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LEGISLATIVE REAPPORTIONMENT IN WASHINGTON*

At the general election held in the State of Washington on November 4, 1930, the voters approved, by a small majority, Initiative Measure No. 57, which provides for a general reapportionment of seats in the State Legislature. For twenty-nine years there had been developing a problem of representation in Washington, and since 1910 the situation had grown steadily worse. Yet in the face of an increasingly exasperating state of affairs the Legislature, unmindful of its duty under the constitution, persistently declined to act. For an explanation of this extraordinary circumstance one must turn to the facts of geography and of economic development.

The State of Washington is divided by the Cascade Range of Mountains into two distinct sections. Between Western Washington and Eastern Washington there are important differences of climate and of natural resources, and hence in the two regions the human response to environmental influences has differed. Western Washington, with its greater variety of economic interests, has grown more rapidly in wealth and in population than Eastern Washington where the dominant interests have been agricultural and horticultural. Unequal growth has accentuated sectional hostility. For many years Eastern Washington has exhibited, with respect to the "West Side," an under-dog psychology. But the fact of sectional differences does not tell the whole story. There has developed, in addition, a clash of interests between the rural areas (the so-called "cow counties") and the chief urban center. Urban growth in Washington, broadly considered, has taken place in the Puget Sound Basin, particularly in King County, in which is situated the city of Seattle.¹ There are cow counties in Western Washington as well as in Eastern Washington, and the history of the struggle to achieve a more equitable distribution of seats in the State Legislature has

* The author of this article, Prof. J. Orin Oliphant, is essentially an Eastern Washington man. For years he was a member of the administrative and teaching staffs of the State Normal School at Cheney. At present, after obtaining the Ph.D. degree at Harvard, he is a Professor at Antioch College, Yellow Springs, Ohio.—EDITOR.

¹ The population of Seattle in 1920 was 315,312. According to the preliminary figures of the 1930 census, announced on August 22, 1930, its population was 365,518. Spokane, the second city in size in the State, had in 1920 a population of 104,437 and in 1930 a population of 116,010. From 1920 to 1930 the population of Tacoma increased from 96,965 to 106,885. These are the only cities in Washington having populations of 100,000 or more.

shown, at least until very recently, King County with opposition from the rest of the State.

If the fight for reapportionment in Washington had been entirely a sectional matter, Western Washington, with its greater population and more numerous legislative representation, would easily have won. But the fact of retarded development in certain areas west of the Cascades in comparison with growth of King County explains the political alliance which has long existed between Eastern Washington and some of the counties of Western Washington. A conscious solidarity of interest resting upon an economic inferiority complex produced the "cow county defense league" which, in successive sessions of the State Legislature, prevented the enactment of any reapportionment law. Against such a powerful organization, King County has been helpless. Under-representation in the State Legislature is the penalty it has paid for its greatness.

One should bear in mind, however, that the picture sketched in the preceding paragraphs does not delineate with complete accuracy the situation at all times and in respect of all details. A close view of a picture brings out details which are not visible to one who gazes from afar. Seattle is not the only city in Washington; it is not the only city in Western Washington. In the counties of Pierce and Spokane are situated, respectively, the cities of Tacoma and Spokane. One might think that they would have given legislative support to Seattle. But the counties of Pierce and Spokane have been fairly well represented, and they have consequently had little or no interest in raising Seattle and King County to exalted position in the State Legislature. In recent years Pierce County, for reasons which the census figures clearly reveal, has lost a part of its fervor for the "cow county defense league."² But Spokane, the leading city of Eastern Washington, is largely rural in its point of view and has remained hostile to all suggestions of reapportionment. Moreover, it would be wholly awry with the facts to suppose that the rate of population growth (or loss) has been uniform among the counties east of the Cascades and that therefore this region has presented through the years a solid opposition to legislative reapportionment. The development of irrigation projects in Eastern Washington has accelerated the growth of population in certain counties, particularly in Yakima and Chelan, and the growing under-representation of

² The long continued rivalry between Tacoma and Seattle has colored the politics of the Puget Sound country and hindered concerted action between Pierce County and King County in the State Legislatures. But in 1923 seven-tenths of the Pierce County delegation in the House of Representatives voted for the passage of a measure to increase the representation of King County. *House Journal*, 1923, p. 382.

these counties has softened their hearts in respect of the aspirations of King County and induced them to look more closely at the over-representation of divers cow counties. It is not improbable that these special situations have helped to bring about the recent change, although the statistics of geographic distribution of signatures to the initiative petition and the election returns by counties are not available at the time of this writing.

The magnitude of the problem of legislative representation in Washington in 1930 can best be understood by examining the Federal census returns. Table A which follows sets forth the statistics of population, by counties and by sections, from 1890 to 1930, respectively.³

Between 1890 and 1900 only two counties of Washington lost in population. Franklin County lost 30.2 per cent and Jefferson County 32.2 per cent. From the sectional standpoint, therefore, the losses were of no consequence. During this decade the per cent of increase in Eastern Washington was slightly more than that in Western Washington. The percent of increase for the State was 45.

TABLE A
Population of Washington by Counties and Sections

Counties	EASTERN WASHINGTON				
	1930	1920	1910	1900	1890
Stevens.....	18,545	21,605	25,297	10,543	4,341
Spokane.....	149,925	141,289	139,404	57,542	37,487
Whitman.....	27,913	31,323	33,280	25,360	19,109
Asotin.....	8,120	6,539	5,831	3,366	1,580
Garfield.....	3,653	3,875	4,199	3,918	3,897
Columbia.....	5,306	6,093	7,042	7,128	6,709
Walla Walla.....	28,382	27,539	31,931	18,680	12,224
Franklin.....	6,133	5,877	5,153	486	696
Adams.....	7,714	9,623	10,920	4,840	2,098
Lincoln.....	11,887	15,141	17,539	11,969	9,312
Okanogan.....	18,443	17,094	12,887	4,689	1,467
Douglas.....	7,554	9,392	9,227	4,926	3,161
Kittitas.....	18,135	17,737	18,561	9,704	8,777
Yakima.....	76,313	63,710	41,709	13,462	4,429
Klickitat.....	9,821	9,268	10,180	6,407	5,167
Ferry.....	4,276	5,143	4,800	4,562
Chelan.....	31,636	20,906	15,104	3,931
Benton.....	10,952	10,903	7,937
Grant.....	5,652	7,771	8,698
Pend Oreille.....	7,154	6,363
	457,514	437,191	409,699	191,513	120,454

³ The 1930 census figures used in this study are taken from the preliminary report of the Bureau of the Census, issued August 22, 1930, and are therefore not quite accurate. The final report of the Bureau, issued on November 22, 1930, gives Washington a population of 1,563,396. This slight correction does not invalidate any conclusion reached in this article.

	WESTERN WASHINGTON		1910	1900	
Skamania.....	2,813	2,357	2,887	1,688	774
Clark.....	40,293	32,805	26,115	13,419	11,709
Cowlitz.....	31,794	11,791	12,561	7,877	5,917
Waukiakum.....	3,860	3,472	3,285	2,819	2,526
Pacific.....	15,542	14,891	12,532	5,983	4,358
Lewis.....	40,007	36,840	32,127	15,157	11,499
Thurston.....	31,368	22,366	17,581	9,927	9,675
Grays Harbor.....	59,915	44,745	35,590	15,124	9,249
Mason.....	10,011	4,919	5,156	3,810	2,826
Kitsap.....	30,735	33,162	17,647	6,767	4,624
Jefferson.....	8,257	6,557	8,337	5,712	8,368
Clallam.....	20,262	11,368	6,755	5,603	2,771
Pierce.....	165,168	144,127	120,812	55,515	50,940
King.....	463,008	389,273	284,638	110,053	63,989
Snohomish.....	79,001	67,690	59,209	23,950	8,514
Island.....	5,367	5,489	4,704	1,870	1,787
Skagit.....	35,102	33,373	29,241	14,272	8,747
San Juan.....	3,091	3,605	3,603	2,928	2,072
Whatcom.....	58,859	50,600	49,511	24,116	18,591
	<u>1,104,453</u>	<u>919,430</u>	<u>732,291</u>	<u>326,590</u>	<u>228,936</u>
Totals.....	1,561,967	1,356,621	1,141,990	518,103	349,390

The decade from 1900 to 1910 was one of remarkable population growth for Washington. Columbia was the only county which lost in population in that decennial period, and its loss was negligible, 1.2 per cent. Each section of the State more than doubled its population, but the per cent of increase in Western Washington was slightly larger than that in Eastern Washington. The per cent of increase for the State was 120.4.

During the period from 1910 to 1920 there was a noticeable change. The per cent of population increase for the State was only 18.8. During this decade fourteen counties lost in population, and of this number ten belong to the Eastern Washington group. The percentage losses of Eastern Washington counties were as follows: Adams, 11.9; Columbia, 13.5; Garfield, 7.7; Grant, 10.7; Kittitas, 4.4; Klickitat, 9.0; Lincoln, 13.7; Stevens, 14.6; Walla Walla, 13.8; Whitman, 5.9. During the same decade percentage losses by counties of Western Washington are shown as follows: Cowlitz, 6.1; Jefferson, 21.4; Mason, 4.6; Skamania, 18.4. Important population gains in Eastern Washington counties are expressed in the following percentages: Benton, 37.4; Chelan, 38.4; Okanogan, 32.6; Yakima, 52.7. The following named Western Washington counties showed the largest percentage gains: Clallam, 68.3; Clark, 25.6; Grays Harbor, 25.7; King, 36.8; Kitsap, 87.9; Thurston, 27.2. Pierce County, in which is situated the city of Tacoma, gained 19.3 per cent, while Spokane County, in which is situated the city of Spo-

kane, gained only 1.4 per cent. The per cent of increase for Western Washington was about four times as great as that for Eastern Washington.

Between 1920 and 1930 the per cent of increase for the State was 15.1, and the per cent of increase for Western Washington was more than four times as great as that for Eastern Washington. During this decade twelve counties lost in population, and of this number nine are situated in Eastern Washington. The percentage losses of Western Washington counties were as follows: Island, 2.2; Kitsap, 7.3; San Juan, 14.3. The losses of Eastern Washington counties are expressed by the following percentages: Adams, 19.8; Columbia, 12.9; Douglas, 19.6; Ferry, 16.9; Garfield, 5.7; Grant, 27.3; Lincoln, 21.5; Stevens, 14.2; Whitman, 10.9. The Western Washington counties having the largest percentage gains were: Clallam, 78; Clark, 22.8; Cowlitz, 169.6; Grays Harbor, 33.9; Jefferson, 25.9; Mason, 103.5; Thurston, 40.2. King County gained 18.9 per cent and Pierce County 14.6 per cent, while Spokane County gained only 6.1 per cent.

Since 1910 seven counties of Eastern Washington have consistently lost in population, while during the same period no county of Western Washington has shown a steady loss. None of the counties of Western Washington which appeared in the "loss" column of 1920 can be found in the "loss" column of 1930. During this same score of years the counties of Eastern Washington showing the most consistent gains are those affected by irrigation projects. Even in Spokane County, the largest center of population in Eastern Washington, the decennial gains in population since 1910 have been slight, while in the rich wheat-growing county of Whitman the decrease in population since 1910 has been steady and considerable. Before 1920 the retreat from the marginal lands of the Big Bend country was under way, and during the succeeding decade continued apace. As a result of unequal population growth and of population shifting there has been developing in Washington since 1900, and especially since 1910, a representation problem of the first importance. Yet in the face of this the State Legislature for nearly a generation has refused to enact a reapportionment law.

The inequalities briefly discussed in the preceding paragraphs developed notwithstanding an explicit constitutional requirement of frequent reapportionments of legislative seats. It is doubtful whether a more flagrant violation of a mandatory clause of a constitution can

anywhere be found. Sec. 3, Art. II, of the constitution of Washington reads:

"The legislature shall provide by law for an enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter; and at the first session after such enumeration, and also after each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and house of representatives, according to the number of inhabitants, excluding Indians not taxed, soldiers, sailors and officers of the United States army and navy in active service."

The decade in which the State Constitution was adopted⁴ witnessed a remarkable growth of population in the Territory of Washington (75, 116 in 1880; 349,390 in 1890), and it may be presumed that the foregoing section was inserted in the Constitution in order to insure the correction of subsequent injustices in representation consequent upon rapid and uneven settlement of a new country. Yet, regardless of the intention of the framers of the Constitution, a State census has never been taken,⁵ and only two apportionment acts have been passed by the Legislature. The legislators of Washington elected to seats in the Legislative Session of 1931 were chosen under an apportionment act passed in 1901.

The Constitution further provides (Sec. 2, Art. II) that the House of Representatives shall be composed of not fewer than sixty-three or more than ninety-nine members, and that the number of Senators shall not be more than one-half or less than one-third of the number of Representatives. This precludes an arrangement looking to a considerable increase in the number of Senators and Representatives.

Two sections of the Constitution as originally adopted provided (Secs. 1 and 2, Art. XXII) for a temporary apportionment of Senators and Representatives, to be effective until superseded by a legislative apportionment. There were to be thirty-five Senators elected in twenty-four senatorial districts, and the House of Representatives was to contain seventy members elected by counties. After the first election the Senators were to be elected from single districts and no representative district was to be divided in the formation of a senatorial district (Sec. 6, Art. II). As the first apportionment was

⁴ The State Constitution was ratified by the electorate on October 1, 1889, and Washington was admitted into the Union on November 11 of that year.

⁵ "The provision of the constitution calling for a legislative census every ten years has never been complied with, neither has the reapportionment ever been made in accordance with the provisions of the constitution." Letter from the Honorable J. Grant Hinkle, Secretary of State, to the writer, September 8, 1926.

only an emergency measure, intended to be supplanted after the taking of the Federal census in 1890, it is not necessary to examine its fairness in relation to the provisions of Sec. 3, Art. II, of the Constitution. It should be observed, however, that in this plan of apportionment representative district boundaries did not cut across county lines, and each County was allotted one Representative regardless of population. This pattern was followed in the drafting of both subsequent legislative reapportionment acts, although the Constitution does not require it.

The Legislature of Washington, called into extraordinary session after the taking of the Federal census in 1890, passed an apportionment act which was approved by the Governor on September 11, 1890.⁶ This act created thirty-four single senatorial districts and provided for the election of seventy-eight Representatives from forty-nine districts. Eastern Washington, consisting of fifteen counties, was divided into twelve senatorial districts and twenty representative districts. This section received twelve Senators and twenty-eight Representatives. In the House representation of this region by counties was as follows:

TABLE B

Counties	Population	Number of Representatives
Stevens.....	4,341	1
Spokane.....	37,487	8
Whitman.....	19,109	4
Asotin.....	1,580	1
Garfield.....	3,897	1
Columbia.....	6,709	1
Walla Walla.....	12,224	2
Franklin.....	696	1
Adams.....	2,098	1
Lincoln.....	9,312	2
Okanogan.....	1,467	1
Douglas.....	3,161	1
Kittitas.....	8,777	2
Yakima.....	4,429	1
Klickitat.....	5,167	1
	120,454	28

Western Washington, consisting of nineteen Counties, was divided into twenty-two senatorial districts and twenty-nine representative districts. This section was given twenty-two Senators and fifty Representatives. In the House of Representatives the representation by Counties was as follows:

⁶ *Legislative Manual of Washington, 1891-92* (Olympia, 1891), pp. 154-65.

TABLE C

Counties	Population	Number of Representatives
Skamania.....	774	1
Clark.....	11,709	2
Cowlitz.....	5,917	1
Wahkiakum.....	2,526	1
Pacific.....	4,358	1
Lewis.....	11,499	2
Thurston.....	9,675	2
Chehalis (Grays Harbor).....	9,249	2
Mason.....	2,826	1
Kitsap.....	4,624	1
Jefferson.....	8,368	2
Clallam.....	2,771	1
Pierce.....	50,940	10
King.....	63,989	13
Snohomish.....	8,514	2
Island.....	1,787	1
Skagit.....	8,747	2
San Juan.....	2,072	1
Whatcom.....	18,591	4
	<hr/> 228,936	<hr/> 50

The act of 1890 provided for representation in the state senate in the following manner:

TABLE D

Counties	EASTERN WASHINGTON	No. of Senators
Lincoln and Okanogan.....		1
Stevens and Spokane.....		1
Spokane.....		3
Whitman.....		2
Garfield, Asotin, Columbia.....		1
Franklin, Adams, Walla Walla.....		1
Walla Walla.....		1
Douglas and Kittitas.....		1
Yakima and Klickitat.....		1
		<hr/> 12
	WESTERN WASHINGTON	
Clark and Skamania.....		1
Cowlitz, Wahkiakum, Pacific.....		1
Lewis.....		1
Chehalis (Grays Harbor).....		1
Mason, Kitsap, Island.....		1
Thurston.....		1
Pierce.....		5
King.....		6
Jefferson and Clallam.....		1
Snohomish.....		1
Skagit and San Juan.....		1
Whatcom.....		2
		<hr/> 22

The ratio of representation in 1890, based upon the Federal census of that year (349,390), was 4,480 for the House and 10,277 for the Senate. The preceding tables (B, C, and D) will show how faithfully the Legislature complied with Sec. 3, Art. II, of the Constitution.

An act of the Legislature approved on February 21, 1899, created the County of Ferry out of a part of Stevens County.⁷ The new County was made a part of the second senatorial district (added to Stevens and Spokane Counties) and was made the fiftieth representative district. It was given one Representative. On March 13, 1899, Chelan County was formed from parts of Okanogan and Kittitas Counties.⁸ It was joined to the first senatorial district (added to Lincoln and Okanogan Counties) and was made the fifty-first representative district. It received one Representative. No further changes in the apportionment law were made until the legislative session of 1901. The Legislature neglected to authorize the taking of a State census in 1895 and the making of a reapportionment agreeably to the results thereof.

The Federal census of 1910, which showed a large decennial growth for the new State of Washington, brought into clear relief the question of reapportionment. Governor John R. Rogers, in his message to the Legislature on January 16, 1901, referred to this subject in the following words: "One of the most perplexing questions with which you will have to deal will arise from the various and conflicting claims and interests involved in redistricting the state for legislative and congressional purposes. Without attempting to interfere, save in a strictly constitutional manner, with the peculiar province of the legislative department of government, I shall be permitted to observe that, in my opinion, each organized county, without regard to population, should be permitted to have at least one representative in the house of representatives. To deprive the small counties of this privilege would cause some injustice and much ill-feeling."⁹

Governor Rogers may have displayed in the foregoing statement superior acumen as a politician, but he clearly showed lack of statesmanship. He should have foreseen that, in years to follow, such interpretation of the Constitution would lead to gross injustices which the framers of that instrument had taken pains to prevent. Probably without fully realizing it, the Governor was pleading for a violation of the Constitution. But evidently the

⁷ *Session Laws*, 1899, chap. 18.

⁸ *Ibid.*, chap. 95.

⁹ *Senate Journal*, 1901, p. 42.

Legislature gave heed to his recommendation, for it voted, by adopting the reapportionment act of 1901, to give at least one Representative to each County.¹⁰ A comparison of the populations of Franklin and Klickitat Counties will reveal one result of the application of this principle. Franklin County, with a population of 486, received one representative; Klickitat County, with a population of 6,407, also received one representative. The ratio of representation, according to the Federal census of 1900, was 5,512 for the House and 12,336 for the Senate. In the light of these figures the tables which follow (E and F) are interesting.

TABLE E
Representation in the House According to the Act of 1901
(Census of 1900)

Counties	Population	Number of Representatives
EASTERN WASHINGTON		
Stevens.....	10,543	2
Spokane.....	57,542	10
Whitman.....	25,360	4
Asotin.....	3,366	1
Garfield.....	3,918	1
Columbia.....	7,128	1
Walla Walla.....	18,680	3
Franklin.....	486	1
Adams.....	4,840	1
Lincoln.....	11,969	2
Okanogan.....	4,689	1
Douglas.....	4,926	1
Kittitas.....	9,704	2
Yakima.....	13,462	2
Klickitat.....	6,407	1
Ferry.....	4,562	1
Chelan.....	3,931	1
	191,513	35
WESTERN WASHINGTON		
Skamania.....	1,688	1
Clark.....	13,419	2
Cowlitz.....	7,877	1
Wahkiakum.....	2,819	1
Pacific.....	5,983	1
Lewis.....	15,157	3
Thurston.....	9,927	2
Chehalis (Grays Harbor).....	15,124	3
Mason.....	3,810	1
Kitsap.....	6,767	1
Jefferson.....	5,712	2
Clallam.....	5,603	1
Pierce.....	55,515	10
King.....	110,053	17
Snohomish.....	23,950	4
Island.....	1,870	1
Skagit.....	14,272	3
San Juan.....	2,928	1
Whatcom.....	24,116	4
	326,590	59

TABLE F
Representation in the Senate According to the Act of 1901
(Census of 1900)

Counties	EASTERN WASHINGTON	No. of Senators
Okanogan, Ferry Douglas.....		1
Stevens		1
Spokane		5
Whitman		2
Asotin, Garfield, Columbia.....		1
Adams, Franklin, Walla Walla.....		1
Walla Walla		1
Kittitas, Chelan		1
Yakima		1
Klickitat (and Skamania)*.....		1
		<hr/> 16
	WESTERN WASHINGTON	
Clark		1
Cowlitz		1
Wahkiakum and Pacific.....		1
Lewis		1
Chehalis (Grays Harbor).....		1
Thurston		1
Mason, Kitsap, Island.....		1
Clallam, Jefferson, San Juan.....		1
Pierce		5
King		8
Snohomish		2
Skagit		1
Whatcom		2
		<hr/> 26

* Skamania is a Western Washington County, but in the Act of 1901 it was joined to Klickitat County to form a senatorial district.

Governor Rogers vetoed the reapportionment bill on March 4, 1901, giving two reasons for this action: (1) an increase of twenty-two in the membership of the Legislature was an unnecessary expense, and (2) an objection "even more serious" was that the bill did not apportion seats according to population, as required by the constitution.¹¹ It is not easy to explain the Governor's objection on the second count in the light of his message at the opening of the legislative session. On March 6 the bill was passed notwithstanding the veto.

¹⁰ *Session Laws*, 1901, chap. 60.

¹¹ *Senate Journal*, 1901, p. 465. The Olympia correspondence to *The Spokesman-Review* (Spokane, Wash.) during the session indicates that the reapportionment bill was crowded through both houses by the Republican majority and that the Democratic minority persuaded Governor Rogers to veto it. It was reported that the Governor, although displeased with the measure, had at first decided to let it become a law without signing it. At the time of the passage of the bill the Republicans anticipated a veto, in view of the gerrymandering which had been resorted to, and were prepared to pass the measure over a veto. See *The Spokesman-Review* for February and March, 1901, especially the issues of February 13 and February 22.

The reapportionment act of 1901 created forty-two single senatorial districts and fifty-six representative districts. It provided for ninety-four representatives. Three counties (Benton, 1905; Grant, 1909; Pend Oreille, 1911) have been organized since the act was passed.¹² These counties were created by dividing Counties of Eastern Washington. Each one was attached to an existing senatorial district (Benton to the fifteenth, Grant to the first, and Pend Oreille to the second), and each was erected into a separate representative district and given one Representative. By 1911 the membership of the House had been increased to ninety-seven. The membership of the Senate had not been changed.

It will be observed that, since 1901, a gain of three Representatives has been made by Eastern Washington, which as early as 1910 was very much over-represented. This increase in a region, which in justice to the State as a whole should have suffered a reduction, was due to the questionable practice of allowing each county, regardless of population, to have at least one Representative.

The tables which follow illustrate some of the inequalities which have arisen since the redistribution of seats in 1901.

TABLE G
Representation in the House, Session of 1929

Counties	EASTERN WASHINGTON	
	Population in 1920	Number of Representatives
Stevens.....	21,605	2
Spokane.....	141,289	10
Whitman.....	31,323	4
Asotin.....	6,539	1
Garfield.....	3,875	1
Columbia.....	6,093	1
Walla Walla.....	27,539	3
Franklin.....	5,877	1
Adams.....	9,623	1
Lincoln.....	15,141	2
Okanogan.....	17,094	1
Douglas.....	9,392	1
Kittitas.....	17,737	2
Yakima.....	63,710	2
Klickitat.....	9,268	1
Ferry.....	5,143	1
Chelan.....	20,906	1
Benton.....	10,903	1
Grant.....	7,771	1
Pend Oreille.....	6,363	1
	437,191	38

¹² *Remington's Compiled Statutes of Washington, 1922, Sec. 8138; Session Laws, 1909, chap. 17; Session Laws, 1911, chap. 28.* Benton County was created from parts of Yakima and Klickitat Counties, Grant County was formed by dividing Douglas County, and Pend Oreille County was taken from Stevens County, the "mother of counties" in Northeastern Washington.

WESTERN WASHINGTON

Skamania.....	2,357	1
Clark.....	32,805	2
Cowlitz.....	11,791	1
Wahkiakum.....	3,472	1
Pacific.....	14,891	1
Lewis.....	36,840	3
Thurston.....	22,366	2
Grays Harbor.....	44,745	3
Mason.....	4,919	1
Kitsap.....	33,162	1
Jefferson.....	6,557	2
Clallam.....	11,368	1
Pierce.....	144,127	10
King.....	389,273	17
Snohomish.....	67,690	4
Island.....	5,489	1
Skagit.....	33,373	3
San Juan.....	3,605	1
Whatcom.....	50,600	4
	<hr/>	<hr/>
	919,430	59

TABLE H

King County Representation in Relation to That of Sixteen "Cow Counties"

Counties	Population in 1920	Number of Representatives
KING.....	389,273	17
Asotin.....	6,539	1
Garfield.....	3,875	1
Columbia.....	6,093	1
Franklin.....	5,877	1
Adams.....	9,623	1
Douglas.....	9,392	1
Klickitat.....	9,268	1
Ferry.....	5,143	1
Grant.....	7,771	1
Pend Oreille.....	6,363	1
Skamania.....	2,357	1
Wahkiakum.....	3,472	1
Mason.....	4,919	1
Jefferson.....	6,557	2
Island.....	5,489	1
San Juan.....	3,605	1
	<hr/>	<hr/>
	96,343	17
STATE.....	1,356,621	97

TABLE I

King County Taxes in Relation to Those of Sixteen "Cow Counties"

(Levied in 1921 for collection in 1922)¹³

Counties	Taxes Levied
KING.....	\$3,963,831.59
Asotin.....	81,902.50
Garfield.....	120,627.98
Columbia.....	174,796.35
Franklin.....	176,491.56
Adams.....	386,929.56
Douglas.....	219,857.48
Klickitat.....	247,337.45
Ferry.....	51,683.33
Grant.....	243,189.17
Pend Oreille.....	102,037.02
Skamania.....	76,768.81
Wahkiakum.....	35,065.03
Mason.....	84,859.13
Jefferson.....	104,131.72
Island.....	41,652.05
San Juan.....	25,224.70
	2,172,553.84
STATE.....	\$17,319,059.11

At different times since 1910 King County and other aggrieved parts of the State have attempted to bring about a reapportionment. Bills providing for reapportionment have been introduced into the Legislature, judicial proceedings have been instituted, and resort has been had to the initiative provision of the Constitution. But until 1930 every effort of the revisionists miscarried.

In the regular session of the Legislature in 1917, House Bill 68, providing for a reapportionment, was introduced but was indefinitely postponed when a divided committee report thereon was returned to the House. I have had no opportunity to examine this bill, so I am unacquainted with its provisions. It is interesting to note, however, that the vote for indefinite postponement was: yeas, 57; nays, 37; absent or not voting, 3. The support which this measure received came from the Counties of King, Pierce, Snohomish, Whatcom, Skagit, Cowlitz, and Yakima. Yakima, which would have profited somewhat by a reapportionment, was the only Eastern Washington County that gave any support to the bill. The Western Washington delegations from which came support for the measure were not all unanimous in their approval.¹⁴

In the legislative session of 1921 Senator E. B. Palmer of King

¹³ State of Washington, Division of Municipal Corporations: *Statement of 1921 Taxes Due in 1922, Exhibit 1* (Olympia, 1922).

¹⁴ *House Journal*, 1917, p. 197.

County introduced two reapportionment bills, both of which were permitted to die in the rules committee of the Senate after divided reports thereon had been returned.¹⁵ Senate Bill 179 provided for the creation of sixty-four representative districts and forty-seven single senatorial districts. The present number of Representatives (ninety-seven) and the allotment thereof by Counties would have remained unchanged, but the membership of the Senate would have been increased by five. Four of the additional Senators would have been awarded to King County, increasing to twelve the senatorial representation of that County. Senate Bill 234 provided for the creation of sixty-three single representative districts and twenty-one single senatorial districts, a plan proposing the minimum representation authorized by the Constitution. According to this proposal for reapportionment King County would have received eighteen Representatives and five Senators and would have shared two additional Senators with Pierce and Snohomish Counties. This bill ignored county lines in the creation of representative districts.

Two years later Representative William Phelps Totten of King County brought in two reapportionment bills, House Bill 172 and House Bill 184. Neither made much headway. House Bill 172 provided for increases in the membership of the House and of the Senate to the constitutional maxima of ninety-nine and forty-nine, respectively. Jefferson County was to be deprived of one Representative, and King County was to receive three additional Representatives. The bill further provided for forty-nine single senatorial districts, and awarded to King County ten Senators, an increase of two.¹⁶ This bill was an attempt to get increased representation for King County in both branches of the Legislature by permitting all of the other Counties (save Jefferson) to retain their existing representations in the House. It provided no relief (except to some extent in senatorial representation) for any of the other under-represented Counties. Its passage would have contributed very little to the solution of the problem of representation.

House Bill 184 provided for the erection in King County of a new representative district, the sixty-first, from which two Representatives were to be chosen. This bill would have given to King County some additional representation by increasing the membership of the house to the constitutional maximum of ninety-nine. No change in the membership of the Senate was sought. The passage of this measure would have had no appreciable effect upon the exist-

¹⁵ *Senate Journal*, 1921, pp. 314, 348.

¹⁶ *House Journal*, 1923, p. 267.

ing situation. But the House vote on its final passage is of interest for the reason that nothing was involved save the question of making to King County a slight compensation, at no cost in representation to any other County. Two votes were taken. The first stood as follows: yeas, 39; nays, 51; absent or not voting, 7. The second vote, taken the same day under a call of the House, after a motion to reconsider had prevailed, stood: yeas, 39; nays, 57; absent or not voting, 1. Only two votes for this measure came from Eastern Washington. Both were from Spokane County. King County Representatives voted unanimously for the bill, the delegations from Whatcom and Snohomish Counties were evenly divided, Island, Pacific, and Kitsap Counties favored it, Lewis County cast a unanimous vote in its favor, two of the three Skagit County representatives voted for it, two of the three Grays Harbor County representatives favored it, and seven of the ten Pierce County representatives supported it.¹⁷

The question of redistributing seats in the Legislature was again pressed for consideration during the regular session of the Legislature in 1927. Two proposals to amend the Constitution in respect of legislative representation were presented, one by Senator Heifner of King County and the other by Representative Mark Reed of Mason County. Senator Heifner's bill (S. B. No. 111) provided for a reapportionment after each Federal census. Mr. Reed's measure (H. J. R. No. 3), which reflected cow-county sentiment, proposed that:

"At the regular meeting of the legislature held in the year nineteen hundred and thirty-one the legislature shall by law divide the state into legislative senatorial and representative districts of convenient and contiguous territory. In the creation of senatorial and representative districts, any county that contains population sufficient to entitle it to two or more senators or representatives, shall be divided into separate and distinct senatorial and representative districts, as nearly equal in population as may be, and composed of contiguous and compact territory, and no representative district shall be divided in the formation of a senatorial district. After the creation of such districts, one senator shall be elected from each senatorial district and one representative shall be elected from each representative district: *Provided*, That each county shall be entitled to one representative and no county shall have more than twenty-five

¹⁷ *Ibid.*, pp. 380, 382.

per centum of the membership of either house of the legislature . . .”

Neither of these measures passed, although there was lively debate on the Reed resolution, which lacked only sixteen votes of receiving the required two-thirds constitutional majority of the House.¹⁸ The strength of the cow Counties was not quite adequate to limit by a constitutional provision the legislative representation of King County before the enactment of a reapportionment law.

During this session the Legislature passed a bill (H. B. No. 287) increasing the membership of the House from ninety-seven to ninety-nine. King County and Yakima County were each allotted an additional Representative. Here apparently was an instance of sectional trading. On March 21, 1927, Governor Hartley vetoed the bill, declaring that it was special legislation, and, in his opinion, of doubtful constitutionality.¹⁹ The Governor was undoubtedly right in asserting that this bill was no solution of the problem of representation in Washington, but he was probably wrong in assuming that it was unconstitutional.

No reapportionment measure was passed by the Legislature in 1929.

When the returns of the census of 1910 were six years old and the Legislature still showed a disinclination to reapportion legislative seats, an appeal was made to the State Supreme Court to set aside as unconstitutional the act of 1901. In an opinion handed down on August 16, 1901, the Court declined to do so.²⁰ This opinion is worthy of particular attention.

Robert L. Warson applied to the Court for a writ of mandamus to compel I. M. Howell, the Secretary of State, to accept Warson's filing on the Republican primary ticket as a candidate for the office of State Senator from the Counties of Kitsap and Mason. This action was brought under Sec. 1, Art. XXII, of the State Constitution, which specifies that, "until otherwise provided by law," there

18 "Olympia, Friday, March 4.—King County with scattered assistance turned on the cow county bloc today and mustered just enough votes to defeat the Reed resolution which would have called for an amendment to the State Constitution to permit the reapportionment of the State, limiting King County to not more than 25 per cent of the membership. . . . The voted stood 50 to 43, or 16 less than the required two-thirds majority." *The Daily Times* (Seattle, Wash.), March 4, 1927. The purpose of the Reed resolution had been stated by a staff correspondent of *The Daily Times* in an earlier dispatch from Olympia. "The threat of a possible initiative measure based entirely upon the present constitutional requirements of reapportionment by population has started the movement for the amendment of the constitution. King County has votes enough to swing the initiative and it would give the county virtually 25 per cent of the membership of both the senate and the house and would result in Western Washington controlling two-thirds or more of the membership of both branches of the legislature." *The Daily Times*, February 15, 1927.

19 State of Washington: *Vetoed Messages of Governor Roland H. Hartley on Measures Passed by the Twentieth Legislature* (Olympia, 1927), p. 23.

20 *State ex. rel. Warson v. Howell*, 92 Wash., 540 (1916).

shall be twenty-four senatorial districts in the State, one of which (the twentieth) shall be composed of the Counties of Kitsap and Mason. The Secretary of State refused the filing on the ground that the Legislature had twice redistricted the State (1890 and 1901) since the adoption of the Constitution and that the constitutional apportionment had been thereby superseded. Warson argued that these acts were violative of a constitutional provision (that apportionment should be made according to population) and that the only lawful apportionment under which members of the Legislature could be elected was that prescribed by Sec. 1, Art. XXII, of the Constitution. "This," said the Court, "constitutes the sole question for our determination."

Justice Fullerton, who spoke for the court, cited the following sections of the Constitution touching upon representation: Sec. 2, Art. II; Sec. 3, Art. II, and Sec. 6, Art. II; and continued as follows:

"These sections of the constitution, it will be observed, impose upon the legislature, when apportioning and redistricting anew the members of the senate and house of representatives, certain restrictions: (1) Neither the senate nor house of representatives may contain more or less than certain specified numbers; (2) senatorial districts must be single and be of convenient and contiguous territory; (3) no representative district shall be divided in the formation of a senatorial district; (4) the apportionment must be made according to the number of inhabitants. There is no contention that the first three of these requirements were violated in either of the apportionment acts made by the legislature. The sole contention is that the apportionments were not made according to the number of inhabitants. Tables are presented showing the number of inhabitants in each several district above and below the unit of representation adopted, both at the time the apportionments were made and as shown at the time of the taking of the Federal census of 1910. Each of these tables shows inequalities—the comparisons based on the census of 1910 showing such inequalities to be exceedingly gross. It may be remarked here, however, that this latter fact furnishes no ground for declaring the legislative apportionment unconstitutional. While it argues strongly against the failure of the legislature to perform its duty, it states no ground for setting aside a legislative apportionment valid when enacted. It is held by all of the courts that the legislature cannot be compelled to redistrict the state as directed by the constitution, and as a corollary thereto, it must follow that an

apportionment act lawfully enacted will continue in force until superseded by a subsequent valid act.

"The question, then, turns on the constitutionality of the apportionment acts. The act of 1901 (Laws of 1901, p. 79, ch. 60), being the last upon the subject by the legislature, repeals the act of 1890, supersedes the constitutional apportionment, and is the law now in force under which the ensuing legislature must be elected unless it has never been constitutionally valid."

The Court found no adequate reason for declaring unconstitutional the act of 1901, because it could discover therein no "wilful disregard" of the provisions of the Constitution. Moreover, the Court believed that it was "too late to raise the question," alleging: "The act complained of has stood unquestioned for more than fifteen years. Seven legislatures have been elected under it. Laws have been passed which so far affect the rights of the electors that a return to the old districts marked out by the constitution would result in the utmost confusion, if not chaos, requiring perhaps a session of the legislature before an election could be held. . . . This form of legislation is to a great extent political and administrative in its nature, and involves no individual rights other than such as pertain to the electorate as a whole. . . . The writ is denied."

The foregoing decision of the Court might have been anticipated. Political and administrative questions are not for judicial determination, and it is a well established principle that the courts can not compel a legislature to perform a duty. But in the meanwhile revisionists had been looking critically at a novel provision which had recently been inserted in the Constitution: the initiative, adopted in November, 1912, as the seventh amendment to the Constitution.²¹ This governmental device stipulates that a proposal for a law may be submitted to the electorate on the petition of "Ten per centum, but in no case more than fifty thousand, of the legal voters," if such petition be filed not less than four months before the election at which the proposed measure is to be voted upon. Before the general election in 1916 two attempts were made at reapportionment by the initiative, but neither measure found its way to the ballot.

But these feeble attempts were not without significance. Notwithstanding the trouble and cost of collecting the required number of signatures to a petition, the effort made in 1930 was successful,

21 Sec. 1a, Art. II.

and Initiative Measure No. 57²² was voted upon and adopted at the general election on November 4, 1930.

During the campaign *The Spokesman-Review* (Spokane, Wash.), the leading newspaper of Eastern Washington, openly expressed its hostility to the measure. Some of its arguments were, however, far from convincing. It dodged the real issue by suggesting a "sounder basis" of representation as a means of protecting the small Counties. On November 3, 1930, it declared:

"The constitution of Washington authorizes the legislature to reapportion its membership from time to time, on the basis of population. The legislature having neglected that action, a movement developed at Seattle to go over the authority and arbitrarily say what representation in the senate and the house each county should have.

"This measure is not a compliance with the state constitution. It proposes a scheme of apportionment that is not based upon population, but upon guesswork and expediency.

"It should be defeated and steps taken for a substantial reform of the principle of legislative apportionment. What is needed—and will be more needed as the cities grow in population and political power—is a safeguard for the smaller counties. That principle, if adopted, will be found as beneficial for the big counties as the little counties."

This, of course, was an evasion which deceived no informed person. A more open expression of the mind of the cow Counties, emanating from their chief journalistic spokesman, appeared in the following double-column editorial in *The Spokesman-Review* on the morning of election day:

"To protect the interests of Spokane, Spokane county and eastern Washington, it is imperative that voters vote 'No' on Initiative Measure No. 57, which provides for the number, districts and apportionment of the members of the state senate and the house of representatives.

"On the face of it, the measure will increase the number of senators from 42 to 46.

"It will increase the number of representatives from 97 to 99.

"It does this, mainly in the interests of King and Pierce counties on the West Side, and at the expense of Spokane county and eastern Washington, taken as a whole.

²² State of Washington: *A Pamphlet Containing Copy of a Measure "Proposed by Initiative Petition" and a Measure "Proposed to the Legislature and Referred to the People," and Amendments to the Constitution Proposed by the Legislature* (Olympia, 1930), pp. 3-8. This "publicity pamphlet" was compiled and issued by the Honorable J. Grant Hinkle, Secretary of State.

"Under the proposed measure, Spokane will have five senators and 10 representatives as at present. Pierce will have the same number.

"But King county gets 12 senators and 24 representatives. King and Pierce counties, therefore, will have 17 of the 46 senators.

"All of eastern Washington will have 15, possibly 16, senators. King and Pierce will have more than all eastern Washington combined. Eastern Washington has 15 senators now, but some eastern Washington counties will actually lose under the proposed plan.

"In the house of representatives, the proposed measure gives eastern Washington only 32 members, as against 38 now, although the total proposed for the state will be increased from 97 to 99.

"Spokane and eastern Washington, therefore, lose materially in the percentage of the membership from this side of the Cascades.

"Initiative Measure No. 57 is unfair. Reapportionment properly should come through the legislature on a basis fair to all districts.

"Vote 'No' on Initiative Measure No. 57!"²³

That Initiative Measure No. 57 is not an arbitrary and unreasonable law sponsored by Seattle for the purpose of robbing the cow Counties of something to which they are justly entitled is clearly shown by the following table:

TABLE J
EASTERN WASHINGTON

Districts*	Counties	Population (1930)	Representatives	Senators
1	Okanogan, Douglas.....	25,997	2	1
2	Stevens, Pend Oreille.....	25,699	2	1
2-7	Spokane.....	149,925	10	5
8	Ferry, Lincoln, Adams.....	23,877	2	1
9-10	Whitman, Columbia, Asotin, Garfield..	44,992	4	2
11	Walla Walla.....	28,382	2	1
12	Chelan.....	31,636	2	1
13	Grant, Kittitas.....	23,787	2	1
14-15	Yakima.....	76,313	5	2
16	Benton, Franklin, †Skamania, Klickitat	29,719	2	1
		460,327	33	16

* This measure provides for forty-six representative and forty-six senatorial districts, each representative district coinciding in boundaries with a similarly numbered senatorial district. Some of the new representative districts cut across county lines.

† Skamania County properly belongs in the Western Washington group.

²³ The position of *The Spokesman-Review* was substantially indorsed by the leading newspaper of Whitman County, *The Colfax Gazette* (Colfax, Wash.), in its issues of June 6 and October 31, 1930.

WESTERN WASHINGTON

17	Clark.....	40,293	3	1
18	Cowlitz, Wahkiakum.....	35,654	2	1
19, 21	Pacific, Grays Harbor.....	75,457	5	2
20	Lewis.....	40,007	3	1
22	Thurston.....	31,368	2	1
23	Kitsap.....	30,735	2	1
24	Mason, Jefferson, Clallam.....	38,530	3	1
25-29	Pierce.....	165,168	10	5
30-37, 43-46	King.....	463,008	24	12
38-39	Island, Snohomish.....	84,368	5	2
40	Skagit, San Juan.....	38,193	3	1
41-42	Whatcom.....	58,859	4	2
		<hr/>	<hr/>	<hr/>
	STATE.....	1,101,640	66	30
		1,561,967	99	46

According to the preliminary returns of the 1930 census, the ratios for the House and the Senate (based upon Initiative Measure No. 57) are, respectively, 15,777 and 33,956. The change which has been effected in the reapportionment of legislative seats is neither arbitrary nor unfair to Eastern Washington. Nor have the small Counties of the State been unjustly treated. The larger Counties of Eastern Washington—Spokane, Yakima, and Chelan—have no cause for complaint, and Eastern Washington still retains a larger number of seats than it is entitled to under the population principle which the Constitution declares shall be the sole basis of representation. King County alone has cause to complain of the unfairness of the new law. Beginning with the session of 1933, that County will have twenty-four seats in the House and twelve in the Senate. If it received its just share, it would have at least twenty-nine seats in the House and thirteen in the Senate. To assert that King County has been arbitrary and unreasonable in advocating this measure is to ignore the most obvious facts.

Under the operation of the new law twenty-three Senators will be elected for four-year terms at the general election in November, 1932. At the same time twelve Senators will be chosen for two-year terms, and thereafter for four-year terms. Eleven of the Senators who were elected in November, 1930, will hold office for four-years, and thereafter they or their successors will be chosen for four-year terms. Thus, commencing with the general election in 1934, all Senators will be chosen for four-year terms, and one-half of the Senators will retire every second year. Representatives will be elected for two-year terms.

The chief significance of the adoption of Initiative Measure No. 57 does not, however, consist in the details of the measure. The

constitutional mandate in respect of representation has not been fully met, although some inequalities obtaining under the apportionment law of 1901 have been removed. The two facts of capital importance are (1) the breaking of the precedent of allowing at least one Representative to a County, and (2) the discovery of a practicable way of making reapportionments notwithstanding a recalcitrant Legislature. Perhaps the threat of the initiative will hereafter have the desired effect on the Legislature. Reapportionment measures ought to be enacted by legislative bodies so that there may be free debate and perfection of details by amendments. The initiative should be reserved for the decision of important controversies which admit of statement in simple terms.

Antioch College

J. ORIN OLIPHANT²⁴

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