

while recalcitrant legislators were imprisoned. The effect of these and other measures was to weaken the political power of the smaller and southern oriented counties.

The changed political orientation of the State, the problems resulting from the war, and a desire to perpetuate the dominant forces in power, led to the calling of a new constitutional convention in 1864. The convention conducted an extensive debate on the proper basis of representation in the legislature. There was vigorous controversy over a proposal that the legislature should be structured on the federal analogy—representation in the House of Delegates being based on population while the counties were given equal representation in the Senate.<sup>57</sup> In opposition it was contended that Baltimore City was not entitled to such representation, a large proportion of its population being rootless or “floating” without the stability essential to assumption of civic responsibilities. Specific objection was made to counting aliens in determining the representation Baltimore was entitled to, the objection extending to the counting of the “foreign born,” even if naturalized.<sup>58</sup>

All of the opposition from the smaller counties was not of such a nature, however. The representatives from Prince George’s, a medium-sized county at the time, were opposed to full representation for Baltimore not because of the number of delegates that Baltimore would be entitled to but because they were elected from multimember districts rather than single member districts: “The danger . . . all the smaller counties have to fear, is not in the number of

representatives Baltimore is entitled to send here, but the fact that by the constitution of the State they are organized into a great political unit.”<sup>59</sup> An even more telling consideration, however, was that United States senators were elected by the state legislatures, in accordance with Article I, Section 3, of the United States Constitution. Giving Baltimore full representation in the House would have given the city at least a veto on the selection of the State’s senators.

The convention solved the apportionment problem by dividing Baltimore into three legislative districts<sup>60</sup> and providing for the election of delegates, on a weighted basis, from each of these districts and the counties as follows:

For each 5,000 population, or fraction thereof greater than one-half, 1 delegate until a total of five delegates was reached.

For the next 20,000 population, or fraction thereof greater than one-half, one delegate.

For each 80,000 population thereafter, or fraction thereof greater than one-half, one delegate.<sup>61</sup>

It will be noted that this formula broke new ground in Maryland for it was the first apportionment formula that put no upper limit on Baltimore’s representation. Conversely, the districting and the weighting ensured that the city would not dominate the House of Delegates.<sup>62</sup>

<sup>59</sup> *Id.* at 1044.

<sup>60</sup> MD. CONST. art. III, § 2 (1864).

<sup>61</sup> MD. CONST. art. III, § 4 (1864).

<sup>62</sup> It also ensured that Baltimore would not control the election of Maryland’s U. S. senators. In 1866 an act of Congress required that any failure of the two houses of a state legislature to agree on a choice for U. S. senator be resolved through an election conducted in a joint session of the two houses. Had the House of Delegates been apportioned on the basis of population, the Baltimore delegation would have controlled the senatorial elections. 14 Stat. 243 (1866).

<sup>57</sup> 2 DEBATES OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF MARYLAND, 1864, p. 1033 ff. (Bayly’s ed. 1864).

<sup>58</sup> *Id.* at 1037.