

## Southern Historical Association

---

Apportionment in the Mississippi Constitution of 1890

Author(s): Albert D. Kirwan

Source: *The Journal of Southern History*, Vol. 14, No. 2 (May, 1948), pp. 234-246

Published by: Southern Historical Association

Stable URL: <http://www.jstor.org/stable/2198425>

Accessed: 17/07/2010 20:25

---

Your use of the JSTOR archive indicates your acceptance of JSTOR's Terms and Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>. JSTOR's Terms and Conditions of Use provides, in part, that unless you have obtained prior permission, you may not download an entire issue of a journal or multiple copies of articles, and you may use content in the JSTOR archive only for your personal, non-commercial use.

Please contact the publisher regarding any further use of this work. Publisher contact information may be obtained at <http://www.jstor.org/action/showPublisher?publisherCode=sha>.

Each copy of any part of a JSTOR transmission must contain the same copyright notice that appears on the screen or printed page of such transmission.

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).



Southern Historical Association is collaborating with JSTOR to digitize, preserve and extend access to *The Journal of Southern History*.

<http://www.jstor.org>

# Apportionment in the Mississippi Constitution of 1890

BY ALBERT D. KIRWAN

One of the problems with which the Mississippi constitutional convention of 1890 had to deal was that of apportionment of the seats in the state legislature. The state constitution of 1868 had apportioned legislators among the several counties "according to the number of qualified electors," both white and black.<sup>1</sup> The provision was not unfair under the conditions which then prevailed. Black counties—those in which the Negroes outnumbered the whites—were much more heavily populated than the white counties—where the whites outnumbered the Negroes; and since the Negro was a voter in 1868, he was clearly entitled to this representation. But when the Negro vote was curbed after the revolution of 1875, a different condition existed. There were comparatively few white men in the black counties, yet these few whites continued to elect the same number of legislators that had been elected from their counties when the Negro had been allowed to cast his ballot. As the Negro's voting privileges were further curtailed, the white counties felt that the affairs of the state were being dominated by a small oligarchy in the black counties. The feeling was not unwarranted. According to the census of 1890, there were approximately 44,500 eligible white voters in the black counties and more than 71,000 in the white counties.<sup>2</sup> Yet the black counties sent sixty-eight represen-

<sup>1</sup> Mississippi Constitution, 1868, Article IV, Section 34. The apportionment provision of the constitution of 1868 enabled the black counties to control both the legislature and the Democratic state conventions. This constitution has been printed in Francis N. Thorpe (ed.), *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws* (7 vols., Washington, 1909), IV, 2069-89.

<sup>2</sup> *Eleventh Census of the United States, 1890: Population* (Washington, 1895), 770-71.

tatives to the lower house of the legislature, while the white counties sent only fifty-two.<sup>3</sup>

The inequality was not confined to differences between white and black counties. One white county with fewer white voters than another white county might have a larger representation because of a larger non-voting Negro minority. Similarly, a black county might have larger representation than another black county because of a larger Negro majority, also non-voting. This was true in the case of DeSoto and Lowndes counties, for example, DeSoto having 1,640 eligible white voters and Lowndes 1,437. But Lowndes had 1,000 more eligible Negro citizens than DeSoto, and was given three representatives to DeSoto's two.<sup>4</sup>

The injustice did not stop with representation in the legislature. The same system was extended into the state Democratic nominating conventions, where each county was given twice the number of votes it had in the lower house of the legislature. Thus the black counties were able to control the state nominating conventions and to name the candidates in August who would win practically by default in November. Furthermore, the governor appointed all judges and many lesser officials. There was some justification for the feeling in the white counties that they were in the grasp of a small oligarchy in the black counties. It was largely to eliminate this inequity, and not so much to eliminate the threat of "Negro supremacy"—which, indeed, had already been eliminated—that the white counties urged the calling of the convention in 1890.

Apportionment was as bitterly debated in the convention as were the clauses restricting the franchise, for the black county delegates were as reluctant to give up their control as the white county delegates were eager to wrest it from them. Many proposals were made, but that of Senator James Z. George prevailed and was adopted by the convention. According to George, his plan was based on "voting popula-

<sup>3</sup> Mississippi Legislature, *House Journal*, 1890, pp. 3-5.

<sup>4</sup> *Eleventh Census: Population*, 770-71; Mississippi Legislature, *House Journal*, 1890, pp. 3-5.

tion" rather than on total population.<sup>5</sup> It purported to create a majority of white constituencies by increasing the number of representatives in the legislature by thirteen and allotting the increase to the white counties. In addition, several legislative districts were carved out of white sections of black counties.<sup>6</sup> Another provision created an electoral system of choosing the governor, each county being allotted electoral votes corresponding to its number of representatives. The unit system was established, the candidate who carried a county receiving the electoral vote of that county. To be elected, however, a candidate must receive both a majority of the popular vote and a majority of the electoral vote.<sup>7</sup> In case no candidate should receive both, the election was to be decided by the house of representatives, which was to choose between the two candidates receiving the highest popular vote.<sup>8</sup> The professed object of this apportionment was the erection of "an impregnable barrier to any possible organization of the Negro majority, by extraneous force or internal faction, for political dominance."<sup>9</sup>

George's plan was bitterly attacked by the press of the black counties.<sup>10</sup> The Jackson *Clarion* outdid all others in its opposition. It called the legislative apportionment a "visionary, impracticable, arbitrary, unjust, and unequal scheme," and thought the electoral college plan "the very worst" of all possible ways of choosing a governor. The apportionment scheme was unnecessary, it said, because the fear of Negro domination was only "a phantasm, a dream." It chided the convention for proposing thus to reward the white counties, many of which in the past had been the seats of the strongest independent movements. On

<sup>5</sup> Frank Johnston, "Suffrage and Reconstruction in Mississippi," in *Publications of the Mississippi Historical Society* (Oxford, 1898-1914), VI (1902), 237.

<sup>6</sup> *Journal of the Proceedings of the Constitutional Convention of the State of Mississippi, . . . August 12, 1890, . . . November 1, 1890* (Jackson, 1890), 677-78.

<sup>7</sup> Mississippi Constitution, 1890, Section 140. See Thorpe (ed.), *Federal and State Constitutions*, IV, 2090-2137.

<sup>8</sup> *Ibid.*, Section 141.

<sup>9</sup> John S. McNeilly, "History of the Measures Submitted to the Committee on Elective Franchise, Apportionment, and Election in the Constitutional Convention of 1890," in *Publications of the Mississippi Historical Society*, VI, 133-35.

<sup>10</sup> *Yazoo Sentinel*, *Brandon Republican*, *Natchez Democrat*, *Aberdeen Examiner*, *Greenville Democrat*, *Lexington Bulletin*, *Forrest Register*, *Grenada Sentinel*, and *Water Valley Progress*, quoted in *Jackson Daily Clarion-Ledger*, July 10, 1890.

the other hand, no black county had ever "been unfaithful in its allegiance to white rule." The *Clarion* found no validity in the proposition that it was necessary to "lodge power in white counties to guarantee Democratic control" of future legislatures. Black counties were "as reliably Democratic as . . . the white counties," and would remain so "with or without any changes in the suffrage." The *Clarion* thought the scheme "was designed to advance the political fortunes of certain persons, who . . . were willing to sacrifice every other idea" for it.<sup>11</sup> So great was the opposition to the scheme in the Delta that there was actually talk of secession from the state. A supplemental report of the legislative committee of the convention provided that "the Legislature may consent to the creation of another State or territory . . . out of a portion of this State whenever the consent of the Congress of the United States shall be given thereto." But this clause was stricken out by the convention.<sup>12</sup>

Had apportionment been carried out in a fair and impartial manner, there would have been less room for criticism. It was pointed out at the time, however, that some of the white counties which received additional representation did not have a population to warrant the increase, while others which did have were passed over.<sup>13</sup> It was feared that the plan would divide the white people of the state "sectionally." It was denounced because of the "politics in it" and "the demagoguery behind it." The *Natchez Democrat* charged that George had fostered the scheme to further his selfish political ambition. He had, it said, led the people of the state "into a contest, the white against the black counties." He had caused a break in the peace which the state had enjoyed, and was driving a wedge of discord between the whites of the state.<sup>14</sup>

The Birmingham *Age-Herald* thought it was strange "that a sensible man . . . like Senator George" should lend his influence to the plan. "It is a gerrymander . . . and will be productive of discontent and

<sup>11</sup> Jackson *Daily Clarion-Ledger*, July 10, August 27, September 2, 3, 16, 18, 1890.

<sup>12</sup> *Ibid.*, October 2, 1890.

<sup>13</sup> *Ibid.*, September 16, 18, 1890.

<sup>14</sup> Natchez *Daily Democrat*, September 21, 1890.

local jealousies." The Greenville *Democrat* thought George had not measured up to expectations "and had lost strength before the people by his advocacy of the Convention and failure to furnish a plan" that could overcome the difficulties. The Natchez *Democrat*, attributing the calling of the convention to George, failed to see in his conduct at the convention "anything which commends itself as the thought or work of a statesman." It thought George's motive in the apportionment was "due to the fact that [his] Senatorial term expires in 1893 and that perhaps on this account the apportionment scheme appears [to him] to be judicious." The Vicksburg *Post* thought the scheme the greatest "jugglery" which had ever been "placed in the organic law of a state."<sup>15</sup>

Most delegates from the river counties were opposed to the plan.<sup>16</sup> The black counties had a slight majority on the committee on elective franchise, apportionment, and elections, however, and it was necessary to gain support from some of them in order to get the plan before the convention. Such support came from H. J. McLaurin of Sharkey, William G. Yerger of Washington, W. C. Richards of Lowndes, and Isaiah T. Montgomery of Bolivar. McLaurin scoffed at the "unnecessary sympathy" which delegates from black counties were expending upon themselves and suggested that the black counties would be "able to take care of themselves" under the proposed apportionment. Yerger expressed surprise that any delegate of the black counties should object to the plan. He regarded it as "the bulwark of safety" for both white and black counties."<sup>17</sup>

In a remarkable speech before the convention, Montgomery, the only Negro in the body, defended both the franchise clauses and the apportionment. He estimated that the franchise provision would disqualify more than 123,000 Negroes, but he was willing to sacrifice them "upon

<sup>15</sup> Birmingham *Age-Herald*, Yazoo *Sentinel*, Shaw *Utopian*, Greenville *Democrat*, quoted in Jackson *Daily Clarion-Ledger*, September 25, 1890; Natchez *Daily Democrat*, September 20, 1890; Vicksburg *Post*, October 1, 1890.

<sup>16</sup> Twenty-seven delegates from these counties spoke against the plan. Jackson *Daily Clarion-Ledger*, September 25, 1890.

<sup>17</sup> *Ibid.*

the burning altar of liberty" for the easing of the tension between the races. He believed that the apportionment plan would return a majority of fourteen legislators from white constituencies, but he was willing, he said, to make this sacrifice in the interest of better government.<sup>18</sup>

Senator George said that the proposed apportionment plan would erect an impregnable barrier to any threat of Negro dominance. He argued that the provision was necessary because the federal courts might declare the franchise restrictions unconstitutional, and that a national Republican administration might enforce Negro voting at elections. The opinion seems to have been unanimous that the apportionment would meet such a challenge and that, under it, white supremacy would be guaranteed even though all Negro men were permitted to vote.<sup>19</sup> This was called by Mississippi's most prolific historian "the legal basis and bulwark of the design of white supremacy."<sup>20</sup>

Such authority is impressive, but an examination of the census does not justify such confidence. The apportionment was said to be based

<sup>18</sup> *Ibid.*, September 18, 1890; *New Orleans States*, October 26, 1890. Montgomery had been a slave of Jefferson Davis' brother, and after emancipation he acquired some property and rose to a position of wealth and influence as a planter in Bolivar County. He was popular with the white leaders and had been admitted to the convention despite the fact that he was a Republican and his seat was contested by a white Democrat. He has been charged with being a traitor to his race, but a recent study credits him with good faith, despite the fact that he must have known that "all calculations based on an honest application of the franchise provisions were meaningless." Vernon L. Wharton, *The Negro in Mississippi, 1865-1890* (Chapel Hill, 1947), 212. Perhaps Montgomery, in supporting the clauses which purported to disfranchise so many of his race and decrease their representation, realized that the Negro was already disfranchised and that the constitution, by reducing the number of eligible Negro voters, might permit an actual increase in Negro voting. It is possible, too, that he knew that the apportionment would not work out as most people seemed to think it would. For a white leader's opinion of Montgomery, see letter of John Sharp Williams to President Wilson, August 4, 1920, in Williams Papers (Division of Manuscripts, Library of Congress). For Montgomery's admission to the convention, see *Journal of Constitutional Convention of 1890*, pp. 7-10.

<sup>19</sup> Statement by James L. Alcorn in Memphis's *Appeal-Avalanche*, quoted in Jackson *Daily Clarion-Ledger*, November 27, 1890; statement of Isaiah T. Montgomery in *New Orleans States*, October 26, 1890; McNeilly, "History of Measures," *loc. cit.*, 133-35; Dunbar Rowland (ed.), *Encyclopedia of Mississippi History* (2 vols., Madison, Wis., 1907), I, 540-41; Johnston, "Suffrage and Reconstruction," *loc. cit.*, 223; Alfred H. Stone, "The Basis of White Political Control in Mississippi," in *Journal of Mississippi History* (Jackson, 1939- ), VI (1944), 232.

<sup>20</sup> Rowland (ed.), *Encyclopedia*, I, 540-41.

upon the "voting population" instead of the total population. If this "voting population" was comprised of all male adults, the claim that it in fact would have given a majority of legislators to districts with white majorities is questionable. There were 120 representatives in the lower house under the apportionment existing at the time of the convention.<sup>21</sup> Of these, 68 represented black constituencies, while 52 represented white constituencies.<sup>22</sup> The constitution of 1890 increased the number of representatives by thirteen. In addition, particular areas of a few counties were permitted to choose a representative without all the county joining in. Only one county's representation was actually reduced. Hinds, which had four representatives, was reduced to three, but it and Yazoo were given a "floater."<sup>23</sup> Thus the only reduction in the representation of the black districts may be said to be the one-half representative lost by Hinds.

It seems to have been generally believed that all the additional thirteen representatives were given to white constituencies, but this was not the case. Black Amite County, which had had one representative and a floater with white Pike, was given two representatives of its own. Black Holmes, which had had two representatives and a floater with Yazoo, was given three representatives of its own. Black Kemper, which had had one representative and a floater with white Lauderdale and white Clarke, was given two representatives of its own.<sup>24</sup> Thus these three black counties received a theoretical increase of one and two-thirds representatives. But since in fact Amite and Pike combined, and Kemper, Lauderdale, and Clarke combined had white majorities, floaters chosen by them would have been white. Therefore, the actual increase given Amite and Kemper was a full representative each, and the actual increase to Amite, Kemper, and Holmes was two and one-half instead of one and two-thirds. Deduction of the half representative which Hinds lost would leave a net gain for the black counties of two representatives.

<sup>21</sup> See Mississippi Legislature, *House Journal*, 1890, pp. 3-5.

<sup>22</sup> Computed from *Eleventh Census: Population*, 770-71.

<sup>23</sup> Mississippi Constitution of 1890, Article XIII, Section 254.

<sup>24</sup> *Ibid.*



But this was not all. There had been nine floater representatives prior to the 1890 constitution. Of these, two represented black constituencies, and seven represented white constituencies. In the new apportionment there were also nine floaters. But of these, three represented black constituencies.<sup>25</sup> This, together with the two already indicated, made an increase of three representatives for the black counties.

It has been noted that particular sections of several counties were given the right to elect representatives without the participation of the entire county. For example, the city of Natchez, a white section of black Adams County, was given the right to elect one representative, and one representative was given to the entire county.<sup>26</sup> This had the effect of reducing the representation of the black constituencies by one. Oktibbeha, a black county, was divided by a line running north and south between ranges thirteen and fourteen, and each section was given the right to elect one representative. It may be presumed that this would so divide the county that one of the representatives chosen would represent a white constituency. If so, this would reduce the black district representatives by one more. Furthermore, Lowndes, another black county, was divided by the Tombigbee River, and that portion west of the river, which was a white section, was given the right to elect a representative. This would further reduce the black district delegation in the house of representatives by one, which, together with the reduction from Adams and Oktibbeha, would neutralize the increase in representation from the black counties.

One other point in the apportionment of 1890 merits comment. Prior to 1890, Lauderdale, a white county, had shared two representatives and a floater with Kemper and Clarke. As has already been pointed out, such a floater would have represented a white constituency. In the new appointment, Lauderdale was given three representatives, but of these, the county, exclusive of Meridian, was given the right to choose one. Since this section had a majority of Negroes, this resulted in an additional legislator representing the black constitu-

<sup>25</sup> *Eleventh Census: Population*, 770-71.

<sup>26</sup> Mississippi Constitution of 1890, Article XIII, Section 254.

encies. Thus the house of representatives under the new apportionment would have a total of 69 representatives from black districts. Since the number was limited to 133,<sup>27</sup> only 64 representatives could possibly be chosen from white districts.<sup>28</sup> This amounted to an increase of twelve representatives for the white districts, but they were still six short of a bare majority.

The census of 1890 shows that if all male adults in every legislative district in Mississippi had voted, and if they had divided on race lines, Negroes would have returned 69 representatives and whites 64. Based on the census of 1900 such a hypothetical vote would have returned the same number of whites and Negroes as in 1890, and in 1910 there would have been 71 Negroes and 66 whites. Not until 1920 would shifts of population and creation of new counties have given the whites a majority of the legislators. In that year an election by all male adults on race lines would have returned 77 whites and 63 Negroes.<sup>29</sup>

It is indeed difficult to reconcile these figures with the contention of so many authorities that the apportionment would and did insure white control under all conceivable circumstances. A partial explanation might be found if it could be ascertained what statistics the convention used in fixing the apportionment. Alfred H. Stone, a student of the period and an eye-witness of the proceedings of the convention, although not a delegate, says, "The figures of 1880 were used . . . because those of the latter year [1890] were not then available."<sup>30</sup> Although he does not say so, undoubtedly he is referring to the federal census, since no state census was taken in 1890. If this is correct and

<sup>27</sup> *Ibid.*, Sections 254, 256. Since 1890 seven new counties have been created and given representation in the legislature. This has increased the total number of representatives beyond the limit of 133 set in the constitution, but so far as is known, this unconstitutional representation has not been challenged in the courts. Five of these new counties had white majorities at the time of their creation, while the other two had Negro majorities.

<sup>28</sup> The same conclusion is reached if the problem is approached from the point of view of changes in the representation of the white counties. For the sake of brevity this is not set forth here.

<sup>29</sup> *Fourteenth Census of the United States, 1920: Population* (4 vols., Washington, 1921-1922), III, 533-40.

<sup>30</sup> Stone, "Basis of White Political Control in Mississippi," *loc. cit.*, 232.

the federal census of 1880 was used, the claims of the advocates of apportionment are even more inexplicable. The population totals in that year would have given an even greater majority of Negro representatives. The *Clarion*, however, said that the state census was used and that this was "somewhat different" from the United States census. According to the state census of 1880, said the *Clarion*, there were only twenty-nine counties with a majority of Negroes, while forty-six white counties received sixty-eight seats.<sup>31</sup>

The apportionment ratio did not, on its face, depart far from the principle of proportional representation. True, little Quitman County, with a population both white and black of only 3,286, was given one representative, while Leflore, with 16,864, was also given one. But a clause of the apportionment article provided that each county should have at least one representative, and certainly that principle has ample precedent in American constitutional government. In all cases those counties which received two or more representatives had a total population which warranted such an allotment.

But since the Negro vote had already been greatly curtailed and was soon practically eliminated, the apportionment tended to create vast differences in the elective power of white voters in the several counties. For instance, Noxubee County, with 1,075 white and 4,312 black male adults, was given three representatives, while Copiah, with 3,073 white and 2,884 black eligible voters,<sup>32</sup> was also given three. Since the Negro voter was a negligible factor, the 1,075 white eligible voters of Noxubee would have equal representation with the 3,073 white eligibles of Copiah.<sup>33</sup> Thus, all other factors being equal, the white voter in Noxu-

<sup>31</sup> According to the state census of 1880 the twenty-nine black counties were: Adams, Chickasaw, Clay, Copiah, Grenada, Hinds, Jefferson, Lauderdale, Lowndes, Madison, Noxubee, Monroe, Marshall, Panola, Wilkinson, Bolivar, Coahoma, DeSoto, Issaquena, Leflore, Quitman, Sharkey, Sunflower, Tallahatchie, Tunica, Warren, Washington, Holmes, and Yazoo. Jackson *Daily Clarion-Ledger*, September 11, 1890. The United States census of 1880 listed Lauderdale among the white counties but included Amite, Carroll, Claiborne, Kemper, Oktibbeha, Rankin, and Tate among the black counties. *Tenth Census of the United States, 1880: Population* (Washington, 1883), 397-98.

<sup>32</sup> Copiah was a black county in total population but had a white voting majority. *Eleventh Census: Population*, 770-71.

<sup>33</sup> *Ibid.*

bee had three times more numerical representation in the legislature, in state nominating conventions, and, through the electoral system, in choosing a governor, than did the white voter of Copiah.

Furthermore, the constitution empowered the legislature to make a new apportionment after each decennial census. Numerous attempts to secure passage of reapportionment legislation have failed, and the apportionment remains as fixed in the original constitution. Population shifts since 1890 have created great disparities. Thus, in 1900 Wilkinson County, with 1,041 white and 3,303 Negro male adults, still had two representatives, while Jones County, with 2,904 white and 1,264 eligible Negro voters, had only one.<sup>84</sup> Again assuming that all white men in both counties voted, the vote of the Wilkinson white man was almost six times as effective as that of the white man in Jones. In 1910 Coahoma, with 1,238 white and 8,482 Negro male adults, still had two representatives, while Harrison, with 5,604 white and 3,109 Negro men, had only one and one-half.<sup>85</sup> This effected a discrepancy in favor of the Coahoma white man over the Harrison white man of six to one. In 1920 Washington County, with 5,167 white and 23,970 Negro men, still had three representatives, while Neshoba, with 7,022 white and 1,159 Negro men, had only one.<sup>86</sup> Thus the white voter from Washington was theoretically more than four times as powerful politically as his neighbor from Neshoba.

Many other such examples could be produced. They indicate that, whatever the intentions of the framers of the constitution of 1890, the constitution did in fact perpetuate the great discrimination which already existed against the white man in the white counties. As has been pointed out, this discrimination was not limited to the selection of legislators, for as long as the convention system of nominating state officers lasted, the same inequality extended to the nomination of state officers. Likewise, the electoral system of choosing the governor heavily

<sup>84</sup> *Twelfth Census of the United States, 1900: Population* (2 vols., Washington, 1901), II, 190-91.

<sup>85</sup> *Thirteenth Census of the United States, 1910: Population* (4 vols., Washington, 1913), II, 1044-59.

<sup>86</sup> *Fourteenth Census: Population*, III, 533-40.

weighted the vote in favor of the black counties. With the governor empowered to appoint all judges, the inequality extended even to the judiciary of the state. Thus, instead of centering control of the state government in the hands of the white county voters, as it purported to do, the apportionment scheme actually placed this control in the counties of the Delta. Furthermore, the failure of the legislature to effect reapportionment has frozen the representation established in 1890, despite subsequent population shifts.

Nor did the actual number of votes cast in succeeding elections differ far from these theoretical ratios. In the 1903 Democratic primary, which was restricted to white Democrats, 1,772 votes cast were cast in Tishomingo County. These voters chose one legislative representative, while 1,971 Washington County voters chose three.<sup>37</sup> In the 1918 primary, while 1,317 Tishomingo voters were choosing one representative, 774 Washington voters were choosing three; 3,623 from Hinds and Yazoo together were choosing seven; and 1,126 from Pearl River were choosing one.<sup>38</sup> Thus the white voter in Washington County had almost six times as much influence as one in Tishomingo, twice as much as one in Hinds or Yazoo, and five times as much as one in Pearl River. At the same time the white voter in Yazoo and Hinds had more than twice as much influence as one in Tishomingo and Pearl River. In the 1920 primary more than 1,500 voters in Tishomingo and slightly less than 2,000 in Itawamba chose one legislator each. At the same time less than 1,000 each in Noxubee and Lowndes chose three each.<sup>39</sup> Thus the weight of the individual vote in the latter two counties was approximately five times as great as in Tishomingo and six times that of Itawamba. In 1922 more than 1,500 votes from white Pearl River and white Tishomingo chose only one legislator each, while 1,215 from black Washington chose three.

<sup>37</sup> For population statistics see *Twelfth Census: Population*, II, 190-91. For voting statistics see Dunbar Rowland (ed.), *The Official and Statistical Register of the State of Mississippi*, 1908 (Jackson, 1908), 248.

<sup>38</sup> Dunbar Rowland (ed.), *The Official and Statistical Register of the State of Mississippi, 1920-1924* (Jackson, 1924), 346.

<sup>39</sup> *Ibid.*, 392. For population statistics see *Fourteenth Census: Population*, III, 533-40.

After 1890 there was, therefore, not only a gross inequality of legislative representation as compared to eligible white voting population but also as to the actual number of votes cast in the several counties. That delegates from the white counties should have failed to see this is almost unbelievable. There is no evidence that they protested against the apportionment clause on such grounds. The only protest came from delegates from the black counties. True, the new apportionment would slightly decrease the representation of the black counties. But it would not and did not wrest governmental control from the hands of the comparatively small number of whites in the black counties. That would not be done until the establishment of the state-wide primary a dozen years later, and even that did not take control of the legislature from the black counties. The apportionment provision has never had to meet the test for which it was professedly designed. Negro disfranchisement, illegally effected before 1890 and legally since, has been so complete as to spare the apportionment provision the failure which it must have faced prior to 1920, had the Negro voted as freely as the white man and on race lines.