Twitter Thread by R.J. Lehmann



R.J. Lehmann
@raylehmann



Some are understandably consumed with the court-packing issue right now. I'm much more interested in DC and Puerto Rican statehood. And specifically, the question of whether it is "rank politics" (and whether rank politics is bad).

So, let's talk about the Election of 1888! 1/24

You may remember that Grover Cleveland is the only president to serve two non-consecutive terms. The term he *didn't* serve is the one decided in 1888. Despite getting 90,000 more votes than his opponent, Benjamin Harrison, Cleveland lost the Electoral College. 2/24

Harrison's Republican Party, who already controlled the Senate, also took back control of the House in that election, earning unified control for the first time since 1881.

But it was a fragile control. So they immediately got to work on admitting new Republican states. 3/24

In 1889, the Republican Congress admitted four new states: Washington, Montana and the Dakota Territory, which was split at the last minute into North Dakota and South Dakota. In 1890, they added Idaho and Wyoming.

Just as importantly is the territory they *didn't* add... 4/24

Republicans opted to leave Utah as a territory, because it was widely understood that Mormons were overwhelmingly Democrats.

Thus, Republicans expanded both of their caucuses with all 8 House members from the new states and all 12 new members in the Senate. 5/24

In the short term, the gambit failed. Republicans lost control of the House in 1890. They then lost control of the Senate in 1892 and lost the White House back to Grover Cleveland.

With unified control, Democrats got their revenge in 1896 when they made Utah a state (LOL!) 6/24

The Republicans also failed to foresee the rise of the Populist Party, which would be competitive in the new states in the 1890s. Populist James Weaver won Idaho's 3 EVs in 1892, along with 1 of ND's 3 EVs. (Cleveland also got 1 in ND. The other 15 new EVs went to Harrison) 7/24

But in the long run, it's worked out pretty well for the GOP. Control has sometimes shifted, but here we are, 130 years and several realignments later, and 5 of the 6 are still staunch red states. 114 of the 179 governors the six have ever had (64%) have been Republican. 8/24

The Class of 1889-90 also permanently changed the balance of power in the Senate toward small and rural states. In the Census of 1890, the new states included 4 of the 6 smallest in the union (the other two, Washington and South Dakota, were Nos. 34 and 35 out of 44). 9/24

Today, WY, ND, SD & MT comprise four of the eight smallest states in the union. Coincidentally, all four were part of the original Dakota Territory. If the four were admitted as one state, it would still have a smaller population than Connecticut (the 29th largest state). 10/24

The ability to admit new states is one of most awesome powers the Constitution gives to Congress. It requires only simple majorities. And once done, it is irrevocable and unreviewable.

Probably, it's something the Framers should have given that more thought. 11/24

The check on wielding that power recklessly is the same one the people exercised in 1890 and 1892, when they voted out the Republicans. But hard to say it wasn't worth it for the GOP.

When it comes to DC and Puerto Rico, it probably would be worth it for Democrats, too. 12/24

When it comes to DC, many make the argument that its populated parts should just be returned to Maryland as a "compromise."

Certainly that's an option, but what's the reason for the compromise? DC doesn't want to be part of Maryland. Maryland doesn't want DC. 13/24

So, then you'll often get what I guess is intended as a reductio ad absurdum: If DC can be a state, then why not Denver? Why not Boston?

Personally, I'm totally on board with a bunch more city-states, but I understand the desire for a limiting principle. So I'll offer 4. 14/24

Two are already existing law, both in the Admissions Clause of the Constitution.

No. 1 is that a new state cannot be created out of an existing state without the consent of that state. The State of Jefferson folks may want independence, but California doesn't agree. 15/24

No. 2 is that Congress must agree to admit. Technically, the Constitution doesn't specify that this must be done by presidentially authorized legislation, but that's been the norm. So you need two chambers to agree and a president to sign.

That won't happen often. 16/24

No. 3 is not required by the Constitution, but also is a long-standing norm: Congress should first pass an Enabling Act, which calls on the territory to draft a state Constitution and formally apply for admission. The people of a proposed state should want to be a state! 17/24

This is particularly important for Puerto Rico, where there has long been mixed opinion about statehood. But it also would cover, say, California lawmakers trying to make a LA County a state against the will of the people of LA County. 18/24

And No. 4, which also is not constitutionally required, is the question of minimum size. There is certainly precedent for new states to be less populous than any existing state. Alaska was the smallest state when it was admitted. So was Nevada. 19/24

Is American Samoa (pop. 54,000) big enough to be a state? Dunno. Good question. But since neither DC nor Puerto Rico would be the smallest state, there's no question that they are big enough to be states. If Wyoming and Vermont can be states, then DC can be a state. 20/24

So, there's your formula and limiting principles. If some city or county or group of counties wants to be a state, and they have a population larger than at least one existing state, and the state or states they are currently a part of want them to be a state... 21/24

...and they are willing and able to draft themselves a state constitution, and two chambers of Congress will vote to make them a state, and a president will sign that bill...then they get to be states!

If this is a slippery slope, it's one we've had for 200+ years. 22/24

I don't actually think there all that many other places that would pass this formula, but maybe there are. If so, bring 'em on.

If you don't want Congress to admit those states, vote for a new Congress. If you don't like the process in the Constitution, then amend it. 23/24

But enough already with the Chicken Little shit about the unprecedented nature of any of this. It's super well-precedented. It's the system the sainted Framers created.

The only part you can't blame on them is what the fuck to do with the 23rd Amendment. 24/24