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Congress Back Then: Happy Birthday, West Virginia!



by K. Daniel Glover
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Every month when I pen this historical essay looking at "Congress Back Then" for *IC*, I have one goal in mind: Cast the congressional news of today in the context of the past to show readers the "big picture" of American policy and politics. In the spirit of George Santayana's familiar warning about history, I aim to remind us of the mistakes of our forebears to keep us from repeating them.

This month, in writing about the creation of my home state of West Virginia, I have no such higher purpose. I am simply availing myself of the columnist's prerogative to write about whatever he chooses. Oh, I do have a news peg: West Virginia celebrated its 137th birthday on Tuesday. But that is really just an excuse to write about a topic dear to my heart.

Fortunately for *IC* readers, the story of West Virginia's birth, coming as it did in the heart of the Civil War and under constitutionally questionable circumstances, is an engaging one, as Granville Davisson Hall made quite clear in his 1901 book *The Rending of Virginia: A History*. "To carve a new state out of an old one ... in the midst of a civil war threatening the existence of the Union itself," Hall wrote, "was a task as serious as any people ever had to confront."

One state, two peoples



West VA's statehood is more about Virginians separated by the Blue Ridge Mountains

Despite its link to the most tumultuous time in American history, West Virginia statehood had less to do with the Civil War and slavery than with the decades of enmity between Virginians separated by the Blue Ridge Mountains. For reasons geographical, political, economical, ancestral and cultural, the plantation aristocrats of the east and the rugged mountaineers of the west were destined to part ways some day. The Civil War and slavery were just expedient means to that inevitable end.

Serious talk of splitting the Old Dominion surfaced at least as early as 1830, after a state constitutional convention long sought by westerners. The convention largely failed to address complaints ranging from voting rights and legislative representation to taxation and the distribution of state money and debt. One frustrated *Wheeling Gazette* writer called for a division -- "peaceably if we can, forcibly if we must."

Reforms adopted at a second state constitutional convention in 1850-51 alleviated some of the festering east-west tensions. But the national uproar over slavery in the 1850s resurrected the talk of two Virginias -- and the talk was not confined to Virginians.

Maryland Rep. Henry Winter Davis (American Party) predicted to his constituents that, "Virginia can never withdraw from the existing confederacy undivided." And bolitionist Sen. Daniel Webster (Whig-MA) echoed that view in an 1851 speech. "What man in his senses would suppose that [westerners] would remain a part and parcel of Virginia a month after Virginia ceased to be a part and parcel of the United States," he said.

At least one eastern Virginian also supported a split. If the abolitionist sentiment prevailed in the west, state Rep. W.O. Goode argued, it would be better to divide Virginia than give anti-slavery advocates an opportunity to gain political power and impose abolition on the east.

By decade's end, Virginia found itself in the eye of the abolitionist storm. John Brown, who envisioned a Negro republic in the western Virginian mountains and saw the region as key to agitating insurrection in the South, briefly seized the federal arsenal at now-Harpers Ferry, W.Va., on Oct. 16, 1859. And then came the 1860 presidential election of Republican Abraham Lincoln and the secession of South Carolina.

Divided she stands

Those events ultimately forced Virginia to cast its lot with either North or South. Democratic Gov. John Letcher, who oddly enough had been branded an abolitionist in both the 1859 gubernatorial primary and general elections, called a special legislative session in January 1861, and legislators took steps to convene a Feb. 13 "secession convention" in Richmond. On April 17, just days after the first Civil War battle at Fort Sumter, S.C., the delegates voted 81-51 to secede.

Western Virginians had renewed the call for their own version of secession even before then. "No ties bind us to eastern Virginia but the unjust laws they have made," the *Tyler County Plaindealer* opined Jan. 4. "Our location, our trade, our interest in every way, admonish us to separate ourselves. ... We are for secession at once, and let the Blue Ridge of the mountains be the line."

As pro-Union Virginians prepared to meet at a Wheeling convention of their own May 13, the city's own Judge George W. Thompson warned against a split. "If any person should attempt ... to separate the state and establish a different government from the existent one, it would not only be treason against the state, but it would be contrary to the Constitution of the United States." He threatened legal action.

The threat went unheeded, though. On June 11, another convention met in Wheeling. It spurned state leaders who had joined the Confederacy and anointed new leaders of the "Restored Government," including Francis H. Pierpont as interim governor. On

July 1, the new state legislature elected John S. Carlisle and Waitman T. Willey as Virginia's new U.S. senators.

Although the Senate earlier had expelled Virginia Sens. James M. Mason and Robert M.T. Hunter for supporting the Southern rebellion, James Ashton Bayard Jr. (D-DE) objected when the Senate tried to seat Carlisle and Willey. He rightfully saw the vote as the first step toward creating a new state. "You have no authority to create a new state out of part of an existing state," he said. But the Senate seated the Restored Government's delegation on a 35-5 vote.

The second Wheeling convention reconvened in August, and indeed, on Aug. 20, it adopted, by a vote of 50-28, a resolution calling for a separate "State of Kanawha." The convention changed the name to West Virginia in November, and voters overwhelmingly approved a Constitution for the new state in April 1862.

Statehood by constitutional secession

Willey, who in the first Wheeling convention a year earlier had opposed the Restored Government as "triple treason" against Virginia, the Union and the Confederacy, took the statehood movement to the Senate on May 29. "[T]he division ... asked for is a physical, a political, a social, an industrial and commercial necessity," he said. "It is necessary for the preservation of harmonious and fraternal relations."

On June 23, the Senate Territories Committee agreed by approving a statehood bill. A heated debate over freeing young slaves in the proposed state and a curious (and still inexplicable) reversal in opinion by Carlisle, author of the measure and long an advocate of statehood, nearly killed the bill. But the Senate managed to pass it on a 23-17 vote July 14, just before adjournment.

When the House debated the proposal upon reconvening in December, lawmakers questioned the legitimacy of the Restored Government. Rep. Martin F. Conway (R-KS) called it "a spontaneous production of the soil" with no legal authority to act. Even ardent abolitionist Thaddeus Stevens (R-PA) said it was "a mockery" to argue that the Virginia legislature had assented to a split of the state -- or that the Constitution allowed it. Yet he supported statehood for West Virginia as a necessity. So, too, did the House. It passed the bill on a 96-55 vote Dec. 10.

Troubled by the proposal, Lincoln asked his Cabinet members to make their arguments for and against West Virginia statehood. They divided evenly on the issue. Navy Secretary Gideon Welles said dividing Virginia would be "a mere abuse, nothing less than an attempted secession, hardly valid under the flimsy forms of law." But War Secretary Edwin M. Stanton's view that "the advantages of this from every point of consideration surpass all objections" was more convincing.

"It is said that the admission of West Virginia is secession," Lincoln wrote upon signing the bill into law Dec. 31, 1862. "Well, if we call it by

that name, there is still difference enough between secession against the Constitution and secession in favor of the Constitution."

On June 20, 1863, after voters in "restored" Virginia had approved the slavery-related changes to the statehood bill and Lincoln had certified the result, West Virginia was born. After the Civil War, the Supreme Court upheld the actions of the Restored Government. And that, *IC* readers, is how the greatest state in the Union, whether legally or not, came to be.

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Related Links

You can read about West Virginia statehood at the History Center of the West Virginia Archives and History online. The site also is home to the John Brown Collection, among other resources. You can learn more about West Virginia in the Civil War. Visit a Web site dedicated to Daniel Webster: Defender of the Constitution. Thaddeus Stevens was a central figure in the impeachment of President Andrew Johnson.



Did the Restored Government have legal standing to divide Virginia? Was Lincoln's argument about constitutional secession a valid one? Would eastern and western Virginians eventually have parted company were it not for the Civil War? Have the states been better off as separate entities?

Below are the last ten comments in chronological order.
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6/28/00 8:14:03 AM Bill Bunn
Mopmap: "Given the balance of payments problems with southern agriculture and Egyptian cotton don't you think that secession was irrational?" Please elaborate.

6/28/00 1:09:25 PM Alphaeus
Bill Bunn: Along with using the slave census to hold political power, the plantation class also kept taxes artificially low on land and slaves. Tobacco (with slavery the other great evil of Virginia's past) exhausted the land quickly and was labor intensive. The planters could not afford to pay what we might regard as fair taxes. A yeoman farmer in the mountains was taxed more heavily on his personal property than a planter was on slaves and land. The result is that early Virginia offered no public education and did little to improve roads, bridges, canals or other infrastructure to support a yeoman class of the kind that would later evolve in Ohio and the Midwest.

6/28/00 1:15:39 PM Alphaeus
There are several areas of the country, most notably northern California, that are a position similar to West Virginia of the mid-19th century. For any number of reasons, secession makes sense for northern California. If a statehood movement catches on, the West Virginia example of 1863 will deserve considerable study by legal scholars. One other instructive point from the West Virginia example: If you're splitting with the mother name, choose another name. West Virginians are always being introduced to people who say, "Oh, sure, West Virginia ... I have friends in Norfolk." ... Great piece, Danny Glover.

6/28/00 1:18:33 PM Mark Wilson
Bill Bunn: The slave master was not able to vote his slaves votes. The slave population was added into the population of the entire state only when it came to determining how