To the Redistricting Commission:

In 1964, the US Supreme Court (**USSC**) declared that the legislative districts needed to reflect populations. Basically, the USSC decreed that those state legislatures that had a republican structure (which included 49 of the 50 states), that they had to abandon the republican structure of their state’s legislature and reorganize both of their legislative body’s districts strictly on population. At least that is how the state legislators interpreted that ruling.

There was no need to change the NYS Assembly legislative structure. New York State’s constitution had already accommodated, to a large extent, discrepancies in population in the official regions in NYS. Those officially recognized regions of the state are the counties. The New York State’s republican structure should have been maintained and should have been used as a model for other states across the nation.

Here is the problem the way I see it. Not only did the US Constitution not give the USSC the authority to make such a decree, the USSC completely ignored Article 4, Section 4 of the US Constitution, which reads:

“The United States shall guarantee to every State in this Union a Republican Form of Government, … .”

There seems to be much controversy concerning what a ‘republican structure’ is, but in reality, a republican structure is nothing more than a regional legislative structure. Before New York became a state (**NYS**) it had a republican form of government. Every recognized region, referred to in NYS as a county, that joined NYS, was guaranteed at least one seat in the Assembly. (There was only one agreed to exception). At the same time, NYS granted the more populous counties additional representation. The increased representation was based upon a county’s population that was greater than the average NYS county’s population. How the republican structure of the NYS Legislature was to be maintained was spelled out in the NYS Constitution. Regular adjustments were made as population densities in the counties changed. Following this process, NYS maintained a republican form of government from 1788 up to 1964.

When the USSC made its decree in 1964, New York State was effectively already in compliance with that decree because the representation in the Assembly was already based, to a large extent, on population. Despite these facts, the New York State legislature took action to destroyed the republican structure of the NYS government.

I am asking that this commission move to restore the republican structure to the NYS Legislature and assign one Assembly seat to each county, without an exception, and assign additional assembly seats using the original formula as spelled out in the NYS Constitution.

Additionally, I request

1. That every assembly district be county wide; that no further delineation be made. If there are 15 assembly seats assigned to a county, all 15 Assembly Districts should be defined as starting and ending at the county’s line. Doing so raises some issues, but they can and would all be addressed by the counties affected.
2. There should be no Assembly Districts drawn that are just a part of a county or include part of an adjoining county.
3. Rather than use the census population figures, I used the voter population figures that are maintained by the Board of Elections. These are more representative of the actual voters and more consistent with One man One vote concept.
4. Using the BoE figures, the following Assembly seats would be assigned to each county with county wide Assembly districts.

Kings County 16, Queens County 13, New York County 12, Suffolk County 10, Nassau 9, Bronx County 8, Erie County 6, Westchester County 6,

Monroe County 5, Richmond County 3, Onondaga County 3, Orange County 2, Rockland County 2, Albany County 2, Dutchess County 2, Saratoga County 2, Niagara County 2, Oneida County 2, Broome County 2,   
and the remaining 43 counties would each be assigned 1 Assembly seat.

Benefits: This proposal completely eliminates gerrymandering of Assembly Districts and restores the republican structure to the New York State legislature that residents in NYS are constitutionally entitled to. Implementing this proposal would put an end to the “Divide New York” movements. It would restore the county’s voice in the NYS Legislature and provide oversight that is sorely missing.

There is much that can be added to these comments. I have published two articles. One describes in more detail the misgivings of the USSC’s 1964 ruling,

[Re-establish County Representation in NYS Assembly or Divide New York State? – Mark Glogowski (glogowskiforassembly.com)](https://www.glogowskiforassembly.com/nys/)

https://www.glogowskiforassembly.com/nys/

and one describes just two of the negative impacts the current Assembly structure on the development of resources in two counties in NYS.

[A Road to No-Where – Mark Glogowski (glogowskiforassembly.com)](https://www.glogowskiforassembly.com/a-road-to-no-where/)

https://www.glogowskiforassembly.com/a-road-to-no-where/

I have also attached these two documents as a Word file, along with a brief description of my proposal

I could provide many examples of neglect in both upstate and down state counties that have resulted because of the loss of regional (county) input and oversight of the NYS legislature. The two proposals being considered both ignore the need and value of the republican structure and the adoption of any of the other proposals I have seen will just continue the degradation of New York’s resources.

I pray that you give consideration to this proposal.

With goodwill toward all, and Proud to be Libertarian  
Mark E. Glogowski, PhD   
Former Chairman of the Libertarian Party of New York (4/2015-4/2018)  
Libertarian Candidate for Assembly District 139 (2012, 2014, 2018, 2020)

REFERENCED FILES FOLLOW - ONLY ONE FILE WAS ALLOWED TO BE UPLOADED SO THE SUPPORT DOCUMENTS HAVE BEEN ADDED.

**Re-establish County Representation in NYS Assembly or Divide New York State?**

**That is the question.**

In 1964 the United States Supreme Court (USSC) ruled that all state legislatures must be based strictly on population.(1) In that ruling, the USSC declared there cannot be any consideration given to representation by regions. Counties are the official designation of the various unique regions in New York State (NYS). There are 62 such designated regions. That ruling required the NYS Assembly Districts to be based on population.

The loss of representation in the NYS Legislature removed the counties’ power of oversight of the NYS Legislature and NYS Budget that they previously exercised. Shortly after 1964, there started a decline in New York’s population and in New York’s financial situation, which has continued unabated. The loss of regional focus is to blame. In an attempt to counter the NYS Legislature’s loss of regional focus, several drastic measures have been proposed by elected officials. There have been calls for a division of NYS into two states, calls for the reorganization of the state into three autonomous regions, and even calls to eliminate the Assembly completely.

Before addressing the ruling, consider the history of the NYS Assembly.

The History of the Assembly’s Structure

In the first NYS Constitution of 1777, and continuing until 1964, a period of 187 years, Assembly Districts were contained entirely within county lines, never crossing county boundaries. From the start, all of the NYS Assembly Districts were assigned to counties in whole numbers. There was one exception, described below, that happened in 1846, The Members of the Assembly, no matter how many there were, represented just one county’s interests.

Over the years, here is how the NYS Constitution apportioned (determined the distribution of) Assembly seats.

In 1777, the Assembly consisted of 70 members. Those seats were distributed by population in whole numbers among 14 counties.

In 1821, the Assembly increased to 128 members, mostly because the number of counties increased. Each county received a number of seats based on population, assigned in whole numbers.

In 1846, the constitution incorporated a requirement that every county was to be entitled to one Assemblymember, except Hamilton. Because Hamilton had a minuscule number of residents, it was determined it would share a Member of the Assembly with Fulton County, which also had a rather low number of residents(2). The remaining seats were distributed based on the population using a formula specified in the NYS Constitution.(3)

In 1894, the number of Assembly members was raised to 150 members. One assembly seat was to be assigned to every county in order to maintain regional (county) representation, with the one exception. Every county that had more than one and one-half equivalents(4) of residents was to get an additional Assemblymember. The remaining Assembly members were distributed to counties in whole numbers based on population.(5)

In 1938, the number of Assembly districts remained 150, every county was again assigned one Assembly seat and the remainder were distributed as per the 1894 NYS constitution(6).

In 2020, the current NYS Constitution reads the same as the 1938 Constitution.

“The quotient obtained by dividing the whole number of inhabitants of the state, excluding aliens, by the number of members of the assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of the assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens.(7)

Each of the 62 counties was designated one or more Assembly Districts and the Members of the Assembly were to represent the interests of their county. Fundamentally, the Assembly map was basically the county map as shown, with the counties being assigned Assembly members roughly based on population. The NYS Constitutions did have restrictions on the distribution of additional Assembly seats to the most populous counties. The intent was to prevent an abuse of power that could easily occur should closely-knit adjacent counties choose to use their legislative power to trample on the rights of the minority.

“Hills and Trees Don’t Vote”

Shortly after the 1964 USSC ruling, the NYS Legislature toss out 187 years of history and ignored county (regional) considerations because the USSC ruling, which was justified with the quip, “Hills and trees don’t vote”.

The NYS Legislature used the USSC ruling to trash the following NYS Constitutional requirement: 1) that Assembly seats be assigned to counties, 2) that every county is assigned a minimum of one Assembly seat, 3) that the district boundaries be determined by the counties, 4) that Districts be confined to the counties to which they were assigned.

Having abandoned these criteria, the Assembly Districts were reapportioned. Where previously seven downstate counties (the 5 New York City Counties Nassau and Suffolk) held 59 of the 150 Assembly seats (nearly 40% of the power of NYS Legislature) those same seven counties now held a clear majority of 89 Assembly seats. With the redistricting also affecting the Senate, those same seven counties now had a clear majority in both houses. The remaining 55 counties now share 61 Assembly seats,

The Turmoil

Counties that once had the shared responsibility of oversight of the state government now have no authority, and no standing in the state government. Many counties have had pieces carved out, that were combined with other counties or pieces of counties and compiled into a mishmash of an Assembly District. This is a map of the Assembly Districts today. Look at Oneida County, if you can find it. It was split into 6 pieces and forms part of five different Assembly Districts. One of its pieces is grouped with pieces of other counties to form an Assembly District with a completely irrational structure – the 101st Assembly District. The 101st Assembly District (a yellow streak on the map) is comprised of pieces of 7 counties, is about 20 miles wide, and meanders in a North/South direction for over 100 miles, chopping off edge pieces of some counties and going literally straight through the middle others, leaving pieces on both sides.

The 139th Assembly District, one of the more rational arrangements, contains all of Genesee county, the four western towns of Monroe County, and most of Orleans county, with the town of Yates being torn off and added to the 144th Assembly District to the west. If the NYS Constitution was followed, both Orleans and Genesee counties would each have their own Assembly representative, and the four towns in Monroe County would be added back into a Monroe County Assembly District.

The downstate Assembly Districts are similarly designed with no regard to county boundaries.

Dissension Erupted

Much dissatisfaction arose because the Assembly lost its focus.

There were three dramatic changes due to the new reapportionment. There was a shift in power in the NY Legislature. The seven counties with a majority in both houses took centerstage and took control of the legislature away from the other 55 counties. There was a loss of a focus: Members of the Assembly struggled with the fact that they no longer represented a single county, so where was their allegiance owed. Without the county focus, Members of the Assembly no longer paid attention to the needs of the counties. That loss of focus caused the counties to lose their oversight of the legislature.

What makes this issue a volatile political issue today is the fact that the Democratic Party has, as a result of the reapportionment scheme, gained a nearly irreversible control of the NYS Legislature. The Republicans clearly lost the battle, and it will stay that way as long as the current apportionment scheme remains in place for the NYS Senate and Assembly.

Looking at the seven-county to 55-county split, the political situation quickly takes on the aura of a political turf war between Democrats and Republicans. But this is a strange turf war. Both sides appear to be fighting for nearly the same division. If the state splits into two states, each political party will get a prize: The Democrats will have nearly a supermajority control of the “Lower New York State”; the Republicans will have plurality control of the “Upper New York State”.

History of Calls to Divide New York

Some think the calls to split the state are unfounded, not to be taken seriously. Perhaps they are right. But, there have been many calls to divide NY.(8) More than half of those were in the past 10 years, and within the last two years, the calls were for even more bizarre changes in the NYS Government. This is a serious situation that if not properly addressed will result in NYS changing – drastically – and probably not for the better. Here is a brief history of the calls to secede.

The first call for secession was in 1777 when Vermont seceded and granted statehood in 1778. The next was nearly a hundred years later, in 1861 when it was proposed New York City become a sovereign city-state called the Free City of Tri-Insula (3-islands). It wanted to continue trade with the south, even though the civil war broke out.

There was not another call for secession until 1969, four years after the USSC ruling. The proposal was to make New York City the 51st state. Even a new US Flag was proposed.

While the relation of the calls to secede has not been tied directly to the 1964 USSC ruling, there is no denying that the increased number of calls are related to the lack of county representation in the NYS legislature.

In 1989, a bill was introduced into the NYS Senate proposing to split New York into two states.

In 1999, a senator introduced (for the 7th or 8th time in less than a decade), a call to divide NYS into two states, but this time to split the state at Hammondsport, with the counties to the south retaining the name “State of New York”, and the remainder to be named “State of West New York”.

In 2003, a bill was introduced into Queens County Council calling for secession from NYS, and about 40% of the city’s council members supported the call.

In 2004, the bill was reintroduced again in Queens County, this time with an additional sponsor.

In 2008, a bill was introduced into the NYC legislature proposing NYC secede from NYS.

In 2009, State Senators Joseph Robach, Dale Volker, and Michael Ranzenhofer, Western New York Republicans, proposed a nonbinding referendum to gauge support for the concept of dividing the state.

In 2010, a former Suffolk County Comptroller and the Nassau County Executive called for Nassau and Suffolk counties to secede from NYS.

In 2010, a separate movement pushed for secession of the entire geographic island (Kings, Queens, Nassau, and Suffolk).

In 2010, another parallel movement called for dividing New York State in half, with Albany, the Hudson River Valley, and NYC in one portion, and the rest of NYS in the other.

In 2011, there was a movement for Western New York to secede and become the State of Niagara.

In 2013, a Republican Assemblyman (my opponent) again introduced a bill to have the residents in each county provide feedback on the potential of partitioning the state.

In 2015, fifteen towns in Sullivan, Delaware, Broome, and Tioga counties actually looked into seceding from NYS to join Pennsylvania.

In 2015, state legislators from Long Island and upstate New York introduced legislation to gauge support for splitting the state.

In 2019, a New York City councilman announced plans to introduce a set of bills to study the feasibility of NYC secession.

In 2019, an Assemblyman from Staten Island, expressed interest in joining upstate if NYC seceded.

In 2020, my opponent continued his push for a Divide New York referendum.

In 2020, with calls for the Divide New York movement seeming to be failing, a movement to split NYS into 3 autonomous regions, and make the governor a ‘token’ governor, appears to be gaining momentum.(9)

In 2020, there is a website pushing the Divide New York agenda as well as partitioning NYS into three autonomous regions.(10)

In 2020, there have been corollary bills introduced into the NYS Senate and Assembly(11, 12). My opponent is a cosponsored the latter.

In 2020, there was a call to eliminate the Assembly completely and expand the NYS Senate.(13)

There are a plethora of online documents that can be found on the current efforts to solve the problems created by the 1964 court decree: Everything from restructuring the NYS Government by the division of NYS into autonomous regions, to the formal creation of separate states, to counties splitting off on their own as a separate state, to eliminating the Assembly itself. There are some counter anti-divide sentiments(14), but those opposing the Divide New York movement are not offering solutions to what I believe is at the heart of all the dissension – the loss of county representation in the state government. The loss of county representation has made the NYS government unresponsive to regional concerns, and it doesn’t matter how populated the counties happen to be.

The 14th Amendment and the Courts.

There is much that can be stated about the 1964 ruling of the USSC. From my perspective, not much positive. Briefly, the USSC ignored more than 189 years of history of the States and ignored the State’s rights to decide for themselves the format of the government they wish to have. The USSC inappropriately lifted two words out of context from the 14th Amendment, and with no power to do so, applied those two words, out of context, to the issue of the structure of state legislative districts. This was a flagrant violation of several principles the USSC had followed since the foundation of this country. This issue could take several volumes to cover completely.

Here are the guts of the problem as best, and as briefly as I can explain today.

The USSC gave itself extremely broad, and unconstitutional, powers when it made its two rulings impacting the structure of State legislatures15,16, and the USSC made an interpretation of the 14th amendment that was itself a violation of the very principle in the 14th Amendment from which they drew their conclusions. The USSC ruling of 1964 is well past what a reasonable and prudent person would consider proper.

In its 1964 ruling, the USSC stated that ‘all state legislative districts must be based strictly on population’ and that ‘no state legislative body may be based on the region’. The USSC has used a phrase in the past to reprimand congress for overstepping its authority and passing bills that were unconstitutional. Those words are very appropriately applied to the USSC ruling of 1962(15) and 1964(16):

“There is nothing in the US Constitution to support those rulings.”

The USSC ignored the first sentence of the Second Section of the 14th Amendment which placed the focus of the amendment on the issue of ‘representation’ in the House of Representatives. By declaring that states must change their legislative representation to be based 100% on the population, the USSC effectively declared an end to regional representation in State governments. If that was the intent of the USSC ruling in 1964, then that ruling is even more egregious because, effectively, the USSC would be declaring, on its own volition and authority, an end to the ability of State governments, and the people in the State, to decide for themselves how they will be structured. Such power cannot be wielded by the USSC, nor by Congress, without a constitutional amendment granting the federal government the power to make such a ruling. There is no such authority or power granted to the US Government, and thus none granted to the US Supreme Court. The USSC effectively declared the structure of most, if not every State legislature to be unconstitutional from the time the US was founded and States first joined the union. How can that even be a possibility?

Looking at the 14th Amendment, it is clear the 3rd, 4th, and 5th sections of the 14th amendment have nothing to do with “representation”. Reading section one, the two words “equal protection” are observed within a clause that reads, “; nor deny any person within its jurisdiction the equal protection of the laws.”

This clause refers to “any person”, not just citizens of the United States. Lifting the words ‘equal protection’ from this clause and applying it to any issue related to just US Citizens is a violation of the 14th amendment itself, and a violation of the clause from which the two words were lifted. The way the USSC has been using the 14th amendment and the so-called “equal protection clause” is a gross abuse of the powers of the USSC because there is no ‘equal protection’ clause that applies to just US Citizens.

Take a look for yourself.

14th Amendment, Section 1:

“All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges (emphasis added) or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.”

Let me emphasize again, the two words “equal protection” are used within the phrase

“… nor deny any person within its jurisdiction the equal protection of the laws.”

In this clause, the 14th Amendment expanded its focus from US Citizens to everyone, “any person”, and the words “equal protection of the laws” applies to “any person” within the jurisdiction of the State, aliens, tourists, residents on green cards – and even “illegal immigrants”.

The court then expanded the meaning of the words “abridge the privileges or immunities of citizens…” to include the right to vote, which they then treated as a privilege. The right to vote is not a privilege. It is a right guaranteed by the US Constitution. Nevertheless, with a misrepresentation of the right to vote as a privilege, the court proceeded to make a convoluted argument beginning with one man-one vote, expanding that concept to mean equal representation, and expanded equal representation to mean across all political divisions. Then they applied the 14th amendment’s ‘equal protection clause’, which they made up, as a concept justifying the unconstitutional intrusion into the State’s judicial structure. This progression of ‘reasoning’ carried the court far from their field of authority and constituted a dramatic departure from the meaning of the 14th Amendment. The court did make a snide remark about the representation across State lines and the lack of equal popular representation in the US Senate, where States, regardless of their populations, are given the same number of representatives. Is that the USSC’s next target should their interpretation of the 14th Amendment remain unchallenged?

Nevertheless, the USSC failed to honor the 14th amendment when they focused only on US Citizens, and not all residents in the States. If the representation was a legitimate focus of their ‘equal protection clause’, then ‘equal protection’ of “any person” should have been the focus, regardless of whether the person was or was not a citizen of the United States. It is important to note that there is no reference in this amendment to the structure of the legislative districts, and the right to vote is a right, not a privilege. The application of ‘equal protection’ to any issue protecting just US Citizens is a violation of the “equal protection” clause of the 14th amendment.

A conservative court would have confined the issue of representation to the first sentence of the Second Section of the 14th Amendment, which reads:

“Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. …”.

The “Representatives shall be apportioned among the several States…” clearly is referring to the US House of Representatives. The 14th Amendment did immediately impact many states that had Congressional districts of unequal population.

The 14th Amendment would have been a perfect spot for the creators of the amendment to insert wording that addressed regional concerns if there were any. They did not. The absence of the mention of regional representation screams of the necessity for such regional representation in governments. The federal government, and thus the US Supreme Court, was not given the power by the US Constitution to declare regional representation illegal or unconstitutional in any State legislature. If that were an intended focus, regional representation of the House of Representatives would have been challenged. Instead, House seats are assigned to states (regions acknowledged by the US Constitution). Should, at any time in the future, the US Congressional seats not be proportioned among the States, and be proportioned strictly by population, congressional districts would stretch out, and through, and around various states in weird configurations completely irrespective of state boundaries. The map of congressional districts would soon be fashioned to resemble the current irrational NYS Assembly Districts – which are not confined by county boundaries.

The Importance of Regional County

When the NYS Constitution was drafted, it was already recognized that the NYC area had a higher population density than the rest of the state. Counties were created because of differences in surface contours, water resources, natural vegetation, recreational opportunities, scenic views, farmable land, useable and non-usable lands, markets, transportation, and now even man-made features (roads, buildings), etc. These geographic differences were represented in the state government as regions (counties) because these regional differences created different interests, desires, and needs that should be kept at the forefront when laws are written so proper attention could be paid to these differences. Thus, Members of the Assembly were assigned to counties.

The importance of the differences defining regions has been emphasized by the recent calls for re-organization or secession that have been proposed in NYS and are being proposed all across the United States. Literally, hundreds of counties, or their equivalent, across the United States are now calling for secession from their State or reorganization of their state governments.(17) Nearly all of these calls have been proposed since the 1964 USSC ruling. Motivating these calls is the fact that State governments are being forced to ignore county (regional) interests because there is no longer a body of the States’ legislatures whose purpose is to bring these regional differences and needs to the forefront of the discussions when laws are written. The USSC, with their glib, “Hills and trees don’t vote”, has ruled that regions with different population densities cannot be given an equal voice, not even in a separate part of a state legislature, no matter the differences between regions.

A straightforward reading of the 14th amendment gives the USSC no basis upon which to make the decision they made. Here are two statements in the USSC ruling that demonstrate the exact adherence to the USSC ruling was not necessary(18-1 18-2). The NYS Legislature did not need to abandon its 187-year history:

In one part of the ruling, the USSC stated, “The District Court correctly held that the existing Alabama apportionment scheme and both of the proposed plans are constitutionally invalid since neither legislative house is or would thereunder be apportioned on a population basis.(19)

This USSC statement implies that if one of the bodies of the Alabama legislative government was apportioned based on population, and the state constitution called for the other legislative body to be specifically represented based on region, the apportionment scheme for the state government would have been allowed.

The NYS Senate Districts were based on population and the Assembly Districts accommodated the regional distribution and had a rough distribution based on population. So, why did NYS re-structure the Assembly Districts entirely on population and not continue to assign Members of the Assembly to counties using the formula in the NYS Constitution? Not only was the 1964 decision of the USSC unfounded, but it was also unnecessary for the NYS Legislature to follow the exact ruling of the USSC and completely abandon the NYS Constitution’s requirements for the apportionment of the Assembly by assigning Membership to the counties.

Perhaps it was this deliberate slap in the face by the USSC to those arguing for regional representation that caused the State legislatures to become timid.

The superficial resemblance between one of the Alabama apportionment plans and the legislative representation scheme of the Federal Congress affords no proper basis for sustaining that plan, since the historical circumstances which gave rise to the congressional system of representation, arising out of compromise among sovereign States, are unique and without relevance to the allocation of seats in state legislatures.

That USSC statement fails to recognize the corollary between the United States to regions called States and the States to regions called Counties (or parishes or boroughs). The USSC gave no recognition or consideration of the need or purpose of regional representation within the States. The result of the State’s compliance with this ruling has been a growing movement across the country for counties to secede and become separate states, or to join neighboring counties to form new states, or to just join their neighboring state. There is even a movement for states to declare themselves to be ‘Sovereign States’,(20) As Sovereign States they would create a level of independence from the dictates of the US Government and the USSC. The loss of representation of regions in state governments has ignited movements all across NYS for counties to secede, redesign the NYS Government, even redesign the entire state government around ‘regions”, irrespective of populations.

Thus, the times are changing and the US Supreme Court should be forced to review its ruling.

The current situation.

The Divide New York movement is driven by the serious, underemphasized consequences of the 1964 USSC ruling that caused the NYS Assembly to be restructured. As mentioned, the most obvious, immediate consequence was a shift in the control and domination of the Legislature by seven contiguous counties: New York City’s five counties, Suffolk and Nassau.

The control of the Assembly by just seven counties has created an undercurrent demanding change. The fear that the problem will not be addressed is the driving force behind the continual decline of NYS, both economically and in population. There had not been a call to divide New York for over 100 years. After just five years, with no county representation in the Assembly, the call for some counties to secede was resurrected in 1969. The NYS legislature is not addressing regional concerns because of the loss of county representation. As a result, people, mostly the younger generation, are taking their skills, money, and ambition and moving elsewhere. As the loss of regional representation becomes more evident, New York State will continue to decline both economically and in population, a decline that is continuing today.

The Divide New York State movement is growing, and spawning related mutant movements. One movement calls for the eastern half of Suffolk to secede from Suffolk County and call itself Peconic County. There was a call for the secession of Staten Island from New York City, directly linked to their dissatisfaction with the lack of regional (county) representation. Counties in central New York State, situated along the Pennsylvania border, began to call for secession so they could join Pennsylvania. That call was motivated by a dissatisfaction with the state’s handling of the regional “fracking” issue.

The financial discrepancies are also motivating secession. These are probably the most serious. Upstate is constantly being told that it is sending billions of its tax money to NYC to pay for NYC subways and bridges. That notion remains today despite being rebutted.(21) One report stated NYC gives $11 billion more to NYS than it receives in services.(22) The latter statement was followed by an NYC councilman, stating, “If not secession, somebody please tell me what other options we have if the state is going to continue to take billions from us and give us back pennies?

Inadequate compensation for taxes paid is the reason there are calls for a separation of Long Island from the rest of the state. One of the wealthiest regions of the state, it receives only $5.2 billion in state payments and pays $8.1 billion in taxes.(23)

There are proposals to Divide New York State into two or three separate states, with proposals to slice NYS at different proposed spots. There are counties proposing to secede to join other states, or just form a new state of their own. Proposals abound for county ‘home-rule’ whatever form of government that may be. And, recently the big push is to divide the state into three autonomous regions(24), which by the way will not be equal in population. All of these proposals will require an NYS Constitutional amendment and probably will even require the consent of the US Congress. But to what avail. If people don’t respect the constitution we have today, what makes anyone believe a new NYS Constitution will be respected.

Before any attempt to divide NYS gets underway, and efforts are made to change our NYS Constitution to accommodate the inappropriate USSC ruling, the NYS legislature should challenge the USSC ruling and restore the constitutional balance of county representation to the NYS Legislature.

My proposal: “Save the Empire State”

I propose we honor the NYS Constitution as it was written and go back to granting a minimum of one member of the Assembly per county. I propose we give Hamilton a separate representative, despite its low population. I propose we assign additional Assembly seats to the counties based on population, as in the past. I also propose we readopt the apportionment scheme where assembly districts do not wander outside the county given the Membership seat(s). I propose we cap the number of Assembly positions at 150 and not give any county more than 4 assembly seats – unless a county’s population exceeds 2.4 million residents, and then they are to get only one additional member of the Assembly. This restriction on the upper limit recognizes the fact that the larger county’s influence in the legislature increases exponentially, not linearly, with increased membership.

The justification to go back to the original structure of the Assembly is that the NYS Constitution explicitly granted each county at least one representative. The original Republican Form of Government, guaranteed to the states was originally a structure with two legislative bodies, one based on region and one based on population. This was the original form of both the federal and state governments. Of the entire 50 states, only one State was formed with a government having a single legislative house (Nevada).

Reestablishing the NYS Constitutional structure to the Assembly will not require a constitutional amendment (all the other proposals made to date will require a change in the NYS Constitutional structure). What is required is a willingness on the part of the NYS Legislature to look at the US Supreme Court’s actual ruling and to challenge the NYS Legislator’s past interpretation of that court ruling. Of course, this movement will require a spokesperson to push the reestablishment of county representation in the Assembly. None of the current incumbents seem willing to do so.

Re-installing the NYS Constitutional regional representation of counties to the Assembly should be a priority.

Libertarian Candidate, 139th Assembly District 12

(1) https://supreme.justica.com/cases/federal/us/377/533/

(2) which would elect a representative with Fulton until Hamilton had sufficient population to elect a representative,

(3) https://history.nycourts.gov/wp-content/uploads/2019/01/Publications\_1846-NY-Constitution-compressed.pdf

(4) An equivalent is the total population divided by 150, or in today’s terms, with approximately 18 million adults in NYS, an equivalent is approximately 120,000 people. Counties having more than 180,000 residents would get two Assembly members.

(5) https://history.nycourts.gov/wp-content/uploads/2019/01/Publications\_1894-NY-Constitution-compressed.pdf

(6) https://history.nycourts.gov/wp-content/uploads/2019/01/Publications\_1938-NY-Constitution-compressed.pdf

(7) https://www.dos.ny.gov/info/constitution.htm

(8) https://en.wikipedia.org/wiki/Partition\_and\_secession\_in\_New\_York.

(9) https://www.niagara-gazette.com/news/local\_news/divide-nys-brings-two-bills-before-legislature/article\_dab159e7-ff88-57a1-a032-a481e76d6ae5.html

(10) https://www.divideny.org/

(11) https://www.nysenate.gov/legislation/bills/2019/s5416

(12) https://www.nysenate.gov/legislation/bills/2019/a5498

(13) https://www.oleantimesherald.com/news/upstate-senator-renews-push-for-one-senator-per-ny-county/article

(14) https://www.democratandchronicle.com/story/news/politics/albany/2019/10/15/divide-new-york-into-two-states-people-have-strong-opinion/3984202002/

(15) https://en.wikipedia.org/wiki/Baker\_v.\_Carr

(16) https://supreme.justia.com/cases/federal/us/377/533/

(17) https://en.wikipedia.org/wiki/List\_of\_U.S.\_county\_secession\_proposals

(18) https://supreme.justia.com/cases/federal/us/377/533/ & https://en.wikipedia.org/wiki/Wesberry\_v.\_Sanders

(19) Baker v. Carr, 369 U. S. 186,. pp. 377 U.S. 568-571.

(20) Oklahoma was the latest state to declare itself “Sovereign”. Texas, Florida, and other states have done so, and more than 10 other states have bills pending that will declare their state “Sovereign” and not under direct US Government control.

(21) Center for Governmental Research, a public-policy group in Rochester.

(22) Mayor Michael Bloomberg’s testimony to New York state legislators.

(23) https://en.wikipedia.org/wiki/Partition\_and\_secession\_in\_New\_York#cite\_note-10

(24) One organization, the Divide New York State Caucus, Inc., has drafted a proposal to partition the State into three autonomous regions: The “New Amsterdam” Region (Upstate), the “New York” Region (the City), and a third region of “Montauk” (comprising Long Island, and Rockland and Westchester Counties). These autonomous regions would, according to the plan, work in tandem with a token state government to comply with the U.S. Constitution.

**A Road to No-Where**

**Two Abandoned Resources:**

**A Road to No-Where, and An Expressway that Never Was**

**A Road to No-Where**

In 1944, there was a proposal to create a Lake Ontario State Parkway. It was to be part of the Seaway Trail project. The parkway was to extend from Charlotte Beach in Rochester, through Monroe, Orleans, and Niagara Counties and end at Niagara Falls. When the Robert Moses State Parkway was proposed, the western terminus was moved north to Fort Niagara.

The construction of the Lake Ontario State Parkway began in the late 1940s, with the first section opening in the early 1950s, linking the Hamlin Beach State Park to NY 261 (Manitou Road). The section through Greece to Charlotte was built in stages during the 1950s and 1960s. The portion between Hamlin Beach state park and Lakeside Beach State Park was planned in the ’60s and finished in 1972. Officially opening February 16, 1973. (1)

There was a US Supreme Court ruling in 1964, that caused Counties to lose their representation in the Assembly. That ruling began to take a toll fairly quickly. With the NYS Legislature putting its focus on the seven counties downstate, the parkway was abandoned, half-finished. Little focus was ever again placed on the Lake Ontario State Parkway, at least not for the next 56 years.

It wasn’t until the Lake Ontario Parkway began to be an eyesore and embarrassment, and even a safety hazard, that the state made any effort to make repairs. The parkway was in such disrepair that drivers had to slow to 35-40 MPH, slower in some places, or risk serious damage to their vehicles. Many users preferred driving on the shoulder rather than over the broken parkway pavement. In 2017, the parkway from Route 19 east to Payne Beach was repaved (approximately 8 miles). In 2018, seven miles from Route 19 to Route 237 were repaved, but the shoulders in this stretch narrowed from 12 to 8 feet. (2)

As of today, about 12 miles of the western end of the parkway is in poor condition. The only consideration actually keeping that stretch open is that it is treated as a sessional highway and is viewed as a historical landmark(3). With serious deterioration, lack of state funding, failure to complete the parkway to Fort Niagara, and no plans on the books, the Lake Ontario Parkway has become a highway to nowhere

Our current Assemblyman, after 14 years in office, has done little to resurrect the seaway/parkway project as a resource for Orleans County.

**An Expressway that Never Was**

There was a limited access, toll-free, interstate highway planned, and started that would have run from Rochester to Buffalo and serviced the towns in western Monroe, Orleans, and Niagara counties, including Spencerport, Brockport, Holley, Albion, Medina, Middleport, Gasport, Lockport, and Niagara Falls.

The initial stretch, from Interstate 490 to Elmgrove Road, was completed in the early 1960s. The stretch to Manitou Road was completed in 1984, and the stretch to Route 36, now referred to as Interstate 531, was completed in 1995. The latter stretch was the combined effort of the many Monroe County Assembly members and NYS Senator Ralph Quattrociocchi.

There was federal interest in Interstate 531, and the project was included in the Federal-Aid Highway Act of 1968. Unfortunately, when the City of Niagara Falls released its Regional Highway Plan for the Buffalo–Niagara Falls area in 1971, that plan did not contain mention of the Niagara Falls to Rochester expressway. With the Assembly Districts now not being organized around county lines, no Assemblyman stood up for the needs of Orleans County or the western towns of Monroe County, and thus the proposed Niagara Falls–Rochester freeway (4) was abandoned.

In the period from 2012 to 2016, the NYS Department of Transportation held public hearings on the redesign of the 531 termini at the intersection at Route 36. During these discussions, our representative for the 139th Assembly appears to have been absent. Consequently, there was no consideration of the impact of the DoT’s proposal on the long-term growth or needs of western Monroe County or Orleans County. The $12 million spent terminating 531 provides little benefit for the development of western Monroe County and no benefit to Orleans county. It just moved the traffic jam further down the road.

**What Now**

The loss of these two roadways as resources for the 139th Assembly District will negatively impact western Monroe County and Orleans County for some time. The current loss of County representation in the NYS Assembly, and the failure of the incumbent Assemblyman to represent the needs of the western Monroe County towns and Orleans County, combined with the lack of a county focus in the NYS Assembly itself, is to blame (5).

The focus of the NYS Legislature has turned south, and it has remained that way for over 56 years.

(1) https://en.wikipedia.org/wiki/Lake\_Ontario\_State\_Parkway#cite\_note-survey-20

(2) https://en.wikipedia.org/wiki/Lake\_Ontario\_State\_Parkway#cite\_note-5

(3) https://en.wikipedia.org/wiki/Lake\_Ontario\_State\_Parkway

(4) https://en.wikipedia.org/wiki/Interstate\_990#cite\_note-6

(5) https://supreme.justia.com/cases/federal/us/377/533/