/>. For a site with historical and contemporary elections, see the Sage/CQ Press, Voting and Election Collection, <https://library.cqpress.com/elections/index.php>.

⁷ See Library of Congress, Congressional District Data, <https://guides.loc.gov/census-connections/congressional-district-data>.

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- ⁸ U.S. Census Bureau, Geographic Areas Reference Manual, 1994, <https://www2.census.gov/geo/pdfs/reference/GARM/GARMcont.pdf>;
Constance Citro, “U.S. Political and Statistical Geography and Census Small-Area Statistics – A Primer,” 2022, <https://georgetown.app.box.com/s/5ujhsv4unatvnzkaq28kamh5ntuo4vyz>.
- ⁹ Walter Nugent, *Structures of American Social History* [Bloomington, IN: Indiana University Press, 1981]. Nugent’s term is “frontier rural.” The indigenous studies literature frames “settler colonialism” as a characteristic of North American expansion. See for example, Ned Blackhawk, *The Rediscovery of America: Native Peoples and the Unmaking of U.S. History* [New Haven: Yale University Press, 2023].
- ¹⁰ Roger Daniels, *Guarding the Golden Door: American Immigration Policy and Immigrants since 1882*, [NY: Hill and Wang, 2004]; Brendan Shanahan, *Disparate Regimes: Nativist Politics, Alienage Law, and Citizenship Rights in the United States, 1865-1965* [NY: Oxford University Press, 2025].
- ¹¹ A New Nation Votes, <https://elections.lib.tufts.edu/>; The American Presidency Project, <https://www.presidency.ucsb.edu/statistics/elections/2024>
- ¹² “The Project,” as Andy and I envisioned it, would permit similar analyses of the electoral impact of the apportionment rules in state constitutions. That is a daunting prospect, both because it expands the object of study to 50 states, and because states have rewritten their constitutions many times since the 18th century. Many historians have tackled some of this, as noted in the notes below. Because the federal constitution has been amended so infrequently, it is possible to see some of the contours of the “politics of population” in the legacies of our “original” apportionment framework. See for example, Jill LePore, *We, The People* [NY: Norton, 2025]; Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* [NY: Basic Books, 2000].
- ¹³ The census numbers and narrative history are taken from Margo Anderson, *The American Census: A Social History, 2d ed.* [New Haven: Yale University Press, 2015], particularly the appendices.
- ¹⁴ Michel Balinski and H. Peyton Young, *Fair Representation: Meeting the Ideal of One Man, One Vote, 2d ed.* [New Haven: Yale University Press, 2001].
- ¹⁵ The Twelfth Amendment, 1804, changed the procedures for the Electoral College.
- ¹⁶ Albert F. Simpson, “The Political Significance of Slave Representation, 1787-1821,” *The Journal of Southern History*, Vol. 7, No. 3 (Aug., 1941), 315-342. See also Garry Wills, *Negro President: Jefferson and the Slave Power* [NY: Houghton Mifflin, 2003].
- ¹⁷ The discrepancy between the proportions of the population and the House is a function of the “large state bias” in the apportionment formula then in use plus the discrepancy between calculations based on the total vs. the representative population. See Balinski and Young. I am using total population as the denominator.
- ¹⁸ Glenn C. Altschuler and Stuart M. Blumin, *Rude Republic: Americans and Their Politics in the Nineteenth Century* [Princeton: Princeton University Press, 2000].
- ¹⁹ Alexander Keyssar, *The Right to Vote*; Brendan Shanahan, *Disparate Regimes*.
- ²⁰ KY, ME, NJ, NY, NC, PA, SC, TN.

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- ²¹ 1842 Apportionment Statute, <https://www2.census.gov/about/history/historical-censuses-surveys/survey-census-history/decennial/legislation-1840-1880/1840-apportionment.pdf>. See also <https://www.electproject.org/national-1789-present>; https://en.wikipedia.org/wiki/List_of_United_States_presidential_elections_by_popular_vote_margin
- ²² Horace Bushnell, *The Northern Iron: A Discourse Delivered in the North Church, Hartford, on the Annual State Fast, April 14, 1854* [Hartford, CT: Edwin. Hunt and Son].
- ²³ Peter Argersinger, *Representation and Inequality in Late Nineteenth-Century America: The Politics of Apportionment* [NY: Cambridge University Press, 2015].
- ²⁴ Walter Nugent, *Structures of American Social History*. Nugent calls the simultaneous growth of ‘frontier-rural’ and ‘urban-industrial’ regions of the country the “great conjuncture.”
- ²⁵ Argersinger, *The Politics of Apportionment*.
- ²⁶ The American Redistricting Project, *Baker v Carr*, 369 US 188 [1962] <https://thearp.org/litigation/baker-v-carr/>
- ²⁷ The American Redistricting Project, *Wesberry v. Sanders*, 376 U.S. 1 [1964], <https://thearp.org/litigation/wesberry-v-sanders/>
- ²⁸ Admitting 6 sparsely populated Western states to the union in 1889-1890, is a good example of how Republicans anticipated political advantage during the reapportionment round after the 1890 census. See Table 2 above. The six states sent 12 senators and 7 representatives to Congress. The combined population of the six states in 1890 was roughly the same as the city of Chicago.
- ²⁹ Margo Anderson and Stephen Fienberg, *Who Counts: The Politics of Census Taking in Contemporary America*, rev. ed. [NY: Russell Sage Foundation, 2001].
- ³⁰ Margo Anderson, “*Baker v. Carr*, the Census, and the Political and Statistical Geography of the United States: The Origin and Impact of Public Law 94-171,” 62 Case W. Res. L. Rev. 1153 (2012).