

Having weighted representation in the House, the convention sought to recompense Baltimore to a limited extent by giving it extra representation in the Senate where domination by the city was not even a remote threat. This was accomplished by allowing the city to elect one senator from each of its three legislative districts.⁶³ Thus, having expressly rejected the federal analogy, the convention consolidated its position by refusing to establish the House on a strict population basis while simultaneously introducing a population factor into the Senate by giving Baltimore City multiple representation.

Closely tied to the question of the proper basis of apportionment of the legislature was the issue of whether Negroes should be included, as they were under the 1851 Constitution, in the population counts used for determining apportionments. At the time of the 1864 Constitution, the Thirteenth Amendment to the federal Constitution abolishing slavery had not yet even been proposed by Congress. The 1864 Constitution, though, in Article 24 of the Bill of Rights, abolished slavery within the State. Having adopted the provision to abolish slavery, the convention refused to count any Negroes, even free Negroes, for apportionment purposes.⁶⁴ As in 1851, the issue involved was basically not the rights of Negroes as such, but the relative power of the rural slaveholding counties versus the more populous counties and Baltimore City where slaveholdings were relatively unimportant.⁶⁵ The reversal from 1851 on counting Negroes was a direct result of

the weakening of the southern oriented counties referred to earlier.

As with previous reapportionments, the reapportionment provided by the 1864 Constitution was to take effect only after the next census.⁶⁶ For the interim period a temporary apportionment was again provided: Baltimore County, Frederick County, and the three districts in Baltimore City, 6 delegates each; Allegany, Carroll, and Washington, 5 delegates; Cecil and Harford, 4 delegates; Somerset and Worcester, 3 delegates; Anne Arundel, Caroline, Dorchester, Howard, Kent, Montgomery, Prince George's, Queen Anne's, and Talbot, 2 delegates; and Calvert, Charles, and Saint Mary's, 1 delegate.⁶⁷ Assessing this temporary apportionment on the basis of total population, rather than white population, an astounding result appears. Baltimore with eighteen delegates and a population of 212,418 had 11,801 persons per representative. Calvert, Charles, and Saint Mary's counties had 10,447, 16,517, and 15,213 inhabitants for their single representatives, respectively. Thus on a total population basis, Baltimore was approximately equally represented as compared to the least populous counties, a situation that never has occurred before or since.

THE 1867 CONSTITUTION

With the close of the Civil War and the ending of the Union Army occupation of the State, demand for revision of the 1864 Constitution became irresistible. Accordingly, in 1867, another constitutional convention was called. In contrast to the long debate on apportionment in the 1864 convention, the

⁶³ MD. CONST. art. III, § 3 (1864).

⁶⁴ MD. CONST. art. III, § 4 (1864).

⁶⁵ For example, Baltimore City with almost ten times the population of Prince George's County had less than one-fifth of the number of slaves in that county.

⁶⁶ Since it was replaced by a different apportionment formula in the 1867 Constitution, it never took effect at all.

⁶⁷ MD. CONST. art. III, § 4 (1864).