



## WHY DID ILLINOIS CALL A CONSTITUTIONAL CONVENTION IN 1968?

*Ann M. Lousin\**

*On November 5, 2018, Illinois observed—more accurately, failed to observe—the semicentennial<sup>1</sup> of the vote calling for The Sixth Illinois Constitutional Convention. On November 5, 1968, 4,705,852 Illinoisans cast votes on the issue of whether to call a Constitutional Convention.<sup>2</sup> By a vote of 2,979,977 for and 1,135,440 against, the voters decided to call the Sixth Illinois Constitutional Convention to revise or replace the century-old Illinois State Constitution.<sup>3</sup> Although there was a renaissance of interest in state governments after World War II, only about half of states that sought to call a constitutional convention between 1950 and 1964 succeeded.<sup>4</sup> Moreover, there were strictures in the Illinois Constitution of the time making it difficult to amend the constitution and to call a convention. Clearly, those who sought to hold an Illinois Constitutional Convention in the middle to late 1960s had no grounds for optimism.*

*Why did Illinois succeed in calling a convention in 1968? This Article offers an answer against the backdrop of Illinois constitutional history and of the particular situation in Illinois and around the country in the mid-1960s. Because the author is a native Illinoisan, was present during those years, and served*

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1. Sometimes called a “quinquagenary.”

2. ILL. STATE BD. OF ELECTIONS, STATE OF ILLINOIS OFFICIAL VOTE CAST AT THE GENERAL ELECTION, NOVEMBER 5, 1968 51 (Paul Powell ed., 1974), <https://archive.org/details/officialvote1968illi/page/50/mode/2up>.

3. *Id.*

4. The count was twelve approvals of a convention to eleven rejections of a call. Albert L. Sturm & Janice C. May, *State Constitutions and Constitutional Revision: 1980–81 and the Past 50 Years*, in *THE BOOK OF THE STATES* 115, 122 (1983).

as a research assistant during the Convention, the analysis is personal to a great extent. Apart from public documents, there are few reliable records of what actually motivated Illinoisans at that time. The author knew many of the people involved, almost all of whom are now gone, and had private conversations with them over the years.

Three books are of seminal importance and must be acknowledged up front. The first is Janet Cornelius's *Constitution Making in Illinois 1818–1970* (1972), and the second is JoAnna M. Watson's *Electing a Constitution: The Illinois Citizen and the 1970 Constitution* (1980).<sup>5</sup> Because the authors were close observers of the processes of getting a convention approved, drafting a constitution, and securing voter ratification, they were able to interview key players in the late 1960s and early 1970s.<sup>6</sup> This Article's analysis relies upon the informed perspective of each. The third book is the most recent study of Illinois constitutional history, Frank Cicero, Jr.'s *Creating the Land of Lincoln: The History and Constitutions of Illinois, 1778–1870* (2018).<sup>7</sup> A fourth key source is Jerome B. Meites's Article, *The 1847 Illinois Constitutional Convention and Persons of Color*, which discusses Illinois constitutional history through 1848.<sup>8</sup>

Part I of this Article outlines the amending process in Illinois constitutional history, with emphasis upon conventions, from 1818 until 1950. That year, the voters adopted the Gateway Amendment, which was designed to facilitate amending the Illinois Constitution.<sup>9</sup> Part II describes the fifteen attempts to amend the Illinois Constitution after adoption of the Gateway Amendment, from 1952 through 1966. Part III describes the events of 1966 and 1967 which made possible a referendum on

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5. See generally JANET CORNELIUS, *CONSTITUTION MAKING IN ILLINOIS 1818–1970* (1972); JOANNA M. WATSON, *ELECTING A CONSTITUTION: THE ILLINOIS CITIZEN AND THE 1970 CONSTITUTION* (1980). Both books were published as part of a series called *Studies in Illinois Constitution Making* shortly after the 1970 Constitution became effective. The University of Illinois Press published them for The Institute of Government and Public Affairs of The University of Illinois.

6. The author knew Professor Watson and Dr. Cornelius in the 1970s and discussed their work, including interviews, with them many times.

7. See generally FRANK CICERO, JR., *CREATING THE LAND OF LINCOLN: THE HISTORY AND CONSTITUTIONS OF ILLINOIS, 1778–1870* (2018).

8. See generally Jerome B. Meites, *The 1847 Illinois Constitutional Convention and Persons of Color*, 108 J. ILL. ST. HIST. SOC'Y 266 (2015).

9. See *infra* notes 69–77 and accompanying text.

*November 5, 1968. Part IV describes the campaign for a constitutional convention (“con con”) in 1967–68. Part V concludes that the factors which created a favorable climate for a convention came together almost fortuitously and that it is unlikely those factors will come together again in the near future.*

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#### I. ILLINOIS CONSTITUTIONAL CONVENTION HISTORY FROM 1818 TO 1950

When the Illinois Territory petitioned to become a state in January 1818, the United States Congress required that the territory draft a state constitution acceptable to Congress.<sup>10</sup> That August, a constitutional convention drafted a “statehood constitution,” which it adopted on August 26, 1818.<sup>11</sup> Many of the constitution’s provisions favored giving power to the legislative branch, as opposed to the executive branch. This may have been due to a lingering reaction against King George III in the new states or it may have been a reaction to the almost dictatorial powers of the Illinois Territorial Governor, Ninian Edwards.<sup>12</sup> The overriding

10. CORNELIUS, *supra* note 5, at 6. Much of this narrative is taken generally from this book as well. *Id.* at 44–68.

11. CORNELIUS, *supra* note 5, at 3–19; CICERO, *supra* note 7, at 57.

12. Jerome B. Meites suggests that “[a]ll of the Revolutionary Era and the Early Republic constitutions before Illinois’, with the exception of Louisiana, were also very pro-legislative branch.” E-mail from Jerome Meites to author (June 12, 2020, 15:43 CDT) (on file with author). The author believes Meites makes a good point. It is telling that Louisiana was never subject to Britain and George III. However, there is no doubt that the Governor of the Illinois Territory, who owed his position to a federal appointment, not election by the residents of the territory, enjoyed great powers. He had an absolute veto over bills passed by the legislature and could dissolve the legislature. CICERO, *supra* note 7, at 35. Cicero maintains that the drive for statehood was motivated in good part by anger over those powers. *Id.* Therefore, the author thinks it highly likely that the pro-legislative posture of the 1818 Constitution was also a reaction to those territorial gubernatorial powers. This

purpose of the new constitution was to gain the approval of Congress.<sup>13</sup> For example, because Illinois was carved out of the Northwest Territory, it had to declare itself a “free soil” state, i.e., one that prohibited slavery.<sup>14</sup>

The founding fathers who gathered in the territorial capital of Kaskaskia in 1818<sup>15</sup> probably did not think of the 1818 Constitution as an enduring one. They knew there would be changes. Article VII of the 1818 Constitution provided that only a constitutional convention could propose amendments.<sup>16</sup>

The 1840s brought an era of Jacksonian populist democracy to many states. Almost thirty years of statehood persuaded many Illinoisans that they had enough experience with self-governance to draft a new constitution. In 1847, Illinois held a constitutional convention, which drafted the 1848 Illinois Constitution.<sup>17</sup>

Illinois was no exception to the “elect everybody” movement of this period.<sup>18</sup> Under the 1818 Constitution, the legislature selected judges,<sup>19</sup>

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was apparently not a personal attack upon Governor Edwards, a progressive aristocrat who, in any event, supported statehood. He was one of the first two United States Senators from Illinois and later the third Governor of Illinois. In a further email to the author on June 30, 2020, Meites quotes several early historians’ views on why Illinoisans desired statehood and in particular the issue of dissatisfaction with the absolute veto of the territorial governor over legislative acts. E-mail from Jerome Meites to author (June 30, 2020, 13:28 CDT) (on file with author). As Meites points out, the issue of whether to forbid slavery was always the key issue. *Id.* Both of Meites’s emails are available to any interested reader, who is welcome to contact the author at [alousin@uic.edu](mailto:alousin@uic.edu).

13. CICERO, *supra* note 7, at 53.

14. U.S. Congress, Ordinance of the Northwest Territory, art. VI (July 13, 1787) (“There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted . . . [remainder concerns fugitive slaves].”). Despite this provision, slavery was apparently an entrenched institution in Illinois Territory. Meites, *supra* note 8, at 271–72.

15. CICERO, *supra* note 7, at 45.

16. ILL. CONST. of 1818, art. VII, § 1 provided as follows:

Whenever two-thirds of the General Assembly shall think it necessary to alter or amend this Constitution, they shall recommend to the electors, at the next election of members to the General Assembly, to vote for or against a convention; and if it shall appear that a majority of all the citizens of the State, voting for Representatives, have voted for a convention, the General Assembly shall, at their next session, call a convention, to consist of as many members as there may be in the General Assembly, to be chosen in the same manner, at the same place, and by the same electors that choose the General Assembly, and which convention shall meet within three months after the said election, for the purpose of revising, altering or amending this Constitution.

17. Illinois had expanded quickly in population and economy between 1818 and 1846, when the referendum on calling a second convention was held. Still, Meites indicates that the economic situation of Illinois was critical. See E-mail from Jerome Meites to author (June 30, 2020, 13:28 CDT) (on file with author).

18. CORNELIUS, *supra* note 5, at 35–36.

19. ILL. CONST. of 1818, art. IV, § 4.

but judges became elected officers in 1848.<sup>20</sup> Within a decade, the Democratic and Republican parties became the two dominant parties in Illinois and they have remained so ever since.<sup>21</sup>

Similarly important, article XII of the 1848 Constitution changed how the constitution could be amended. For the first time, the legislature, not just a convention, could propose amendments to the voters.<sup>22</sup>

The Third Illinois Constitutional Convention took place in 1862.<sup>23</sup> In November of 1860, Illinois Republicans were able to persuade the voters to call a constitutional convention to meet in 1862. However, it was the Democratic Party that controlled the Convention, which took place while the civil war was raging. One feature of the proceedings was the delegates' animosity toward the wartime Governor, Richard Yates.<sup>24</sup> Another feature was blatant racism; many delegates were by no means against slavery and more did not want black people, even free blacks, to live in Illinois.<sup>25</sup> The voters rejected the Convention's work product.<sup>26</sup>

After the Civil War, many states saw an opportunity to revise their constitutions to meet the developing Industrial Revolution and continuous population growth. Illinois, with its daily influx of immigrants and its advantageous transportation infrastructure (railroads, canals, rivers, and the port of Chicago on Lake Michigan),

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20. ILL. CONST. of 1848, art. V.

21. ROBERT P. HOWARD, ILLINOIS: A HISTORY OF THE PRAIRIE STATE 289–91 (1972).

22. Article XII, section 1 described the convention method in the same language as that of the 1818 Constitution. ILL. CONST. of 1848, art. XII, § 1. The new method, which provided for proposals by the legislature, was in section two and read as follows:

Any amendment or amendments to this constitution may be proposed in either branch of the general assembly; and if the same shall be agreed to by two-thirds of all the members elect[ed] in each of the two houses, such proposed amendment or amendments shall be referred to the next regular session of the general assembly, and shall be published at least three months previous to the time of holding the next election for members of the house of representatives; and if, at the next regular session of the general assembly after said election, a majority of all the members elect[ed] in each branch of the general assembly shall agree to said amendment or amendments, then it shall be their duty to submit the same to the people at the next general election for their adoption or rejection, in such manner as may be prescribed by law; and if a majority of all the electors voting at such election for members of the house of representatives shall vote for such amendment or amendments, the same shall become a part of the constitution. But the general assembly shall not have power to propose an amendment or amendments to more than one article of the constitution at the same session. ILL. CONST. of 1848, art. XII, § 2.

23. CICERO, *supra* note 7, at 137.

24. *Id.* at 139.

25. O. M. Dickerson, *The Illinois Constitutional Convention of 1862*, 1 U. STUD. 385, 408 (1905).

26. The vote for the proposed constitution was 125,052, while the vote against it was 141,103. CORNELIUS, *supra* note 5, at 54.

called its Fourth Constitutional Convention in 1869.<sup>27</sup> The voters adopted the draft on July 2, 1870.<sup>28</sup> One of the features of the constitution was its extensive regulation of businesses, which was considered a progressive action at the time.<sup>29</sup>

Another feature was the establishment of a unique system for electing members of the Illinois House of Representatives. The system required three members to be elected from each district with cumulative voting possible.<sup>30</sup> A voter could cast all three of his votes for one candidate, one and a half votes for each of two candidates, or one vote for each of three candidates.<sup>31</sup> As a practical matter, it meant that voters could gain representation for their party, or at least their faction within the party, even though the other party won two of the three seats.

That change in electing representatives affected the process of amending the 1870 Constitution, as the rest of this Article will show. The text of article XIV continued the requirement of two-thirds of each house to submit a call for a convention or to propose an amendment.<sup>32</sup> It is

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27. CICERO, *supra* note 7, at 151–52, 161–67.

28. The vote was 134,277 for the proposed constitution and 35,448 against it. 2 ELY, BURNHAM & BARTLETT, DEBATES AND PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF ILLINOIS 1896 (1870).

29. See ILL. CONST. of 1870 art. XI (regulating corporations such as railroads and banks); *id.* art. XIII (regulating warehouses); *id.* §§ Separately Submitted (concerning the Illinois Central Railroad and canals).

30. *Id.* art. IV, §§ 7–8.

31. *Id.* This system, in its basic form, remained in place until abolished in favor of single member districts in 1980. See generally David H. Everson, *The Cutback at 10: Illinois House Without Cumulative Voting and 59 Members*, N. ILL. U., <https://www.lib.niu.edu/1991/ii910713.html> (last visited Aug. 1, 2020).

32. ILL. CONST. of 1870 art. XIV read as follows:

§ 1. Whenever two-thirds of the members of each house of the general assembly shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter or amend the constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the general assembly shall, at the next session provide for a convention, to consist of double the number of members of the senate, to be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the members shall take an oath to support the constitution of the United States, and of the state of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revision, alteration or amendments of the constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the convention for that

sometimes said that the amending article of the 1870 Constitution made it more difficult to amend the constitution, especially because the only way the voters could call a convention or approve an amendment was by the affirmative vote of “a majority of the electors voting at said election.”<sup>33</sup> It is more accurate to say that the 1870 Constitution put the amending process into the hands of the leaders of the two major political parties.<sup>34</sup> That is because Illinois used the party circle ballot for elections.<sup>35</sup> Each party printed up its ballots privately and delivered them to the polling places.<sup>36</sup> If a voter approved all of the party’s candidates *and* positions on propositions, such as constitutional amendments, he simply indicated that on the party circle at the top of the ballot.<sup>37</sup> Split ticket voting was difficult.<sup>38</sup> In short, when the party leaders agreed on a constitutional amendment, it was relatively easy to summon two-thirds of the legislature’s votes to propose the amendment and the two-thirds of the electorate’s votes necessary to approve it. Between 1870 and 1891, the General Assembly proposed five amendments, all of which the voters adopted.<sup>39</sup> Then came a change unforeseen in 1870. In 1891, Illinois adopted the Australian ballot, a new system by which the government printed ballots and made split-ticket voting somewhat easier.<sup>40</sup> This

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purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved, by a majority of the electors voting at the election, no such revision, alteration or amendments shall take effect.

§ 2. Amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this state for adoption or rejection, at the next election of members of the general assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this constitution. But the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session, nor to the same article oftener than once in four years.

33. *Id.* art. XIV, § 1.

34. *See* CORNELIUS, *supra* note 5, at 80–81.

35. For a full discussion of this development, see CORNELIUS, *supra* note 5, at 122; ANN M. LOUSIN, *THE ILLINOIS STATE CONSTITUTION: A REFERENCE GUIDE* 13 (2010). *See generally* Robert W. Bergstrom, *The Amending Process*, in *CON-CON: ISSUES FOR THE ILLINOIS CONSTITUTIONAL CONVENTION* 465 (Samuel Kimball Gove & Victoria Post Ranney eds., 1970).

36. CORNELIUS, *supra* note 5, at 89.

37. *See id.* at 80, 89.

38. *Id.*

39. *Id.* at 89 n.11 (describing each amendment).

40. Bergstrom, *supra* note 35, at 468.

meant that each voter had to indicate his own vote on propositions, such as constitutional amendments.<sup>41</sup> Not surprisingly, many voters simply did not vote on the propositions at the end of the ballot.<sup>42</sup> Consequently, even if the leaders of both parties agreed upon an amendment, there was no guarantee that the voters would approve it. Constitutional amending virtually screeched to a halt. Of the fourteen amendments submitted between 1891 and 1950, only two met with voter approval.<sup>43</sup>

Fifty years later, it was clear that much of the 1870 Illinois Constitution was no longer suited for a state taking its place on the national stage. In 1918, “a majority of those voting at the election” approved a call for a convention, and The Fifth Illinois Constitutional Convention met.<sup>44</sup> It produced a document that failed to win approval by the voters.<sup>45</sup> Why did it fail? One reason was the slow pace at which the delegates moved—they met sporadically for almost two years—and another was the depth of partisanship among the delegates.<sup>46</sup>

One could also say that some of the draft constitution’s provisions were simply too much of a break with the past. For example, the draft proposed that most of Illinois continue electing judges, but that Cook County could hold a referendum on whether to go to an early appointive form of selection.<sup>47</sup> This was a kind of “Merit Selection for Judges” twenty years before Missouri adopted a similar plan.<sup>48</sup> It also provided for an income tax just seven years after the nation had adopted a federal income tax by ratifying the Sixteenth Amendment.<sup>49</sup> In any event, the near-universal opprobrium resulted in a resounding defeat of the draft constitution at the polls in 1922.<sup>50</sup>

Over two decades later, the post-World War II years affected all state governments. While the first half of the twentieth century saw Americans leaving rural areas and small towns for the cities, the second

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41. *Id.*

42. *Id.*

43. *Id.* at 90 n.13.

44. LOUSIN, *supra* note 35, at 14.

45. *Id.*

46. *See id.* at 13–16.

47. ILL. CONST. CONVENTION, THE PROPOSED NEW CONSTITUTION OF ILLINOIS 43–44 (1922) (referring specifically to “Section 111”).

48. SIXTH ILL. CONST. CONVENTION, *Judiciary Committee Proposal Number 1*, in 6 RECORD OF PROCEEDINGS, SIXTH ILLINOIS CONSTITUTIONAL CONVENTION 1005–09 (1972) (outlining the history of elective versus appointive judicial election systems in Illinois and elsewhere), <http://www.idaillinois.org/digital/collection/isl2/id/7418>.

49. *See* CORNELIUS, *supra* note 5, at 110.

50. Walter F. Dodd, *Illinois Rejects a New Constitution*, 7 MINN. L. REV. 177, 180–181 (1922). The vote was 185,298 for the proposal and 921,398 against. ILLINOIS BUSINESS ROUNDTABLE, ILLINOIS’ PROPOSED CONSTITUTIONAL CONVENTION 15 (2008), <http://www.ilga.gov/commission/lru/IBRT.pdf>.



half of the century saw city-dwellers leaving the cities for suburbs.<sup>51</sup> The G.I. Bill and post-war prosperity enabled returning veterans to build houses in the suburbs.<sup>52</sup> A house and car became the symbols of the America of the 1950s.<sup>53</sup> State governments were often unprepared for that shift in society and the political landscape.

One of the chief problems state governments faced was the malapportionment of their legislatures. Although most state constitutions required redistricting, few states complied.<sup>54</sup> It was clear that the Chicago metropolitan area, often called “Chicagoland,” was key to electing the Governor and other statewide officers.<sup>55</sup> Chicagoland consists of Cook County, where Chicago is, and the five counties surrounding Cook County: Will, DuPage, Lake, McHenry, and Kane.<sup>56</sup> However, the outdated redistricting of the Illinois legislature meant that the counties outside Chicagoland controlled that branch of government.

One could argue that the northeastern corner of Illinois had long been very different from the rest of the state. Certainly, by the late 1940s and early 1950s, the divide between Chicagoland and “Downstate” was becoming a veritable canyon. In 1959, the St. Lawrence Seaway opened, making water transport between the Atlantic Ocean and the Chicago lakefront much easier.<sup>57</sup> Even more importantly, the Chicago-O’Hare International Airport opened in 1961, instantly becoming one of the busiest airports in the country and later the world. The Chicago metropolitan area became part of the national and international economy in a way that the rest of Illinois was not.

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51. LOUSIN, *supra* note 35, at 16–17.

52. *Id.*

53. *See id.*

54. *See, e.g.*, SIXTH ILL. CONST. CONVENTION, *Committee on Legislative Article Proposal #1*, in 6 RECORD OF PROCEEDINGS, SIXTH ILLINOIS CONSTITUTIONAL CONVENTION 1351–52 (1972) (discussing the importance of redistricting); CORNELIUS, *supra* note 5, at 92–94; *see* Ann M. Lousin, *Where Are We At? The Illinois Constitution after Forty-five Years*, 48 J. MARSHALL L. REV. 1, at 19–20 (2014) (including a brief discussion of the effect of *Baker v. Carr*, 369 U.S. 186 (1962) on Illinois in the 1960s).

55. *See generally* Lousin, *supra* note 54. This also comes from the author’s observations and assessment of the Illinois political scene in the 1960s.

56. The “collar counties” around Cook are Will, DuPage, and Lake, plus the two smaller counties that border Cook on the northwest, McHenry and Kane Counties. However, those two counties have never been as integral a part of the Chicago Metro area as the far larger counties of Cook, Will, DuPage, and Lake. In the last two decades, some demographers have claimed that Grundy and Kendall Counties, to the southwest of Cook County, should also be considered part of the Chicago metropolitan area. Again, the author considers them to be less integral.

57. This description of the post-war situation in Illinois is the author’s assessment of that period. During the 1950s and 1960s, she lived in Chicago and traveled over parts of Illinois.

Shortly after World War II, some leading lights of both parties began to see that the dynamic changes in Illinois society required changes in the form of Illinois government. In 1947, The Chicago Bar Association, then the principal organization of the Chicago law firms, formed a new Committee on Constitutional Revision.<sup>58</sup> Many of its members were already established high-profile members of the bar and public officials.<sup>59</sup> Others were just becoming well-known. One member, Adlai E. Stevenson II, would become Governor the following year.<sup>60</sup> So would Otto Kerner, Jr. in 1961.<sup>61</sup> Richard J. Daley, a state senator who would become the legendary “Mare” of Chicago in 1955, was apparently not a member, but he was certainly a vocal supporter of constitutional change.<sup>62</sup> The first Chair and driving force behind the Committee’s work was a rising Chicago lawyer, Samuel W. Witwer, who would become the President of The Sixth Illinois Constitutional Convention in 1969.<sup>63</sup>

The Chicago Bar Association Committee determined that the key to constitutional reform was loosening the strictures on the amending article of the 1870 Constitution so that the General Assembly could propose more amendments that the voters would adopt.<sup>64</sup> When Stevenson became Governor in 1949,<sup>65</sup> they had an ally in the Executive Mansion. The stage was set for the 1950 Gateway Amendment, which promised a major change in revision of the Illinois Constitution,<sup>66</sup> at least as far as piecemeal amendments were concerned.

## II. CONSTITUTIONAL REVISION FROM 1950 THROUGH 1966 – SUCCESSES AND FAILURES

Governor Adlai E. Stevenson II preferred calling a constitutional convention to submitting piecemeal amendments.<sup>67</sup> Certainly, the record since 1891 of two approvals and twelve rejections of amendments was not

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58. This account of the Committee is taken from CORNELIUS, *supra* note 5, at 121–37 and LOUSIN, *supra* note 35, at 17–18.

59. CORNELIUS, *supra* note 5, at 121–122.

60. *Id.*

61. *Id.* at 121; ELMER GERTZ & JOSEPH P. PISCIOFFE, CHARTER FOR A NEW AGE: AN INSIDE VIEW OF THE SIXTH ILLINOIS CONSTITUTIONAL CONVENTION 7 (1980).

62. CORNELIUS, *supra* note 5, at 122. Dr. Cornelius wrote she learned this in an interview with Samuel W. Witwer. *Id.* Moreover, this is the author’s observation, based upon Daley’s support of the 1968 movement for constitutional change and the finished product in 1970.

63. CORNELIUS, *supra* note 5, at 121.

64. *Id.* at 122–25; LOUSIN, *supra* note 35, at 17–18.

65. CORNELIUS, *supra* note 5, at 122.

66. *Id.* at 122–24.

67. *Id.* at 125; GERTZ & PISCIOFFE, *supra* note 61, at 6–8.

auspicious.<sup>68</sup> However, when he realized that he could not persuade the General Assembly to place the question of a call on the ballot, he supported including a “Gateway Amendment,” one that made future piecemeal amendments easier.<sup>69</sup> A Gateway Amendment is an amendment to a constitution that facilitates proposing and adopting future constitutional amendments.

The General Assembly agreed to put the issue of the Gateway Amendment on the ballot on November 7, 1950.<sup>70</sup> Supporters organized a campaign quickly. A key component of the campaign was persuading the General Assembly to change the election statutes.<sup>71</sup> As a result, the Illinois Election Code provided that, starting in 1950, a constitutional amendment would be printed on a separate, blue-colored piece of paper, the so-called “blue ballot.”<sup>72</sup> Supporters hoped this would heighten voter awareness of the proposed amendment. An Illinois Committee for Constitutional Revision, chaired by Samuel W. Witwer, began a public relations drive.<sup>73</sup> Both political parties and the major players in Illinois public life supported the effort.<sup>74</sup>

Their efforts were met with success. A public relations campaign and the blue ballot device were probably the deciding factors. Only thirteen percent of the voters failed to vote on the amendment and of those who voted, sixty-seven percent approved it.<sup>75</sup> Under the rules of the 1870 Constitution, accentuated by the change in ballot system in 1891, it had been almost impossible to adopt amendments. Now, at least there was hope for constitutional change.<sup>76</sup>

After 1950, the question was, what kinds of amendments could be submitted? The new system for submission of amendments appeared in article XIV, section 2, as amended in 1950:

Amendments to this Constitution may be proposed in either House of the General Assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house thereon, shall be entered in full on their

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68. CORNELIUS, *supra* note 5, at 122–25.

69. *Id.* at 123–24.

70. *Id.* at 122–25; ILLINOIS BLUE BOOK 1951–1952, 313 (Edward Barrett ed., 1952).

71. CORNELIUS, *supra* note 5, at 124.

72. *Id.* at 122–25.

73. *Id.*

74. *Id.*

75. *Id.* at 125.

76. *Id.* The vote was 2,512,323 for the Gateway Amendment; 735,903 against it; and 483,392 not voting on the issue. ILLINOIS BLUE BOOK 1951–1952, *supra* note 70, at 313.

respective journals, and said amendments shall be submitted to the electors of this State for adoption or rejection, at the next election of members of the General Assembly, in such manner as may be prescribed by law. Each proposed amendment shall be published in full at least three months preceding the election, and if either a majority of the electors voting at such election or two-thirds of the electors voting on any such proposed amendment shall vote for the proposed amendment, it shall become a part of this constitution. But the General Assembly shall have no power to propose amendments to more than three articles of this constitution at the same session, nor to the same article oftener than once in four years. The proposition for the adoption or rejection of the proposed amendment or amendments shall be printed on a separate ballot or in a separate column on the ballot as the General Assembly by law may provide and the votes thereon shall be cast by voting upon such separate ballot or in such separate column as the case may be.<sup>77</sup>

The principal—indeed crucial—difference from the original amending article established in 1870 was that an amendment could be approved by two-thirds of those voting on the amendment, whether or not a majority of the electors voting at the election approved it.<sup>78</sup> Someone might walk into a voting booth and choose to vote on candidates, or even other propositions, but fail to vote on a constitutional amendment. Before the 1950 Gateway Amendment, that person would effectively be helping to doom the chances of the amendment on which he or she expressed no opinion. After 1950, that amendment could still be approved if two-thirds of those who did vote on the amendment voted for approval.

In 1952, the voters considered four amendments submitted under the Gateway Amendment adopted in 1950.<sup>79</sup> One of the amendments sought to amend the revenue article to allow classification of real property by use for taxation but prohibit a graduated income tax, although Illinois did not have an income tax at that time.<sup>80</sup> It was defeated.<sup>81</sup> An amendment to allow county sheriffs and county treasurers to succeed themselves was also defeated.<sup>82</sup> However, the voters approved two other amendments: one removing the constitutional salary limits on county

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77. ILLINOIS BLUE BOOK 1951–1952, *supra* note 70, at 305; *see supra* text accompanying notes 40–43.

78. ILLINOIS BLUE BOOK 1951–1952, *supra* note 70, at 305.

79. CORNELIUS, *supra* note 5, at 126.

80. *Id.*

81. *Id.*

82. *Id.*

officers<sup>83</sup> and one removing the double liability of state bank stock owners.<sup>84</sup>

In 1954, the voters approved three more amendments.<sup>85</sup> One amendment allowed the state to sell land in connection with the Illinois-Michigan Canal,<sup>86</sup> and another extended the term of the State Treasurer from two years to four years.<sup>87</sup>

The most important 1954 amendment was the third, the Reapportionment Amendment.<sup>88</sup> It was clear that Cook County, with over half the State's population and yet only nineteen of the fifty-one legislative districts, was very underrepresented.<sup>89</sup> The 1954 Reapportionment Amendment called for redistricting the House every ten years on the basis of population, but allowing the Senate to be redistricted in part based on territory.<sup>90</sup> Parts of the amendment were to take effect in 1955, while other parts would take effect in 1963,<sup>91</sup> but many parts of the amendment were vague. Legislators were undoubtedly aware that urban and suburban Illinoisans were becoming restive about their lack of power in the General Assembly and that the one-person-one-vote redistricting cases were beginning to percolate up through the federal courts.<sup>92</sup> Approval of the 1954 Reapportionment Amendment may have forestalled that movement in Illinois, at least for a decade.<sup>93</sup>

By 1955, the Gateway Amendment had a score of five successes and two failures. Clearly, it was making some difference in facilitating approval of legislatively proposed amendments. However, 1956 and 1958 were not good years for proponents of amendments. In 1956, the voters again rejected the revenue article amendment they had already rejected in 1952.<sup>94</sup> In 1958, the voters again rejected the same county officers' succession amendment proposed in 1952.<sup>95</sup> In 1958, the voters also

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83. *Id.*

84. *Id.*

85. *Id.* at 128.

86. *Id.*

87. *Id.*

88. *See id.*

89. *Id.* at 126–27.

90. *Id.* at 127–28.

91. *See id.* at 127.

92. *See* CORNELIUS, *supra* note 5, at 129; *see also supra* text accompanying notes 54–55.

93. *See* CORNELIUS, *supra* note 5, at 129 (suggesting that the system failed to work because the political parties did not trust each other).

94. JANET CORNELIUS, HISTORY OF CONSTITUTION MAKING IN ILLINOIS 105 (1969).

95. *Id.*

rejected an amendment to reorganize the state judiciary.<sup>96</sup> There were no proposals for amendments on the ballot in 1960.<sup>97</sup>

Undaunted, the proponents of the judicial reorganization amendment reorganized as a “Committee for Modern Courts” and submitted an amendment reorganizing the judiciary to be more modern and efficient.<sup>98</sup> The voters approved the 1962 Judicial Amendment, which soon became a model for judicial organization around the country.<sup>99</sup> This was the greatest success in amending the Illinois Constitution between 1952 and 1966.

1964 was, once again, not a good year for amendments. The voters rejected two proposals. One would have called for annual sessions of the General Assembly, while the other would have provided for the continuation of governmental operations in case of emergencies.<sup>100</sup>

1966 saw two more rejections. The first was another rejection of the county officers’ (sheriff and treasurer) succession amendments, already rejected in 1952 and 1958.<sup>101</sup> The other was more important: a revision of the revenue article that empowered the imposition of an income tax on both individuals and corporations, not to exceed three percent unless a greater figure was authorized by a referendum.<sup>102</sup> This 1966 revenue amendment went further than the amendment rejected twice, in 1952 and 1956.<sup>103</sup>

By the end of November 1966, the score was six amendments approved and nine rejected. If we count the three defeats of the county officers’ succession amendment as one defeat, and if we count the two defeats of the first revenue amendment as one defeat, the score was still six approved and six rejected. It was clear that the Gateway Amendment made amendments somewhat easier to adopt but that the process would be slow.<sup>104</sup>

Meanwhile, Illinois was continuing to develop unevenly, with Chicagoland experiencing the greatest population and economic

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96. CORNELIUS, *supra* note 5, at 131.

97. CORNELIUS, *supra* note 94, at 105.

98. CORNELIUS, *supra* note 5, at 131–32.

99. See LOUSIN, *supra* note 35, at 19; CORNELIUS, *supra* note 5, at 130–32. Oddly enough, a majority of those voting at the election approved the amendment (fifty-seven percent) although it fell short of obtaining approval by two-thirds of those voting on the amendment (sixty-five percent, not sixty-six and two-thirds percent). CORNELIUS, *supra* note 5, at 132.

100. CORNELIUS, *supra* note 94, at 105.

101. *Id.*

102. *Id.* at 134.

103. *Id.* at 126, 136.

104. *But see id.* at 136–37 (suggesting the system had essentially failed).

growth.<sup>105</sup> The General Assembly was struggling with redistricting after the federal one-person-one-vote cases and the Voting Rights Act of 1965 changed that intensely political process.<sup>106</sup> What could be done to accelerate the amendment process or even call a convention?

In 1964, a major event changed the Illinois constitutional amending situation markedly. Because the Illinois House could not redistrict itself, it was forced to conduct an at-large election in which all the candidates for the House appeared on one large paper ballot.<sup>107</sup> It was promptly dubbed “the bedsheet ballot.”<sup>108</sup> The bedsheet ballot election resulted in the Democratic party candidates obtaining two thirds of the seats in the House.<sup>109</sup> Many were new members; indeed, some had never held any political office before they ran for the House. They were open to new ideas and often not beholden to their party leaders. When they took office in 1965, many of the winners were eager to break with tradition in many areas: revenue, civil rights, and even constitutional revision.<sup>110</sup>

In 1965, the Seventy-Fourth Session of the Illinois General Assembly took a tentative first step by appointing a Constitution Study Commission,<sup>111</sup> discussed more fully in Part III of this Article. When many of the House members, especially the newcomers, were re-elected in 1966, the pressure to do something concrete about the Illinois Constitution intensified. Approximately one third of Illinoisans lived in the City of Chicago; one third lived outside the city, but in the suburbs comprising the rest of Chicagoland; and one third in the remaining ninety-six counties of Downstate.<sup>112</sup> The interests and goals of each third were not always identical or even in harmony.<sup>113</sup> A constitution based on two-thirds votes much of the time only encouraged conflict, even acrimony among the parts of the state.<sup>114</sup> Some political observers in both major parties thought that a wholesale constitutional revision of the kind that only a convention can bring about was the only course open.<sup>115</sup>

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105. LOUSIN, *supra* note 35, at 16–17.

106. For an overview of the redistricting challenges, see HOWARD, *supra* note 21, at 554–57.

107. *Id.*

108. See Lousin, *supra* note 54, at 19–20. This was the author’s first opportunity to vote. She remembers looking at the bedsheet ballot in bewilderment.

109. *Id.* at 19.

110. See CORNELIUS, *supra* note 5, at 138–40; LOUSIN, *supra* note 35, at 20; GERTZ & PISCIOFFE, *supra* note 61, at 9.

111. CORNELIUS, *supra* note 5, at 139; LOUSIN, *supra* note 35, at 20; GERTZ & PISCIOFFE, *supra* note 61, at 10.

112. LOUSIN, *supra* note 35, at 30.

113. See CORNELIUS, *supra* note 5, at 137; GERTZ & PISCIOFFE, *supra* note 61, at 5–6.

114. See CORNELIUS, *supra* note 5, at 137.

115. See *id.*

III. 1966 AND 1967: THE STARS ALIGN TO PRODUCE A CALL FOR A CON  
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Of all of the new members of the Illinois House who took their seats in January 1965, none was more interested in the Illinois Constitution than a Republican from Riverdale in suburban Cook County named Marjorie Pebworth.<sup>116</sup> A former member of high school and junior college boards, she was best-known as the energetic former President of the League of Women Voters of Illinois.<sup>117</sup> She began a campaign to study ways to amend the Illinois Constitution, preferably by calling a convention.<sup>118</sup>

As was usual at the time, the Constitution Study Commission of 1965 consisted of both legislators and non-legislators called “public members.”<sup>119</sup> Governor Kerner appointed twelve legislators and six public members.<sup>120</sup> Representative Pebworth was the Chair.<sup>121</sup> Among the public members were Samuel W. Witwer, who would later serve as the President of The Sixth Illinois Constitutional Convention, and Elbert Smith, who would later serve as a Vice-President of the Convention.<sup>122</sup> The Commission performed research and held hearings.<sup>123</sup> Not surprisingly, given the large number of pro-constitutional revision members on the commission, it unanimously recommended that a call for a convention be placed on the ballot at the November 1968 election.<sup>124</sup> In February 1967, the Commission submitted its report to the Seventy-Fifth General Assembly, which convened in January 1967. The report made three recommendations:<sup>125</sup>

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116. LOUSIN, *supra* note 35, at 20.

117. See ILLINOIS BLUE BOOK 1967–1968, 203 (Paul Powell, ed., 1968). Because Representative Pebworth’s actions and the reaction to her sudden death played a role in the convention call, it is appropriate to give some details about her here. Born Mary Marjorie Mull in Indiana on August 19, 1911, she worked for the Indiana legislature before moving to Illinois with her husband, Robert C. Pebworth. *Id.*; H.R.J. 55, 75th Gen. Assemb., Reg. Sess. (Ill. 1967), 1967 Ill. Laws 4297. She served on educational boards and was active in the League, then the primary means for educated women to be involved in Illinois politics. ILLINOIS BLUE BOOK, 1967–1968, at 203 (1968). She became President of the state League. GERTZ & PISCIOFFE, *supra* note 61, at 9. Elected on the bedsheet ballot, she served until her untimely passing on April 2, 1967. *Id.*; 113 CONG. REC. 9061 (1967).

118. LOUSIN, *supra* note 35, at 20.

119. *Id.*

120. WATSON, *supra* note 5, at 10 n.3.

121. *Id.*

122. For a complete list of commissioners, see *id.*

123. See WATSON, *supra* note 5, at 10.

124. GERTZ & PISCIOFFE, *supra* note 61, at 9.

125. CONSTITUTION STUDY COMM’N, STATE OF ILL. CONSTITUTION STUDY COMM’N REPORT 3 (1967), *quoted in* WATSON, *supra* note 5, at 10 n.4.



2020] *ILLINOIS CONSTITUTIONAL CONVENTION* 1037

1. [T]hat the Seventy-Fifth Illinois General Assembly place on the ballot for November, 1968, the question of calling a constitutional convention;
2. [T]hat the first order of business concerning constitutional amendments be the question of a constitutional convention and that if the resolution for a constitutional convention is adopted by the requisite two-thirds majority in the House and Senate, then no further amendments be submitted to the electorate at the November, 1968, election; and
3. [T]hat the General Assembly continue the Constitution Study Commission, with an appropriation sufficient to support continued study and the preparation of background material for delegates to a convention.

Watson suggests that it was clear what the Commission wanted and why.<sup>126</sup> Given the lackluster success rate of individual amendments to the constitution under the Gateway Amendment of 1950, the Commission concluded that only a full-blown convention could really effectuate constitutional revision.<sup>127</sup> But why the November 1968 election?

The Gateway Amendment of 1950 concerned only amendments to the constitution and did not change the requirement for voting on a convention call: “a majority voting at the election,” which had to be a general election.<sup>128</sup> Proponents of a convention knew it was necessary to choose a November general election when the voter turnout was high.<sup>129</sup> A presidential election brings more voters to the polls than non-presidential elections do, and the 1968 election promised to generate a high turnout.<sup>130</sup> If a public relations campaign could convince enough of these voters that they should remember to vote on the convention call and vote *for* that call, then the call could succeed.<sup>131</sup>

Governor Otto Kerner had already urged a convention call in a message to the General Assembly on January 5, 1967.<sup>132</sup> Proponents of a call in the General Assembly worked quickly to introduce in both houses identical resolutions calling for a constitutional convention question to be

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126. WATSON, *supra* note 5, at 11.

127. *Id.*

128. *Id.* at 10–11.

129. *Id.*; GERTZ & PISCIOFFE, *supra* note 61, at 25.

130. WATSON, *supra* note 5, at 10–11; GERTZ & PISCIOFFE, *supra* note 61, at 25.

131. WATSON, *supra* note 5, at 11.

132. *Id.* at 10–11.

placed on the 1968 ballot.<sup>133</sup> Then, the Commission issued its report in February. Despite the unanimous report of the Commission, both resolutions remained in committee until mid-April 1967.<sup>134</sup> Then, both resolutions were swiftly approved by the committees and also by both houses.<sup>135</sup>

The impetus for this swift action was the sudden death of Representative Pebworth on April 2, 1967.<sup>136</sup> The General Assembly's memorial resolution lamented the loss of "an outstanding public servant."<sup>137</sup> As so often happens when a close friend or colleague dies suddenly, those left behind immediately sought ways to honor her memory. It is generally believed that this was a major reason, perhaps the principal reason, behind the houses' swift action on approving submission of the call. The Senate committee recommended "do adopt" on April 12, 1967, and the Senate agreed six days later by a vote of fifty to zero.<sup>138</sup> The House adopted its resolution on May 16, 1967, by a vote of 150 to 14.<sup>139</sup>

Another reason for the swift legislative approval was probably a desire on the part of some legislators to dispose of the con con issue decisively. There was still considerable skepticism, often amounting to antagonism, about holding a convention. If the voters rejected a con con, then the skeptics and opponents could say, "Well, the people have spoken. Let's go on to other issues and forget about a convention." If, on the other hand, the voters approved a call "by a majority of those voting at the election," then the next session of the General Assembly could deal with preparing for a convention.<sup>140</sup>

What would happen on November 5, 1968, was now in the hands of those supporting and opposing a call. Proponents of a convention began to converse about organization and strategy early, and the campaign to call a convention began almost immediately. It would take into account the divisions based on geography, culture, and economic viewpoints that characterized Illinois.

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133. *Id.*

134. *Id.*

135. *Id.* at 11–12.

136. 113 CONG. REC. 9061 (1967).

137. H.R.J. 55, 75th Gen. Assemb., Reg. Sess. (Ill. 1967), 1967 Ill. Laws 4297.

138. CORNELIUS, *supra* note 5, at 140.

139. *Id.*

140. WATSON, *supra* note 5, at 10–12; *see also* CORNELIUS, *supra* note 5, at 139–40.

## IV. THE CAMPAIGN FOR A CON CON – MAY 1967 TO NOVEMBER 1968

A few words about the mood of the country and of Illinois help set the stage for the campaign for a constitutional convention. Much of the country, including Illinois, was divided over the ongoing Vietnam War and the campaign for civil rights. President Lyndon Johnson found himself mired in the swamps of Vietnam and could not extricate the country from the war, or himself from the political mess in which he found himself. There were anti-war demonstrations in Illinois, as well. It is now thought that even the staunchly conservative Mayor Richard J. Daley of Chicago had developed misgivings about the war, although he would never say so publicly.<sup>141</sup> The civil rights campaign had reached Illinois in a very real way in 1966 when Rev. Martin Luther King, Jr. had come to Chicago to lead a local campaign for better housing and civil rights.<sup>142</sup> In Chicago, both the anti-war protesters and the civil rights marchers met with opposition that sometimes escalated into street violence.

The violence in the streets created a “law and order” backlash, one that some politicians used in their campaigns. In 1968, the Republican presidential candidate, Richard M. Nixon, was the most prominent person to campaign on a law and order platform. He was outdone by former Alabama Governor George C. Wallace, whose campaign for President on a third party ticket scarcely masked his segregationist background. In short, 1967 and 1968 were not necessarily a propitious time to ask voters to trust government officials they did not know and whose goals they could not readily ascertain to draft a new charter for Illinois.

On the other hand, many Americans, including Illinoisans, favored major changes, although they may not have been certain which changes they wanted. Those who favored calling a convention would have to capitalize on the desire for a positive change. In this, they would be aided by the public’s perception, after years of amendments proposed under the Gateway Amendment, that the phrase “blue ballot” signified a “good government” measure.<sup>143</sup> Whether one agreed or disagreed with the

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141. The author heard this from people who were close to Mayor Daley at that time.

142. This account reflects, in good part, the author’s memories of the mid-sixties when she was a law student in Chicago from 1965 to 1968.

143. See CORNELIUS, *supra* note 5, at 143, at which Cornelius wrote that surveys taken at the time showed that the blue ballot “had become symbolic of improvement and reform in Illinois government.” *Id.* In Illinois parlance this is called a “good government proposal”; the derisive term is a “goo-goo.”

substance of an amendment, Illinois voters had come to view “blue ballot” favorably.<sup>144</sup>

The group of people who had long been active in constitutional revision, notably Witwer, but also many others, formed the nucleus of the campaign.<sup>145</sup> The League of Women Voters, The Chicago Bar Association, most business groups, and most civic organizations could be counted upon to lend financial and public relations support.<sup>146</sup>

An equally important factor was that the most powerful leaders in both political parties seemed to be on board. Richard J. Daley, Mayor of Chicago, and Otto Kerner, former Governor of Illinois, were the most prominent Democrats in Illinois and both strongly favored a convention.<sup>147</sup> The Mayor’s support was critical because he, as the Chair of the Cook County Democratic Party, could order that organization to “gin up” a yes vote that could offset the predicted negative votes of the counties in the southernmost third of the state, often called “Southern Illinois.”<sup>148</sup> The Republican party did not have as obvious a position, largely because so many were from Downstate, and Downstate Illinoisans feared Chicagoland and its probable domination of a convention.<sup>149</sup> However, Richard B. Ogilvie, the suburban Republican who became the Republican Party’s candidate for Governor in 1968, supported a call.<sup>150</sup>

One of the first issues proponents faced was the roles of the political parties and government officers. Proponents strongly favored keeping the campaign a non-partisan “civic” project.<sup>151</sup> Although political parties, party leaders, and government officers might take stances, they would not control the campaign. The core of the campaign was a civic committee, the Illinois Committee for a Constitutional Convention (“ICCC”).<sup>152</sup> The group obtained a certain governmental status when Governor Kerner appointed the two Co-Chairs.<sup>153</sup> One was Kingman Douglass, Jr., a Chicago investment banker, and the other was William

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144. *Id.*

145. LOUSIN, *supra* note 35, at 20–22.

146. *See id.*; CORNELIUS, *supra* note 5, at 135.

147. WATSON, *supra* note 5, at 23–25; GERTZ & PISCOTTE, *supra* note 61, at 28, 31.

148. WATSON, *supra* note 5, at 23–26.

149. *Id.*

150. *See* GERTZ & PISCOTTE, *supra* note 61, at 250. The narrative and analysis that follow are largely taken from CORNELIUS, *supra* note 5, at 141–44; WATSON, *supra* note 5, at 13–42. To a lesser extent, they also reflect the author’s observations as she watched the campaign unfold from her perspective in Chicago.

151. *See* CORNELIUS, *supra* note 5, at 141.

152. *Id.*

153. *See id.*

J. Kuhfuss, the President of the Illinois Agricultural Association.<sup>154</sup> These appointments continued the tradition of having Co-Chairs for constitutional amendments that reflected Chicagoland and Downstate, commerce and agriculture.<sup>155</sup>

Organized labor, especially the Illinois AFL-CIO, was skeptical of, if not downright hostile to, a convention, probably because it feared an attempt to insert a right-to-work provision into the new constitution.<sup>156</sup> Some local government officials feared an attempt to erode their power bases.<sup>157</sup> A group called Save our Suburbs espoused anti-tax and small government views similar to those now held by the Tea Party.<sup>158</sup> These groups were never going to be part of the campaign for a convention. Because they held views divergent from each other, they also were largely unable to organize opposition with a “vote NO” campaign.<sup>159</sup>

A second issue arose from the constitutional requirement of “a majority of those voting at the election” in article XIV, section 1, of the 1870 Constitution.<sup>160</sup> The ICCC and other proponents were aware that the greatest danger came from those voters who might vote in the Presidential election, but fail to vote on the con con issue.<sup>161</sup> Those “non-voters” were effectively casting a vote against a Convention.<sup>162</sup> There would be a built-in negative vote from core opponents of any change to the status quo.<sup>163</sup> The only way to success was clear: raise awareness of the con con issue and secure as many yes votes as possible to overcome the non-votes.<sup>164</sup>

That issue implicated the problem of the historical opposition in the southern third of Illinois. The ICCC knew that in the past Southern Illinoisans voted against any amendment, no matter what it was, far more than Illinoisans in other parts of the state.<sup>165</sup> Therefore, the ICCC operated out of a Chicago office and never opened an office in Springfield

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154. *Id.*

155. The 21st century concept of diversity as having women and minorities represented in leadership was all but unknown at the time.

156. CORNELIUS, *supra* note 5, at 143–44; WATSON, *supra* note 5, at 33–34; GERTZ & PISCIOFFE, *supra* note 61, at 30–31.

157. WATSON, *supra* note 5, at 33–34; *see* GERTZ & PISCIOFFE, *supra* note 61, at 26–27.

158. WATSON, *supra* note 5, at 33–34; GERTZ & PISCIOFFE, *supra* note 61, at 30–31.

159. WATSON, *supra* note 5, at 33–34; GERTZ & PISCIOFFE, *supra* note 61, at 30–31.

160. ILL. CONST. of 1870, art. XIV, § 1.

161. *See* CORNELIUS, *supra* note 5, at 142.

162. *See id.* at 142–43.

163. *Id.*

164. *Id.*

165. WATSON, *supra* note 5, at 23–35. Stories from those involved in the campaign also inform this narrative.

or anywhere else Downstate.<sup>166</sup> In short, this was to be a campaign to turn out a high number of yes votes in Chicagoland and some other cities in the central and northern parts of Illinois.

But how could they secure an affirmative vote? Polls showed that voters had a favorable view of “blue ballot” initiatives, which they associated with a “good government image.”<sup>167</sup> But voters also disagreed on the specifics of what they wanted in a new constitution. The ICCC decided to eschew a specific platform and instead emphasize that the 1870 Illinois Constitution was an “outmoded and out-of-date horse and buggy constitution.”<sup>168</sup> The slogan agreed upon was simple: “Vote ‘Yes’ on the Blue Ballot.”<sup>169</sup>

The ICCC formed a finance committee that eventually raised \$250,000, a significant sum in 1968.<sup>170</sup> One could best describe its fund-raising techniques as “friend to friend.”<sup>171</sup> Proponents called friends, often people to whose favorite causes they had donated, for support.<sup>172</sup> There were some civic leaders—one might call them “the usual suspects”—who could be counted upon to donate fairly large sums to almost any civic cause.<sup>173</sup> But by comparison with twenty-first century fund-raising for political campaigns, it was not a large, sophisticated operation.<sup>174</sup>

Although proponents of a convention had been conversing among themselves for several months, the ICCC did not hold its first formal meeting until March 15, 1968.<sup>175</sup> The campaign was formally launched in Springfield on April 16, 1968.<sup>176</sup> By then, it was clear that the strategy would be to overcome the voter apathy that could sink the call under the requirements of article XIV of the Illinois Constitution and to persuade those voters to “vote Yes.”<sup>177</sup>

It must have been difficult to conduct a campaign on a comparatively esoteric issue in 1968. The Vietnam War dominated the headlines. Public violence was a close second. The political consciousness of most Americans centered upon the Presidential race. The hope was that

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166. WATSON, *supra* note 5, at 23–35; GERTZ & PISCOTTE, *supra* note 61, at 24.

167. CORNELIUS, *supra* note 5, at 143.

168. WATSON, *supra* note 5, at 29; GERTZ & PISCOTTE, *supra* note 61, at 207.

169. WATSON, *supra* note 5, at 31.

170. CORNELIUS, *supra* note 5, at 141–42.

171. WATSON, *supra* note 5, at 24–27.

172. *Id.*

173. *Id.*

174. *Id.*

175. *Id.* at 16–17; GERTZ & PISCOTTE, *supra* note 61, at 24.

176. WATSON, *supra* note 5, at 16–17; GERTZ & PISCOTTE, *supra* note 61, at 24.

177. WATSON, *supra* note 5, at 16–17; GERTZ & PISCOTTE, *supra* note 61, at 25, 30.

enough Illinois voters would remember to vote on the blue ballot and then “Vote Yes on the Blue Ballot.”<sup>178</sup>

In the end, the strategy worked. On November 5, 1968, 2,979,977 Illinoisans voted for the call; 1,135,440 Illinoisans voted against the call; and 590,000 Illinoisans voted at the election, but not on the call issue.<sup>179</sup> The number of those not voting on the call was low because proponents had succeeded in raising awareness of the issue. That was a key to victory. Illinoisans did indeed express their views, and most of those approved of holding a convention. As predicted, Chicagoland carried the day.<sup>180</sup> Both the city and its suburbs favored holding a convention, while Southern Illinois produced most of the negative votes.<sup>181</sup> Watson’s analysis of the votes shows the breakdown in detail.<sup>182</sup>

One factor that has not been analyzed adequately, even fifty years later, is the role of the Daley political organization, the Cook County Democratic Party. Known by friends as “the organization” and by enemies as “the machine,” it was the most powerful way to turn out votes on any given issue or for any given candidate.<sup>183</sup> With the death of Mayor Daley in 1976 and the decline in patronage politics in the last decades, no political machine, in Chicago or elsewhere, can compare with the Chicago vote-producing mechanism in the late 1960s and early 1970s.<sup>184</sup>

## V. CONCLUSION

Many factors contributed to the success of the call. First and most important, the people and groups that had organized for and against constitutional amendments in the two decades before 1968 had learned excellent campaign skills. They had the advantages of years of experience in trying to get it done. Most of those who labored for a convention in 1967 and 1968 had known each other for years and had experience working together, for the most part in reasonable harmony and with a single goal in mind: to have the best possible constitution in Illinois.<sup>185</sup>

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178. GERTZ & PISCIOFFE, *supra* note 61, at 30. The author does not specifically remember voting on the question but must have voted for the call.

179. WATSON, *supra* note 5, at 36–43.

180. *Id.*

181. WATSON, *supra* note 5, at 36–42.

182. *Id.*

183. *Id.*

184. The author saw it in action many times. It was a wonder to behold. Political organizations today pale by comparison. Even the current “Chicago machine” is a shadow of its former self.

185. This is the observation of the author, who knew Witwer and several others in the campaign.

Second, the timing was, in an odd way, right. With many voters concentrating upon other issues, a campaign that simply asked “vote YES” had a different ring to it. The campaign promised hope that things could improve in Illinois. The decision to campaign on modernizing the “horse and buggy constitution” was a wise one.<sup>186</sup> Any campaign based on detailed proposals would have alienated as many voters as it gathered. For example, can anyone imagine that the slogan “Vote for a con con to get a much-needed income tax” would have garnered support?

Third, there were fortuitous circumstances that nobody could have predicted, let alone controlled. The election of the newcomers in 1964 was one. They were ready for change—and wanted to promote change. The sudden demise of Representative Pebworth provided a catalyst.<sup>187</sup>

The 1970 Illinois Constitution, in article XIV, section 1(b) provides that there must be a call on the ballot at least once every twenty years.<sup>188</sup> In 1988 and 2008, the voters of Illinois had the opportunity to call another convention.<sup>189</sup> Neither call succeeded.<sup>190</sup> The reasons were many, but one characteristic was the inability of those favoring a convention to find common ground with each other, or even to overcome their suspicions of each other and of other Illinoisans.<sup>191</sup> When the next opportunity arises in 2028, the stars must come into alignment as they did in the 1960s and the proponents of a convention must find a way to think of themselves as Illinoisans first, not just as advocates of a single issue or viewpoint. If they do not, there will not be another constitutional convention.

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186. WATSON, *supra* note 5, at 26, 36–42.

187. In September 1972, the author chanced to meet Representative Pebworth’s widower, Robert Pebworth. When the author said that without Marjorie, there would not be a 1970 Constitution, he said something like, “yes, and she would have been glad to know it came to be.” The author replied, “I only regret she did not live to see it.”

188. ILL. CONST. art. XIV, § 1(b).

189. LOUSIN, *supra* note 35, at 30–31.

190. *Id.*

191. *Id.*