

Institution

No 1

WINDY COUNTY WAREHOUSE

CONSTITUTIONAL CONVENTION.

Words of Warning and Advice by one
Well Able to Give Them.

EDITOR JOURNAL: The committee which has in charge the bills providing for the election of delegates to a Constitutional convention will be asked to consider some important facts which seem very generally to have escaped consideration. The Tribune, in a curious and incorrect article on the subject, comments upon what is known as the Husted bill as non-partisan and as providing for minority representation and giving a body numerous enough and yet not cumbersome.

The plan is in its main features identical with that which the convention of 1867 was organized, providing for four delegates from each senatorial district, with thirty-two delegates at large. These, being chosen by what is known as the "cumulative" or more properly "restricted" method of voting, the results anticipated are an equal number of Republican and Democratic delegates at large, a majority of Republican delegates in Republican districts and a majority of Democratic delegates in Democratic districts. If the restricted method of voting is limited to the delegates at large and each voter is allowed to vote for half the number it becomes a party representation rather than either popular or minority representation. The claim that it is to be a non-partisan body is therefore absurd. The plan is counted on to give a reliable, working Republican majority and is adopted mainly for the sake of putting forward a spurious claim to fairness.

The chief features of the plan are an increase in the size of the constituencies and the introduction of the element of state or—since each voter can only cast a ballot for half of the delegates at large—party representation. In other words, the plan is intended to give the people representation through their senatorial districts and the parties representation to the extent of one-fourth the entire membership, through the delegates at large.

There would perhaps be no objection that could properly be urged to this so far as Republican legislators are concerned, if it could be relied on to accomplish this result. But there is the rub. It is a clear case of fooling with odd jobs. The minority representation plan is one that produces odd results when men come to learn its capacity. In the present case, it might bring consequences which would amaze the men who are pulling the triggers.

This plan of party representation by means of the restricted or cumulative ballot has never approved itself in any state where it has been tried. It is not so objectionable in its outcome when party lines are strictly drawn and there are but two parties in the field. Where there are three parties, however, the result is likely to be somewhat surprising. By the ordinary method of voting a majority can be secured in a representative body only by having a majority of votes in a majority of the constituencies. By the system of cumulative or restricted voting, however, it is quite possible for a party to obtain a majority of delegates in an elective body without having a majority of votes in any constituency. In the present case, if the cumulative or restricted method of voting (for both are alike in their effects) is applied to the delegates at large it will not be likely to result in a simple division of their power between Democrats and Republicans. There will remain the question as to what the Labor-reformers will do. It is quite among the possibilities that both parties should find themselves what in the lurch in their estimates. If the same principle be applied also to the senatorial constituencies it is quite within the range of possibility that a water party should secure a majority of the delegates.

The principle of the minority representation is a very dangerous one where there are three distinct and rival organizations of nearly equal strength. If the voters acted without general concert outside the limits of the various constituencies, or if they were broken into a large number of rival factions the results would not be unfair. So too, if two great parties very nearly divide the entire vote. Indeed this latter state of affairs is the very one it was intended to remedy. The purpose was not so much to secure representation between parties, as to secure "talking representation" to small minorities.

The real character of this system has been curiously misunderstood by those who have tried to apply it to our constitutional convention. To secure minority representation in the true sense of that term—in this case, it would be necessary to limit the number for which each elector might vote to say two or four of the delegates at large and allow him to cast thirty-two votes for one, sixteen each for two, or eight each for four, as he may prefer. By this means a compact minority equal to one sixteenth of the voters of the state, could secure one "talking representative" to submit their views to the convention. This plan would not be seriously objectionable if limited to the delegates at large and would have the merit of being really minority representation instead of party representation.

In fact, however, there is little real of any such contrivance with our small constituencies and flexible public sentiment, especially when party lines are so loosely drawn and the results are open to such serious doubts as at this time. There is no question about either party being fully represented and there is little question about special interests getting a reasonable representation if the convention is elected by the usual political subdivisions, with an increase from the senatorial districts and perhaps another small increment from

the state at large. This would make it representative of the people. It would probably be a healthy body, but it would be a very heterogeneous one. The work would be finished in a few days. The result would be true representation to have a Democratic majority in the case. It would be less likely to be party in its character than chosen by the proposed method.

Under these considerations, it may be well to recall the fact of experience with this method. It is not encouraging either from an economic or party standpoint. The Republican party called the convention of 1867 on this plan. It probably said more and did less than any other legislative body ever convened in the country. It was not a representative convention at all, but simply two political party gladiators, intent on winning advantage each set for its own side. The result came to nothing, but it was a Democratic success. The Republican party had to carry it.

The fact is the only safe and sure way to constitute a convention is by giving representation to the smallest part of the constituencies and leaving the majority and the result to the people. Then no party can complain and no one is responsible. This is the plan that has been pursued in all but four or five of the constitutional conventions that have been held in the United States. The work of such conventions, has, in an overwhelming majority of cases, been accepted by the people, less than one-tenth of the whole number having been rejected. Minority representation in the election of delegates has been tried five times and in three cases has been overwhelmingly rejected by the popular vote. The proof of the pudding is by chewing the string.

In this state it should be remembered too, that we have had two conventions which have been looked upon in the history of constitutional progress, that of 1821 and that of 1846. Both were singularly representative bodies. The delegates were chosen by equities and in both cases the issues were sharp and close. Ideas were expressed as well as parties. Men were chosen whom they favored or opposed. The result was in both cases a unanimous approval of the constitution, with some few exceptions, and an adherence to the fundamental law to existing conditions. This was especially true of the constitution of 1821, which by common consent is regarded by all authorities of weight as the model of the modern state constitutional convention. It was the source of many approved and generally accepted reforms in other states, that any body that has since the first organization of our present federal system.

The relative representative character of our conventions is shown by the following table. The delegates at large are omitted in 1867—their representing their respective parties in the legislature and not specific constituencies.

	Members	Population	Average
1821.....	188	1,400,000	11,000
1846.....	198	2,400,000	18,000
1867.....	193	4,000,000	31,000

The population of the state is now upwards of 5,000,000 and the representation under the proposed bill, omitting the delegates at large, would be about one delegate to 40,000 people. This is not a very popular convention and it might be well to entitle the proposed act for convening a sovereign convention of the politicians in stead of the people of the state.

...policy, it would seem to be... at a time when the... in New... around numbers 70,000 votes, and... control of... increment not far from 20,000 votes, to shift the responsibility for the character of the convention as much as possible to the shoulders of the people and... to adopt a plan by which a... of the voters might secure a clear working majority of the delegates.

There are certain other reasons too, why the Republican party should not imperil its future by making itself responsible in advance for the work and personnel of the convention. The party cannot be hurt by anything the convention can do, unless by showing that it makes itself responsible for the character of the body. If it opens to the most complete popular representation possible, it will not stand committed to any result. If it ordains a specific plan by which to gain control anyhow, it will be responsible for what is done even though it should fail in securing control. It is clearly a case in which it is as well not to be "too previous" and where it will not do to try too many new fangled notions. R. R. J.

Constitutional Committee
Article No 2.

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