

Supplementary Material

Chapter 7: The Republican Era – Democratic Rights

Kentucky Constitutional Convention, Debate on Legislative Apportionment (1890)

In 1890, a state convention in Kentucky drafted a state constitution that voters ratified in 1892. This is Kentucky's fourth and present constitution, replacing the state constitution of 1850. Previous constitutions of Kentucky made qualified voters the basis of legislative apportionment and distributed legislative seats with an eye to city and county boundaries and territory. These state constitutions used a "district" plan based on Virginia's model. The constitution allocated legislative seats to constitutionally specified districts and then further allocated seats within those districts to counties and cities. As a result, some legislators represented multiple counties, whereas others represented only one. The number of voters (or population) represented by a legislator varied greatly from one section of the state to another.

Kentucky did not experience rapid urbanization to the extent that many other states did at the turn of the twentieth century, but state officials had to grapple with significant population shifts within the state. As a consequence, Kentuckians engaged in similar debates over how legislatures should be apportioned. By the late nineteenth century, the state legislature in Kentucky (like those of other states) had failed to reapportion legislative seats on the constitutional schedule. The 1890 convention considered authorizing an alternative body to redraw the electoral map if the legislature failed to do so, but could not agree on a proper substitute. Delegates also disputed the best means for allocating representation. Convention delegates from more urban areas around Louisville and Lexington (in Fayette County) favored a strict population-based apportionment. Delegates from eastern, mountainous counties favored an apportionment that took into account both population and territory. The 1890 convention did agree on the principle that legislative seats should "as nearly equal in population as may be without dividing any county," but adopted the further limitation that "not more than two counties shall be joined together" and joined counties should be contiguous. Little changed. The state legislature continued to fail to pass constitutionally acceptable apportionments after the constitution of 1890 was adopted.

Should legislative apportionment take into account the different costs of campaigning ("canvassing") in different locations? Should apportionment take into account natural social and economic affinities? What might be the advantage of using counties as the building blocks of legislative districts? Are there good reasons for requiring that the various parts of a legislative district be contiguous? Would there be a problem with drawing a legislative district that cut across multiple counties and connected portions of the mountainous areas in the east with urban areas in the center of the state?

F. A. HOPKINS of Floyd, Knott and Letcher Counties

. . . . I do not wish to inject politics into this Convention, yet facts are facts, and cannot be denied, and we must meet them as they present themselves here fairly and squarely. Under the present Constitution, to gerrymander the State would be absolutely impossible, because a gerrymander could not go beyond any one district, and each district was entitled to its representation. . . . Under the provision you have adopted, a gerrymander can be resorted to which would begin at one end of the State and sweep to the other. The fraction of representation which will be due to one end of the State can be carried to another part of the State, and applied where it is not due and does not belong, which I say would not be just.

As a safeguard against such a state of affairs, . . . I have offered this amendment, which will put an end to the very great injustice that would otherwise be done to various counties. It prohibits the uniting of more than two counties in one district; and, sir, I ask this Convention to go back with me to the

Constitution of 1849, and to the system of districts laid down in that Constitution, and we can show you what we have been entitled to under that Constitution, and it is no more than we would get if the proposition I advocate here is adopted.

....

... We have submitted to the wrong of four counties on this floor, with an aggregate population of twenty-nine thousand people, having but one Representative, while other counties in the State had a single Representative with only four thousand.

Is that just? I maintain that honest, fair-minded men will yield their prejudices in favor of their own counties, and come down and live up to the golden rule, which is to do unto others as you would have them do unto you. . . .

I have been particular in showing you the population of our end of the State, because it has been charged upon this floor that we were asking representation for stumps and fields. We base our claims on the official report of the census of the United States An additional reason, which deters us from trusting it to the Legislature, is, because we have seen in the past that they have not done us justice; that they have disregarded the solemn injunction of the Constitution of 1849, which was as sacred and binding upon their consciences as any Constitution we can make; and if they have violated that Constitution, have we not reasonable grounds for fearing that they may violate the next Constitution? The proper year in which the last apportionment should have been made was in 1882. The last one that was made was in 1873, seventeen years ago; and, under the provisions of the Constitution, they were required to make an apportionment every eight years. . . .

A. J. AUXIER of Martin, Johnson and Pike Counties

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... I see, and the people I represent see, that unfairness exists in this Commonwealth of ours. I am led to ask, what have we done in Eastern Kentucky? What crimes have we committed against the Commonwealth of Kentucky? What disloyalty have we committed against our Commonwealth, that such unjust discriminations are drawn against us? . . . I demand of this Convention to give us some kind of a system by which representation in this Commonwealth shall be as nearly equal as possible. . . . It may be that we have not as distinguished men to send to represent us in the legislative halls of this State. We may not send as able men as other parts, but one reason for it is this, that the districts are so large that our best men cannot afford to make the canvass. . . . I have no more than one vote in this Convention, the same as any other man, and yet I represent five times as many people as some other Delegates. . . .

P. P. JOHNSTON of Fayette County

... The fair and just rule—fair to every section of the State, and unfair and unjust to none—the proposition to divide, as nearly as may be, according to population, and giving territory the advantage where advantage must be had, is a fair proposition. Instead of doing an injustice to the mountain counties, it does them more than justice. For it lays down the imperative rule that any inequality which may be unavoidable, that they shall have the benefit of it. Why fight against such a fair proposition as that? . . .

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F. A. HOPKINS of Floyd, Knott and Letcher Counties

... [B]y reasons of the topography of the country, the relations between some of the counties, where any relations exist at all, are entirely cut off, by reason of the high mountains between these rivers.

For instance, the Cumberland Mountain Last summer in my canvass it became necessary for me to cross from the Kentucky River to the Cumberland to see some one or two hundred voters on that side of the river, and . . . I was two long hours crossing that mountain without seeing a human being. The relations of the people on the Cumberland River and those on the Kentucky River are entirely cut off by these natural barriers. . . . The relations between these two districts are good, as far as they exist at all; but we never cross these mountains unless we are compelled to do it, and that is the reason I do not desire to unite districts which are entirely foreign to each other in their business and social relations. . . .

IVERSON TWYMAN of Larue County

. . . .We started out here upon the principle of dividing this State according to population, and in that we confined ourselves, so far as Louisville is concerned, and according to her population, she gets ten Representatives, and now we find that the eastern part of the State does not desire to be confined to population, but to territory alone, making Louisville and the mountain districts seemingly to join hands with each other in order to accomplish their purposes—territory at one end of the State, and population at the other end of the State.

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. . . . [The] ratio of representation would be 25,528 to each Representative [for the counties in the center of the state], while the Representative of a mountain district would have a population of only 16,100 and some odd to each member. Now, do you propose to apportion this State according to population, or do you propose to divide it according to territory? . . .

A DELEGATE

There is no question but that one county, very much over the ratio, but very populous, can be much better represented by one Representative than two counties very widely separated, covering a very large amount of territory, which are each under the ratio.

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IVERSON TWYMAN of Larue County

. . . .When we were talking about Louisville, they said that the rocks, stumps and fields should not represent people, but that the population was what should have representation; but now we are told that rocks, stumps, and territory shall govern. I say when favoritism can be given to territory, it should be applied, but not until you have exhausted the rule of fair and equal representation according to population. Anything else would be unfair. . . .

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Not territory or wealth either. The poor man is entitled to be represented just as much as the rich man. I count the head, and each head is entitled to representation. That is the true system. . . .

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JOHN THOMAS FUNK of City of Louisville

I endorse almost everything that has been said on this point by [TWYMAN]. As a delegate from the city of Louisville, I want to state that I find very little trouble, indeed, in representing forty-five thousand people. It is true the district is large; but in a large district it gives the people an opportunity of selecting a good man. . . .There is only one fair way to settle this matter, and that is on the basis of population. Territory should cut no figure. Population alone should be represented. Leave territory, wealth, and everything else of that character out entirely. . . .

. . . .It is impossible to arrange these things as to have each Representative represent the same number of population without dividing a county, and, of course, that would not be right. . . .We want nothing in Louisville that we are not willing to give to those so unfortunate as not to live there; but, at the same time, we do want representation in proportion to our population. . . .

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THOMAS PETTIT of Daveiss County

. . . . I intend to be actuated by what I conceive to be the interest of the entire State. I do not think that the distribution of representation should be regulated alone by population. Neither do I believe it should be regulated alone by territory. I believe both should be taken into consideration, and that free and equal representation should be had to every section of the State. I submit to Delegates occupying populous counties (and I speak freely, because I represent one myself), and say that in populous counties we can obtain a free expression of the will of our people in twenty-four hours, if need be, whilst those in larger districts take almost thirty days for such purpose. . . .

Take it when an expression should be had in a few days, and is it not true that those who represent the large territories are not placed at a disadvantage in our General Assembly? Why, it is apparent, and it so recognized in almost every State in the Union. In the great State of Pennsylvania, with Pittsburgh, Philadelphia and other large centers of population, what does it do? Those great cities, no matter what their population, are limited under its Constitution to four Representatives in the General Assembly. They make a distinction upon this just and equitable ground, and it is just that we should make a distinction here. I agree with [HOPKINS], that two counties at least ought to have a Representative in the Legislature. . . .



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