

**FOR THE BETTER GOVERNMENT OF THIS STATE:
A REVIEW OF MISSOURI’S FOUR CONSTITUTIONS**

This paper is intended to provide a basic understanding of the role state constitutions play in the American federal system and to review the four constitutions that Missourians have ratified in the wake of constitutional conventions held between 1820 and 1945.¹

Introduction: What is a State Constitution and Why Does it Matter?

Most Americans will remember studying the U.S. Constitution as schoolchildren. They will recall the basic story of how some of the nation’s most distinguished thinkers assembled in 1787 and created a governing document that, they hoped, would “form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to [themselves] and [their] prosperity.”² They may also remember reading excerpts from the Federalist Papers, in which advocates of the proposed constitution laid out the logical and philosophical basis for supporting the document’s ratification. Thanks to these writings and others, people today are able to understand the process that resulted in the U.S. Constitution and the principles that undergird the carefully enumerated, checked, and balanced powers that the people have granted to the national government.

Many also recognize that the U.S. Constitution establishes a federal system in which the state governments retain a great responsibility to exercise powers that were not given to the national government. But a 1991 survey found that nearly half of the Americans surveyed failed to demonstrate an awareness that their state had a constitution of its own.³ Even those citizens who know that their state has its own unique constitution may not realize the influence that document has on their day-to-day lives, nor are they likely to know much about what the document says and why.

This paper is designed to offer Missourians a glimpse into the history of their own state’s constitution, so that they may understand both *what* it says and *why*. Citizens who understand the structure, purpose, and history of their state’s constitution will be far better equipped to evaluate how well government agencies and officials are living up to their responsibilities. Additionally, American constitutions are works in progress. Citizens need not resign themselves to the governmental status quo, because they have the power to identify how their system of government could be improved and to enact those improvements. Indeed, in 2022 Missouri voters will be asked whether they wish to call a convention to revise and amend the Missouri Constitution. Understanding how Missouri’s various constitutions have been formed and changed in the past will better equip voters to think about whether—and how—our current constitution should be revised in the future.⁴

¹ This paper is focused solely on the documents ratified following constitutional conventions. Thus, it will not address the constitutions proposed in 1845 and 1923, neither of which were ratified, nor will it address the scores of amendments made to the state’s constitutions over the years. For further information regarding the rejected constitutions, see Spiegel, Frederick C., “The Missouri Constitution,” *Missouri Government and Politics*, U. of Missouri Press, 1985, pp. 62-67.

² U.S. Const. Preamble.

³ *Changing Public Attitudes on Government and Taxes, 1991*, Advisory Commission on Intergovernmental Relations, 1991, p. 14.

⁴ Missouri’s current constitution requires that every twenty years the people of the state must be given the opportunity

The Origins of Constitutionalism

For most of the history of human civilization, political authority resided in the hands of a very limited group of individuals, most of whom held their position through the exertion of military power and/or a claim of divine sanction. While many societies developed written legal codes, these were usually created and administered by the warlords, kings, and emperors who ruled over those people, and the rulers typically were not themselves bound by the laws.⁵ Traditional western thought held that human society was linked together in a “great chain of being,” in which most people had no particular rights worthy of respect, but rather were bound to live as subjects and servants of their rulers.

The modern concept of constitutionalism developed most rapidly in England. The signing of Magna Carta in 1215, which obligated the king to respect certain rights claimed by the noble class, meant that the English monarchs were no longer presumed to have the sort of absolute power that most European royals would continue to claim for another six hundred years. Through the Middle Ages, the balance of power between the British monarchy and the Parliament evolved into a rudimentary constitutional system whose principles were unwritten, but were assumed to have binding authority. Parliament became so powerful that in 1649 it tried and executed King Charles I for treason. After a decade in which England functioned as a republic, the people restored the monarchy in 1660 – but with a clear understanding that the cooperation and advice of Parliament was an indispensable element to the continuing authority of the royalty.

The British constitutional system was the backdrop against which American colonists began to establish their own governments, and they widely chose to take the unprecedented step of formalizing the foundational principles and structures of government by putting them into written documents. The first rough example of such a document is the Mayflower Compact of 1620, through which the Pilgrims voluntarily and deliberately formed themselves into a “civil Body Politic” empowered “to enact, constitute, and frame such just and equal Laws, Ordinances, Acts, Constitutions and Offices, from time to time, as shall be thought most meet and convenient for the general good of the Colony.” This was followed by the 1639 adoption of the Fundamental Orders of Connecticut, which was the first written constitution in history and is particularly notable for its being rooted in the truly revolutionary principle that “the foundation of authority is laid in the free consent of the people.” This notion would eventually gain widespread acceptance throughout the British Empire and would become the bedrock principle of the American Revolution. Perhaps more importantly, Americans would develop a profound commitment to written constitutions, which were to be carefully reasoned out and approved by a collection of citizens, as being absolutely necessary to any large-scale government.

Prelude to the Missouri Constitution

The region that would eventually become recognized as the state of Missouri was acquired by the United States in 1803 as part of the Louisiana Purchase. President Thomas Jefferson bought

to vote on whether to call a constitutional convention. The last vote was taken in 2002. While the next scheduled referendum will be in 2022, Missourians are not required to wait if they decide that the constitution could be improved through revision.

⁵ A notable exception to this rule was the system of constitutional governance developed in the ancient Greek city-states. These were unwritten constitutions, usually handed down from a single individual or a small group of powerful leaders, and they were not generally thought to be subject to the consent of or revision by those living under the constitutional principles. See, e.g., Aristotle, *The Politics*.

the territory from Napoleon, but it had actually been under Spanish control for four decades before Spain re-ceded the territory to France in 1803, immediately prior to its sale to the United States. At the time of the purchase, Upper Louisiana – part of which would later come to be known as the Missouri Territory – had approximately 9,000 white residents,⁶ a small majority of whom were Anglo-American settlers living alongside long-established French families, overseen by a few Spanish administrators. Residents of the territory had been pleased that Spanish law allowed them significant leeway to live as they wished, permitting slavery and refraining from imposing onerous tax burdens or compulsory military service; upon the announcement of the Louisiana Purchase they were very concerned that these desirable conditions might not continue once the United States assumed control of the land.⁷

The early days of the new “Louisiana District” did see American authorities impose certain duties and regulations upon the citizenry. True to the residents' concerns, the territorial government adopted a scheme that would allow taxation on property and goods, as well as a system of license fees for a number of professions.⁸ All able-bodied men were expected to serve in the militia as necessity dictated and also to work on the local roads between two and thirty days each year. Where real property taxes were initially limited to developed land worth more than \$200, within ten years the legislature had made all real estate subject to taxation. Similar expansion was seen in the area of personal property, the taxation of which initially included only livestock and slaves, but eventually grew to include all sorts of possessions, and each person was required to submit a list of their taxable property to the local authorities.⁹

Upon taking control of the Louisiana Territory, Congress gave legislative authority over the region to three judges hailing from the Indiana Territory, meaning that the residents of the new territory had no representation in their own government. Further, Congress nullified many land grants made to the settlers by the Spanish government, while also making plans to reassign territorial land as reservations for Native American tribes from the eastern states.¹⁰ Not only did this Congressional action deprive many citizens of what they believed to be their rightful claim to certain properties, the law decreed that if any person persisted in their claims after a certain date, they could be subjected to “a fine not exceeding 1,000 dollars and to suffer an imprisonment not exceeding one year.”¹¹ These circumstances led several of the most prominent inhabitants of the region to send a petition to Congress expressing their distress and requesting redress of the unfavorable conditions.

In 1806, General James Wilkinson was stationed in Saint Louis as the first governor of the newly-recognized Louisiana Territory. Among the first laws passed by Wilkinson and the

⁶ There were also about 1,300 black residents, almost all of them slaves, and an undetermined number of Native Americans.

⁷ Shoemaker, Floyd Calvin, *Missouri's Struggle for Statehood 1804-1821*, Hugh Stephens Printing Co., 1916, p. 14.

⁸ License fees were required of ferry operators, merchants, tavern-keepers, keepers of public billiard tables, Indian traders, attorneys, physicians, proprietors of unauthorized lotteries and peddlers. Houck, Louis, *A History of Missouri from the Earliest Explorations Until the Admission of the State into the Union, Vol. II*, R.R. Donnelly and Sons Co., 1908, p. 415.

⁹ Houck, Louis, *A History of Missouri from the Earliest Explorations Until the Admission of the State into the Union, Vol. II*, R.R. Donnelly and Sons Co., 1908, p. 417.

¹⁰ Houck, Louis, *A History of Missouri from the Earliest Explorations Until the Admission of the State into the Union, Vol. II*, R.R. Donnelly and Sons Co., 1908, p. 385.

¹¹ Houck, Louis, *A History of Missouri from the Earliest Explorations Until the Admission of the State into the Union, Vol. II*, R.R. Donnelly and Sons Co., 1908, p. 390.

territorial legislature were one intended to prevent “the discharging of firearms in St. Louis” and another to license ferry operators and to regulate the rates they were permitted to charge. The Wilkinson administration was regarded by at least one contemporary as “despotic,” and the governor himself a “petty tyrant.”¹² Sustained opposition from the people of the Territory led President Thomas Jefferson to remove Wilkinson in favor of Merriwether Lewis. Lewis served two years, managing to establish courts and restore some level of confidence in the people before he died unexpectedly in 1809.

Congress supplied a more defined form of government and a new name in 1812, carving the “Missouri Territory” out of its larger predecessor and allowing the people a limited role in the selection of their own government. Under the new regime, the citizens of the Territory elected a House of Representatives, but the President retained the authority to appoint the territorial governor as well as a “Legislative Council,” which consisted of nine members and effectively functioned as the territorial Senate.¹³ In 1816, Congress modified this plan so that the Legislative Council would consist of nine representatives, each of whom was popularly elected by the citizens of one of the Territory's nine counties.

Statehood and the 1820 Constitution

Missouri first applied for statehood in 1817, but Congress refused to pass the bill that would have authorized the creation of a state constitution due to arguments over whether the bill should mandate restrictions on slavery. This political battle in Washington between proponents and opponents of slavery's expansion into the western territories delayed Missouri's statehood for three years, until Congress struck the famous (or infamous, depending on one's perspective) Missouri Compromise, under which Missouri would be admitted to the Union as a slave state and Maine would be admitted as a free state. In the wake of the compromise, on March 6, 1820, Congress authorized "all free, white, male citizens of the United States" who had reached the age of 21 and had lived in the Missouri Territory for at least three months to vote for representatives who would be responsible for drafting a state constitution.

The 1820 Constitutional Convention

The constitutional convention, comprising 41 of the state's most prominent men – the majority of whom were businessmen or lawyers - began its work in St. Louis on June 12, 1820. The convention met for five weeks, signing the finished document on July 19, 1820. Although the trend in other states favored submitting the constitution to a vote of the people, Missouri's constitution went into effect solely on the authority of its drafters.¹⁴ With the foundational document of statehood thus in place, Missouri elected its first state government and federal Congressional representatives in the fall of 1820, although Congress refused formally to recognize Missouri's admission to the Union until August 10, 1821.¹⁵

¹² Houck, Louis, *A History of Missouri from the Earliest Explorations Until the Admission of the State into the Union, Vol. II*, R.R. Donnelly and Sons Co., 1908, p. 405.

¹³ The House of Representatives was tasked with offering the President with a slate of eighteen nominees to the Legislative Council, from whom (with the advice of the Senate) the President would select nine to sit on the council for a five-year term.

¹⁴ McCandless, Perry, *A History of Missouri: Vol. II, 1820-1860*, U. of Missouri Press, 1972, p. 13.

¹⁵ The sticking point, as far as Congress was concerned, was the constitution's inclusion of a provision that would require the General Assembly to prohibit "free negroes and mulattoes from coming in to, and settling in" Missouri. The impasse was broken with the "Second Missouri Compromise", which withheld admission until the General Assembly had sent the federal government a resolution that the offending provision would not be enforced. Despite

Arrangement and Content

The Missouri Constitution of 1820 was relatively concise and simple. The main body of the document comprised a brief preamble followed by thirteen articles and a schedule dictating how Missouri would transition from territorial governance to governance under the new constitution. All of this was accomplished in fewer than 8,000 words. The subjects dealt with in the various articles were as follows: Article I - Boundaries of the State; Article II - Distribution of Powers; Article III - The Legislature; Article IV - The Executive Branch; Article V - The Judiciary; Article VI - Education; Article VII - Internal Improvement; Article VIII - Banks; Article IX - Militia; Article X - Miscellaneous; Article XI - Seat of Government; Article XII - Amending the Constitution; and Article XIII - Declaration of Rights. Five of the articles contained such simple ideas that they required no subsections, while the articles addressing the three branches of government and the declaration of rights each required many subsections. The strongest influences on the drafters seem to have come from the constitutions of Alabama, Illinois, Kentucky, and Maine.¹⁶

The constitution established a government whose authority was divided among executive, legislative, and judicial branches, and provided that "no person charged with the exercise of powers properly belonging to one of those departments, shall exercise any power properly belonging to either of the others" except for limited, specifically enumerated exceptions.¹⁷ Legislative power was given to the General Assembly, which, similar to the United States Congress, would be made up of a House of Representatives and a Senate. The House of Representatives would have no more than one hundred elected members,¹⁸ while the Senate would have "no less than fourteen, nor more than thirty-three members."¹⁹ The Executive Branch at the state level comprised the Governor and Lieutenant Governor, each of whom would be elected by the people,²⁰ and the Secretary of State,²¹ State Auditor,²² and Attorney General,²³ each of whom would be appointed by the Governor with the advice and consent of the Senate. While the duties of a State Treasurer are executive in nature, the Constitution made the General Assembly responsible for the appointment of that office by a "joint vote of the two houses."²⁴ The Governor was given authority to veto acts of the legislature, but could be overruled by a majority vote in each house of the legislature.²⁵ The Constitution also provided for local-level members of the Executive Branch, which included sheriffs and coroners.²⁶ The Judicial Branch was divided into several tiers, including a three-judge Supreme Court²⁷ and

the General Assembly's eventual, reluctant passage of such a resolution, it later *twice* enacted legislation in compliance with this constitutional provision.

¹⁶ Loeb, Isidor, "Constitutions and Constitutional Conventions in Missouri," *Journal of the Missouri Constitutional Convention of 1875, Volume 1*, State Historical Society of Missouri, 1920, p. 11.

¹⁷ 1820 Const. Art. II.

¹⁸ 1820 Const. Art. III, § 2.

¹⁹ 1820 Const. Art. III, § 6.

²⁰ Missouri was one of the first states to offer executive officers a four-year term of office, although governors were not permitted to succeed themselves from one term to the next. Loeb, Isidor, "Constitutions and Constitutional Conventions in Missouri," *Journal of the Missouri Constitutional Convention of 1875, Volume 1*, State Historical Society of Missouri, 1920, p. 10.

²¹ 1820 Const. Art. IV, § 21.

²² 1820 Const. Art. IV, § 12.

²³ 1820 Const. Art. V, § 18.

²⁴ 1820 Const. Art. III, § 31.

²⁵ 1820 Const. Art. IV, §§ 10, 11.

²⁶ 1820 Const. Art. IV, §§ 23-25.

²⁷ 1820 Const. Art. V, § 4.

several circuit courts.²⁸ The General Assembly was empowered to create a court of chancery, as well as other inferior courts as it deemed them necessary.²⁹ Judges of the Supreme Court and the circuit courts and chancellors would be nominated by the Governor and subject to confirmation by the state senate.³⁰ Once confirmed, judges and chancellors would serve until the age of 65.³¹

Separate and apart from the structure of the state government, the Constitution of 1820 called upon the new government to address certain issues of public importance. Article VI required the legislature to fund schools at which the State's poor children would be taught, free of charge,³² and it also called for the endowment of a "university for the promotion of literature, and of the arts and sciences."³³ Article VII made it the legislature's "duty to provide by law for a systematic and economical" funding of internal improvements regarding roads and navigable waterways. Article VIII permitted the General Assembly to incorporate a state bank which would have as many as five branches. Article XI required the General Assembly to select a location at which the new state capital would be established, providing that it must be "situated on the bank of the Missouri River, and within forty miles of the mouth of the river Osage."³⁴ The Governor was tasked with overseeing the organization of the state Militia, including the appointment of an adjutant general and various officers.³⁵

Echoing the U.S. Constitution, the Missouri Constitution of 1820 also imposed a number of explicit restrictions on the power of the state government. Article X prohibited the General Assembly from interfering with or taxing lands owned by the United States government,³⁶ and it declared the state's major rivers to be "common highways, and forever free to the citizens of this state and of the United States, without any tax, duty, impost, or toll, therefor, imposed by the state."³⁷ Article XIII enumerated a set of rights that the people of the State preserved for themselves against governmental authority. These mirrored most of the rights established in the first ten amendments to the U.S. Constitution, although the Missouri Constitution's phrasing was in many cases more precise and, arguably, more stringent than the provisions in the federal constitution. Additionally, the Missouri Declaration of Rights stated that citizens who were "religiously scrupulous of bearing arms" could not be forced into the military,³⁸ required that property in the state "be taxed in proportion to its value,"³⁹ and denied the government any authority to prevent migration from the state.⁴⁰

The most controversial aspect of this constitution, however, was its treatment of slaves and free people of African descent. In certain respects, the Missouri Constitution of 1820 was fairly progressive compared to other slave states. While the document forbade the General Assembly to emancipate slaves without first paying their owners for the financial losses they would suffer, the

²⁸ 1820 Const. Art. V, §§ 6-8.

²⁹ 1820 Const. Art. V, §§ 9-12.

³⁰ 1820 Const. Art. V, § 13.

³¹ 1820 Const. Art. V, § 14.

³² 1820 Const. Art. VI, § 1.

³³ 1820 Const. Art. VI, § 2.

³⁴ 1820 Const. Art. XI, § 2.

³⁵ 1820 Const. Art. IX, § 3.

³⁶ 1820 Const. Art. X, § 1.

³⁷ 1820 Const. Art. X, § 2.

³⁸ 1820 Const. Art. XIII, § 18.

³⁹ 1820 Const. Art. XIII, § 19.

⁴⁰ 1820 Const. Art. XIII, § 21.

legislature was specifically given authority to conform its slavery laws to those established by the United States, to permit owners to emancipate their own slaves, and to prohibit the further importation of slaves into the state.⁴¹ Further, the constitution required the General Assembly to pass laws ensuring that slave owners be obliged "to treat them with humanity, and to abstain from all injuries extending to life or limb."⁴² The constitution also required that slaves accused of crimes have the benefit of an impartial jury, the assistance of legal counsel, and that, if convicted, a slave should not be punished any differently than "a free white person for a like offence."⁴³ Similarly, it demanded that "[a]ny person who shall maliciously deprive of life or dismember a slave, shall suffer such punishment as would be inflicted for the like offence if it were committed on a free white person."⁴⁴ Despite these apparent efforts to prevent some of the worst abuses of slaves,⁴⁵ the 1820 convention betrayed a fundamental hostility toward people of African descent, requiring the General Assembly to pass laws that would "prevent free negroes and mulattoes from coming to, and settling in, this state, under any pretext whatsoever."⁴⁶

Article XII provided that the constitution could be amended, although the people of the state had no direct voice in the process. An amendment first had to be approved by two-thirds of each house of the General Assembly, then the approved text would be published in newspapers all over the state at least one year before the next general election. If, after the general election, the General Assembly again approved the amendment by two-thirds of each house, the amendment would be considered ratified and effective.

The 1820 Constitution endured for more than forty years, although a level of dissatisfaction with the document is evidenced by the fact that Missouri voters called another constitutional convention in 1845. Nevertheless, the people ended up preferring the existing constitution to the document drafted by the 1845 convention, which was roundly rejected by voters at a special election held in August 1846.⁴⁷ Missouri would not adopt a new foundational document until 1865, when the state was driven to respond to circumstances that had transpired prior to and during the Civil War.

The Civil War and the 1865 Constitution

After Abraham Lincoln was elected President of the United States in November 1860, almost all of the slave states (of which Missouri was one) held secession conventions at which they decided whether they would remain a part of the United States or whether they would withdraw and join the new Confederate States of America. Missouri had pockets of citizens who were fiercely pro-secession and others who were staunchly pro-union, but the vast majority of voters had mixed feelings regarding the dissolution of the United States. At the 1860 election the people had elected a governor, Claiborne Jackson, and a majority of legislators who were sympathetic to the southern position, but of the 99 delegates elected to Missouri's Secession Convention in

⁴¹ 1820 Const. Art. III, § 26.

⁴² Id.

⁴³ 1820 Const. Art. III, § 27.

⁴⁴ 1820 Const. Art. III, § 28.

⁴⁵ It must be noted, regrettably, that these constitutional requirements were not particularly effective in protecting slaves against mistreatment.

⁴⁶ 1820 Const. Art. III, § 26.

⁴⁷ Loeb, Idisor, "Constitutions and Conventions in Missouri," *Journal of the Missouri Constitutional Convention of 1875, Volume 1*, State Historical Society of Missouri, 1920, pp. 13-14.

February 1861,⁴⁸ "not one was in favor of immediate secession."⁴⁹ Thus, while Confederate sympathizers and sundry outlaws would prove capable of producing consistent turmoil throughout Missouri over the course of the Civil War, the state as a whole was never a serious threat to join the Confederacy.⁵⁰

Nevertheless, Missouri faced a profound governmental crisis during the war. Following an aborted plan to seize the federal arsenal at St. Louis on behalf of the pro-southern state government, a Union army's march toward Jefferson City in June 1861 caused Governor Jackson and his supporters (eventually including much of the elected state legislature and about 20 members of the Secession Convention) to flee to southwest Missouri, where they unsuccessfully (and without proper authority)⁵¹ attempted to attach Missouri to the Confederacy.⁵² The fracturing of the regularly-elected government prompted the remaining, Union-leaning members of the Secession Convention to depose Governor Jackson and the General Assembly on July 30, 1861, and to assume control of the state capitol, initiating the selection of provisional authorities that would remain loyal to the United States. To this end, in October 1861 the Convention demanded that every civil officer in the state must pledge not to take up arms against the United States or the provisional state government, nor to offer any aid or comfort to anyone who did. Many officials throughout the state refused so to pledge, which resulted in those officials being expelled from their offices and replaced by loyal officers of the convention's choosing.⁵³ Additionally, in June 1862 the convention passed a law stating that from that point forward citizens would only be permitted to vote, hold office, serve on juries, or practice certain professions if they first took a strict loyalty oath.

As these acts of the Secession Convention demonstrate, the 1820 Constitution had effectively ceased to function by July 1861. The Convention itself had been called for only a very limited purpose; it had no constitutional authority to depose the state officials elected by the people in 1860, and it was never intended to wield the general legislative powers of the state.⁵⁴ The Convention initially seemed aware of its own limitations, calling for a special election to be held in November 1861 for the purpose of replacing the state government—but those elections were postponed until November 1862 and their purpose was limited to the election of a new General Assembly. It was not until August 1864, by which time the Civil War was nearing an end, that the provisional state government allowed Missouri's qualified voters to elect other state and federal officials. The 1864 ballot also included a referendum on the calling of a new constitutional convention, which the voters approved, thus putting Missouri on the path back toward legitimate, constitutional authority in its state government.

⁴⁸ A number of writers have suggested that the assemblage called together by this election ought to be considered a "constitutional convention." This is not accurate. The convention was called together for the specific, limited purpose of deciding whether Missouri would continue as part of the United States or if it would secede; "the convention was not chosen for the purpose of modifying the Constitution of the State." Loeb, Isidor, "Constitutions and Constitutional Conventions in Missouri," *Missouri Historical Review*, Vol. XVI, State Historical Society of Missouri, 1922, p. 200.

⁴⁹ Violette, Eugene Morrow, *A History of Missouri*, D.C. Heath & Co. 1918, p. 329.

⁵⁰ Schouler, James, *History of the United States of America Under the Constitution*, Vol. VI, 1861-1865, Dodd, Mead & Co., 1899, p. 98.

⁵¹ The question of secession had been expressly delegated to the Secession Convention, which had decided that Missouri would remain part of the Union. Violette, *History of Missouri*, p. 350.

⁵² Violette, *History of Missouri*, p. 369.

⁵³ Violette, *History of Missouri*, p. 397.

⁵⁴ Violette, *History of Missouri*, p. 395.

The 1865 Constitutional Convention

The convention that produced Missouri's second constitution assembled in St. Louis on January 6, 1865, while the war was still being actively contested. With 66 delegates, it was larger than the convention that produced Missouri's first constitution. But whereas the first convention attracted some of the most respected men in the state, the 1865 convention was composed almost exclusively of men who neither had nor would later attain statewide recognition. Indeed, the convention's proceedings were dominated by Charles Drake, the leader of the Radical branch of the Republican party whose name would eventually come to be synonymous with the document the convention produced. The convention met for three months, approving the final version of their work on April 10, 1865. A statewide ratification election was held on June 6, 1865, although - again - voting was limited to those willing and able to take the loyalty oaths prescribed by the convention (discussed below). These eligible voters ratified the document by a vote of 43,670 in favor and 41,808 against,⁵⁵ and the new constitution went into effect on July 4, 1865.

Arrangement and Content

The Missouri Constitution of 1865 was significantly more complex than its predecessor. The document began with a preamble that had been expanded to include a statement of gratitude to "Almighty God, the Sovereign Ruler of the nations" for "our State Government, our liberties, and our connection with the American Union." The main body of this constitution also included thirteen articles, but the convention rearranged their sequence and greatly expanded a number of the articles, the result being a document containing around 16,000 words—roughly *double* the length of Missouri's first constitution. The subjects dealt with in the various articles were as follows: Article I - Declaration of Rights; Article II - Right of Suffrage; Article III - Distribution of Powers; Article IV - The Legislature; Article V - The Executive Department; Article VI - The Judicial Department; Article VII - Impeachments; Article VIII - Banks and Corporations; Article IX - Education; Article X - Militia; Article XI - Miscellaneous Provisions; Article XII - Mode of Amending and Revising the Constitution; and Article XIII - Provisions for Putting this Constitution into Force. As may be observed, this constitution eliminated the previous articles addressing "Boundaries of the State," "Internal Improvement," and "Seat of Government," while adding articles governing "Right of Suffrage," "Impeachments," and "Provisions for Putting this Constitution in Force." Whereas five of the articles in the Constitution of 1820 required no subsections, all but one of the articles in the 1865 document utilized multiple subsections.

The act that authorized the calling of the convention explicitly noted the most immediate concerns to be addressed in the new constitution: to put an immediate end to slavery in Missouri and to impose restrictions – particularly voting restrictions – upon anyone who had expressed support or sympathy for the Confederacy.⁵⁶ Abolishing slavery was a relatively simple matter, resolved with a new section in the Declaration of Rights stating "that there cannot be in this State either slavery or involuntary servitude, except in punishment of a crime, whereof the party shall have been duly convicted."⁵⁷ This provision was bolstered by one providing that no one should face various legal restrictions or disabilities "on account of their color."⁵⁸ The final adjustment in

⁵⁵ Loeb, Isidor, "Constitutions and Constitutional Conventions in Missouri," *Journal of the Missouri Constitutional Convention of 1875, Vol. I*, 1920, p. 19.

⁵⁶ See "An Act to Provide for Calling a State Convention," approved by the Missouri General Assembly on February 13, 1864.

⁵⁷ 1865 Const. Art. I, § 2.

⁵⁸ 1865 Const. Art. I, § 3.

this regard is reflected in Article III, section 29, which denied the General Assembly any authority "to make compensation for emancipated slaves," immediately squelching what had been an ongoing debate about whether the state might be required to offset the financial harm that emancipation would cause those who had legally owned slaves under the previous constitution.

Restricting suffrage, however, was a much more complex endeavor. The convention added an extremely lengthy article to the constitution that enumerated various actions that, if taken, would prevent a citizen from being considered a "qualified voter" in the state.⁵⁹ This article also spelled out the so-called "ironclad oath,"⁶⁰ the taking of which was required of any Missourian before they would be permitted to register to vote, hold any elected or appointed office, serve as an "officer, councilman, director, trustee, or other manager of any corporation, public or private," to serve as "a professor or teacher in any educational institution, or in any common or other school," "to practice as an attorney or counsellor at law," to serve as trustee, "bishop, priest, deacon, minister, elder, or other clergyman of any religious persuasion, sect, or denomination," or to serve on a jury.⁶¹ The article prescribed punishments for anyone who exercised the authority of an elected or appointed office without having taken the oath, and also for anyone who was shown to have taken

⁵⁹ "[N]o person shall be deemed a qualified voter, who has ever been in armed hostility to the United States, or to the lawful authorities thereof, or to the Government of this State; or has ever given aid, comfort, countenance, or support to persons engaged in any such hostility; or has ever, in any manner, adhered to the enemies, foreign or domestic, of the United States, either by contributing to them or by unlawfully sending within their lines, money, goods, letters, or information; or has ever disloyally held communication with such enemies; or has ever, by act or word, manifested his adherence to the cause of such enemies, or his desire for their triumph over the arms of the United States, or his sympathy with those engaged in exciting or carrying on rebellion against the United States; or has ever, except under overpowering compulsion submitted to the authority, or been in the service, of the so-called "Confederate States of America;" or has ever left this State, and gone within the lines of the armies of the so-called "Confederate States of America," with the purpose of adhering to said States or armies; or has ever been a member of, or connected with, any order, society, or organization, inimical to the Government of the United States, or to the inhabitants of the United States, or in that description of marauding commonly known as "bushwhacking; or has ever knowingly and willingly harbored, aided, or countenanced any person so engaged; or has ever come into or left this State, for the purpose of avoiding enrollment for or draft into the military service of the United States; or has ever, with a view to avoid enrollment in the militia of this State, or to escape the performance of duty therein, or for any other purpose, enrolled himself, or authorized himself to be enrolled, by or before any officer, as disloyal, or as a Southern sympathizer, or in any other terms indicating his disaffection to the Government of the United States in its contest with rebellion, or his sympathy with those engaged in such rebellion; or, having ever voted at any election by the people in this State, or in any other of the United States, or in any of their Territories, or held office in this State, or in any other of the United States, or in any of their Territories, or under the United States, shall thereafter have sought or received, under claim of alienage, the protection of any foreign government, through any consul or other officer thereof, in order to secure exemption from military duty in the militia of this State, or in any of the United States, or in the army of the United States[.]" 1865 Const. Art. II, § 3.

⁶⁰ "I, [name], do solemnly swear that I am well acquainted with the terms of the third section of the second article of the Constitution of the State of Missouri, adopted in the year eighteen hundred and sixty-five, and have carefully considered the same; that I have never, directly or indirectly, done any of the acts in said section specified; that I have always been truly and loyally on the side of the United States against all enemies thereof, foreign and domestic; that I will bear true faith and allegiance to the United States, and will support the Constitution and laws thereof, as the supreme law of the land, and law or ordinance of any State to the contrary notwithstanding; that I will, to the best of my ability, protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed or overthrown, under any circumstances, if in my power to prevent it; that I will support the Constitution of the State of Missouri; and that I make this oath without any mental reservation or evasion, and hold it to be binding on me." 1865 Const. Art. II, § 6.

⁶¹ These restrictions were carried over from the oath required by an ordinance that had been adopted by the state's provisional government.

the oath falsely.⁶² All was not lost for someone who had engaged in one of the forbidden behaviors—the constitution expressly provided that the right to vote, hold public office, or practice the above-mentioned professions could be regained by those who "after the commission of such act, have voluntarily entered the military service of the United States, and have been honorably discharged therefrom, and after such discharge have demeaned himself in all respects as a loyal and faithful citizen[.]"⁶³

The preamble to the Declaration of Rights for the 1865 Constitution staked out the third issue of primary concern to the convention: "that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people, may be defined and affirmed[.]"⁶⁴ To this end, the convention added several sections to the constitution and modified a few others. Article I, section 5, the original language of which affirmed Missouri's sovereignty regarding its internal government, was modified to specify that "every such right should be exercised in pursuance of law, and consistently with the Constitution of the United States." This provision was followed by two new sections, the first of which dictated that "this State shall ever remain a member of the American Union; that the people thereof are a part of the American Nation; and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union, or to sever said Nation, ought to be resisted with the whole power of the State."⁶⁵ The second declared that "every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of this state in contravention or subversion thereof, can have any binding force."⁶⁶

The considerations created by the Civil War affected other parts of the constitution as well. Article XI, section 4, tried to create a clean slate for those who served in the Union Army, ensuring that no person could be held criminally or civilly liable for "any act by him done, performed, or executed, after the first day of January, one thousand eight hundred and sixty-one, by virtue of military authority vested in him by the Government of the United States, or that of this State[.]" The convention also dramatically altered the constitution's treatment of the act of treason, removing the prior constitutional requirement that conviction for treason required the "testimony of two witnesses to the same overt act",⁶⁷ adding that conviction for treason could justify the forfeiture of one's estate,⁶⁸ and withdrawing the governor's authority to grant pardons for those convicted of treason.⁶⁹ As was the case with the establishment of the ironclad oath, these provisions served to reward those Missourians who had sided with the Union and disadvantage those who had at any point wavered in their support for the eventual victors.

There were a couple of minor tweaks to the operation of the General Assembly. The convention introduced a new method of creating districts from which members of the House of Representatives would be chosen,⁷⁰ and it increased the number of senators to a total of 34.⁷¹ The 1865 Constitution also called for a decennial state census that would be taken approximately

⁶² 1865 Const. Art. II, § 14.

⁶³ 1865 Const. Art. II, § 23.

⁶⁴ 1865 Const. Art. I, Preamble.

⁶⁵ 1865 Const. Art. I, § 6.

⁶⁶ 1865 Const. Art. I, § 7.

⁶⁷ 1820 Const. Art. XIII, § 15.

⁶⁸ 1865 Const. Art. I, § 26.

⁶⁹ 1865 Const. Art. V, § 6.

⁷⁰ 1865 Const. Art. IV, § 2.

⁷¹ 1865 Const. Art. IV, § 4.

halfway between each decennial national census, and that apportionment of the state's legislators was to be adjusted after each of these events.⁷²

Additionally, the convention imposed certain new limitations on the authority of the General Assembly. The legislature was forbidden to authorize a lottery,⁷³ to change the county seat of any county unless done with the approval of two-thirds of that county's qualified voters,⁷⁴ to pass laws that "relate to more than one subject" or to pass an act whose subject is not expressed in its title.⁷⁵ The 1865 Constitution also eliminated the General Assembly's authority to create or renew banks and private corporations,⁷⁶ and the legislature was forbidden either to give or loan "the credit of the state... in aid of any person, association, or corporation,"⁷⁷ or to "authorize any county, city, or town to become a stockholder in, or to loan its credit to any company, association, or corporation, unless two-thirds of the qualified voters... assent thereto."⁷⁸ Nor was the General Assembly permitted "to release the lien held by the State upon any railroad."⁷⁹ Further, the constitution provided that if the Governor issued a proclamation calling the General Assembly into a special session, the legislature was strictly limited to consideration of and action on the matters stated in the Governor's proclamation.⁸⁰

Regarding the Executive Branch of government, the 1865 Constitution expanded its area of responsibility even while reducing the authority of the Governor and shrinking the terms of office served by members of that branch from four years to two.⁸¹ Where Missouri's first constitution gave the Governor extensive authority to appoint executive officials, including the Secretary of State, State Auditor, Attorney General, and local sheriffs and coroners, the 1865 Constitution made each of these positions (as well as the office of State Treasurer) electable by the qualified voters.⁸² Further weakening the Governor's authority, the constitution assigned the responsibility for filling vacancies in any of the local offices to the county court, unless the vacancy was the result of the creation of a new county.⁸³ These alterations severely curtailed the Governor's influence as well as his direct control over the administration of the state.

The new constitution also made significant changes to the Judicial Branch, the most glaring of which was to shift from the U.S. Constitution's model of judicial selection, under which the Governor was given authority to appoint the state's judges to lifetime terms,⁸⁴ and instead to institute judicial elections, with most judges to serve six-year terms.⁸⁵ The document also abolished the office of Chancellor as well as the court of chancery, which previously had been given "original and appellate jurisdiction over matters of equity,"⁸⁶ and added in their place a tier

⁷² Art. IV, § 7.

⁷³ Art. IV, § 28.

⁷⁴ Art. IV, § 30.

⁷⁵ Art. IV, § 32.

⁷⁶ See Art. VIII, generally.

⁷⁷ Art. XI, § 13.

⁷⁸ Art. XI, § 14.

⁷⁹ Art. XI, § 15.

⁸⁰ Art. V, § 7.

⁸¹ Art. V, § 3.

⁸² Art. V, § 16; Art. V, § 22.

⁸³ Art. V, § 23.

⁸⁴ 1820 Const. Art. V, § 13.

⁸⁵ 1865 Const. Art. VI, § 6; Art. VI, § 14; Art. VI, § 15. This shift was initially made via constitutional amendment in 1850.

⁸⁶ 1820 Const. Art. V, § 10.

of District Courts⁸⁷ comprising a majority of the judges of the circuit courts that made up each judicial district. In the event of a vacancy on the Missouri Supreme Court, one of the district courts, or one of the circuit courts, the Governor was permitted to appoint a replacement who would serve until a new judge could be elected by the qualified voters.⁸⁸ The qualifications to serve as a judge were modified slightly, with the new constitution eliminating an earlier mandatory retirement age of 65,⁸⁹ and adding requirements that a judge have been “a citizen of the United States five years, and a qualified voter of this State three years.”⁹⁰

Yet another important change from Missouri’s first constitution to its second was an elaboration of the state’s responsibility to provide for its citizens’ education. Whereas the 1820 Constitution called for the encouragement of “schools and the means of education,” established a vague expectation regarding the establishment of free public schools,⁹¹ and created a “permanent fund to support a university for the promotion of literature, and of the arts and sciences,” it did not require the General Assembly actually to establish such a school.⁹² Thus, absent a direct constitutional imperative, the General Assembly did very little prior to the Civil War regarding education.⁹³ The 1865 Constitution, by way of contrast, created a more defined set of obligations and provided for an administrative structure to implement them. It directed the General Assembly to “establish and maintain free schools for the gratuitous instruction of all persons in this State, between the ages of five and twenty-one years.”⁹⁴ While the constitution gave the legislature the option of establishing racially segregated schools, it required that “all funds provided for the support of public schools shall be appropriated in proportion to the number of children, without regard to color.”⁹⁵ The document also provided for the popular election of a Superintendent of Public Schools who, with the Secretary of State, the Attorney General, and others whose selection would be authorized by the General Assembly, would oversee the system of public schools as the Board of Education.⁹⁶ Article IX, section 4, required the General Assembly to “establish and maintain a State University, with departments for instruction in teaching, in agriculture, and in natural science.”⁹⁷ The provisions addressing permanent funds established for educational purposes were expanded significantly,⁹⁸ and the new constitution enacted provisions intended to see that those funds were conservatively managed and jealously guarded.⁹⁹

There were just a few other minor ways in which the 1865 Constitution changed Missouri’s organic law. The convention determined that “all able-bodied male inhabitants of this State,

⁸⁷ 1865 Const. Art. VI, § 1.

⁸⁸ 1865 Const. Art. VI, § 8; Art. VI, § 14.

⁸⁹ 1820 Const. Art. V, § 14.

⁹⁰ 1865 Const. Art. VI, § 18.

⁹¹ 1820 Const. Art. VI, § 1.

⁹² 1820 Const. Art. VI, § 2.

⁹³ The University of Missouri was established in 1839 and holds the honor of being the first public college formed in the former Louisiana Territory, but in its earliest decades the University remained very small and it received only limited support from the state government prior to the Civil War.

⁹⁴ 1865 Const. Art. IX, § 1. Article IX, section 7, also gave the General Assembly authority to make school attendance mandatory for children between the ages of five and eighteen years.

⁹⁵ 1865 Const. Art. IX, § 2.

⁹⁶ 1865 Const. Art. IX, § 3.

⁹⁷ This instruction prompted the General Assembly to expand the courses offered at the University of Missouri, and also to open new campuses.

⁹⁸ 1865 Const. Art. IX, § 5.

⁹⁹ 1865 Const. Art. IX, § 6.

between the ages of eighteen and forty-five years” should be liable for duty in the militia.¹⁰⁰ Any sort of participation in a duel—even simply acting as a messenger carrying a challenge—would mean disqualification from holding any political office in the state.¹⁰¹ Only real or personal property “used exclusively for public schools, and such as may belong to the United States, to this State, to counties, or to municipal corporations within this State” could be exempted from taxation.¹⁰² Contrary to the procedure under the 1820 Constitution, constitutional amendments were now dependent upon ratification by the people. Thus, rather than requiring an amendment to twice receive the approval of two-thirds of the legislators in each house of the General Assembly, constitutional amendments could be sent to voters for approval based upon one vote signifying the approval of a simple majority vote from each house of the General Assembly. The amendments would be considered ratified if a majority of voters at the next general election approved the proposal.¹⁰³ And, finally, the new constitution provided guidelines under which the General Assembly could authorize a vote of the people as to whether a new constitutional convention should be called, including the rules to be followed in selecting the delegates to such a convention.¹⁰⁴

So, summing up the ways in which the 1865 Constitution modified Missouri’s organic law, it is possible to make a few generalizations. First, the document was an effort on the part of the state’s Radical Republicans to dramatically change the political landscape in Missouri. They wanted to end the practice of slavery—but also to do it on their own terms, without waiting for the national government to act and, perhaps, to require slave owners to be compensated. They also wanted to punish those who had sympathized with the Confederacy during the Civil War, which they accomplished by trying to cut these sympathizers out of not only the political process, but also out of many professions that might provide them with a platform to sow discontent among the populace. Furthermore, the drafters of this document, led by Charles Drake, intended to make the state government more responsive to the qualified voters, which they accomplished by eliminating most of the appointed offices in the state, shortening the terms of elected officials, and establishing prohibitions against the use of governmental power to grant favors to special interests.

Defeat of the Radical Republicans and the 1875 Constitution

Very shortly after the adoption of the 1865 Constitution, it became apparent that there was widespread dissatisfaction with its requirement that citizens must make the so-called “ironclad oath” before they would be permitted to hold office or even earn a living in certain professions. In 1870, many of the Radical Republicans who had driven the adoption of that constitution were voted out of office, and a number of state leaders began to agitate for another constitutional convention to undo some of the disfavored changes made in 1865.¹⁰⁵ Additionally, the people of the state were increasingly distrustful of the use of legislative authority at the state and local levels, due to a rash of laws that only applied to or benefited a small part of the population—including grants of aid to railroad companies.¹⁰⁶ Due to this legislative entanglement with business interests,

¹⁰⁰ 1865 Const. Art. X, § 1.

¹⁰¹ 1865 Const. Art. XI, § 5.

¹⁰² 1865 Const. Art. XI, § 16.

¹⁰³ 1865 Const. Art. XII, § 2.

¹⁰⁴ 1865 Const. Art. XII, § 3.

¹⁰⁵ Shoemaker, Floyd Calvin, *A History of Missouri and Missourians*, Walter Ridgeway Publishing Co., 1922, pp. 171-72.

¹⁰⁶ Loeb, Isidor, “Constitutions and Constitutional Conventions in Missouri,” *Journal of the Missouri Constitutional Convention of 1875, Vol. I*, 1920, p. 27. It should be noted that the first waves of this sort of excess predated the Civil

governments at all levels “had incurred large debts with resulting increase of taxes,” driving citizens to push for new constitutional limits on the powers of the General Assembly and local governments.¹⁰⁷ The issue of whether to call a new constitutional convention was put on the ballot for Missouri voters to decide in November 1874, and the measure calling for such a convention was approved by the tiny margin of 283 votes out of 222,315 cast.¹⁰⁸

The 1875 Convention

Governor Silas Woodson called for an election to be held on January 26, 1875, at which the qualified voters would choose the delegates who would represent them at the new constitutional convention. Sixty-eight were chosen—two each from Missouri’s thirty-four senatorial districts. Among that number were seven future Congressmen, a future Lieutenant-Governor of Missouri, two future judges on the Missouri Supreme Court, and Joseph Pulitzer, the famed journalist.¹⁰⁹ Fully half of the delegates elected to the 1875 convention “had either served under the Confederacy or had sympathized with its fortunes.”¹¹⁰ Two-thirds of the delegates were trained in law,¹¹¹ and all but seven were Democrats.¹¹² The convention met in Jefferson City between May 5, 1875, and August 2, 1875. When the document was completed, all sixty-eight delegates to the convention signed their approval and sent it to the voters for ratification. The statewide vote was taken on October 30, 1875, and 84% of the votes cast were in favor of the new constitution.¹¹³

Arrangement and Content

The Missouri Constitution of 1875 was mammoth—26,000 words—about 10,000 words longer than its immediate predecessor and more than *three times* as long as the state’s first constitution. The main body of the 1875 Constitution was expanded to fifteen articles: Article I – Boundaries;¹¹⁴ Article II – Declaration of Rights; Article III – Distribution of Powers; Article IV – Legislative Department; Article V – Executive Department; Article VI – Judicial Department; Article VII - Impeachments; Article VIII – Suffrage and Elections; Article IX – Counties, Cities, and Towns; Article X – Revenue and Taxation; Article XI - Education; Article XII - Corporations;

War. Prior to the war, the state had issued \$24,000,000 worth of railroad bonds. “Constitution Making in Missouri,” Missouri State Teachers Association, p. 14.

¹⁰⁷ Loeb, Isidor, “Constitutions and Constitutional Conventions in Missouri,” *Journal of the Missouri Constitutional Convention of 1875, Vol. I*, 1920, pp. 27-28.

¹⁰⁸ Loeb, Isidor, “Constitutions and Constitutional Conventions in Missouri,” *Journal of the Missouri Constitutional Convention of 1875, Vol. I*, 1920, p. 25.

¹⁰⁹ Shoemaker, Floyd C., “Personnel of the Convention,” *Journal of the Missouri Constitutional Convention of 1875, State Historical Society of Missouri*, 1920, p. 69.

¹¹⁰ Shoemaker, Floyd C., “Personnel of the Convention,” *Journal of the Missouri Constitutional Convention of 1875, State Historical Society of Missouri*, 1920, p. 64.

¹¹¹ Shoemaker, Floyd C., “Personnel of the Convention,” *Journal of the Missouri Constitutional Convention of 1875, State Historical Society of Missouri*, 1920, p. 65.

¹¹² Shoemaker, Floyd C., “Personnel of the Convention,” *Journal of the Missouri Constitutional Convention of 1875, State Historical Society of Missouri*, 1920, p. 67.

¹¹³ The number of votes cast at this special election was less than half the total number cast on the question of whether a convention should be called. Loeb, Isidor, “Constitutions and Constitutional Conventions in Missouri,” *Journal of the Missouri Constitutional Convention of 1875, Vol. I*, State Historical Society of Missouri, 1920, p. 26.

¹¹⁴ This section was restored from the 1820 Constitution after having been omitted in the 1865 document, although the text in 1875 is markedly different from that of 1820. Rather than spelling out the metes and bounds of the state, this article simply makes reference to them as “heretofore established by law.” Additionally, this article added the text of Article XI, section 2, of the 1865 Constitution, clarifying the extent of the state’s authority over the rivers flowing through Missouri and along its borders.

Article XIII - Militia; Article XIV – Miscellaneous Provisions; and Article XV – Mode of Amending the Constitution. New in this document are the articles dealing with Counties, Cities, and Towns, Revenue and Taxation; the previous article addressing Provisions for Putting this Constitution into Force was deleted.

The 1875 Constitution’s Declaration of Rights saw a number of changes from its predecessor, several of which were specifically designed to reverse the most reviled aspects of the Drake Constitution. It is clear that those drafting the 1875 document were intent on reasserting Missouri’s sovereignty as a state, even while acknowledging the supremacy of the U.S. Constitution.¹¹⁵ The 1875 Constitution thoroughly revised the article dealing with qualifications for voters, eliminating the hated “ironclad oath”,¹¹⁶ instead extending the right of suffrage to “every male citizen of the United States, and every male person of foreign birth who may have declared his intention to become a citizen...” so long as they were twenty-one years of age or older, had resided in Missouri “one year immediately preceding the election,” and had “resided in the county, city, or town where he shall offer to vote at least sixty days immediately preceding the election.”¹¹⁷ The right to vote was enshrined in the Declaration of Rights, which mandated that “elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”¹¹⁸ There were exceptions to this broad grant of voting rights, including anyone who at the time of the election was “kept at a poor house or other asylum, at public expense,” “confined in any public prison,”¹¹⁹ or was serving as an “officer, soldier or marine in the regular army or navy of the United States.”¹²⁰ The new constitution also expanded upon earlier affirmations of a natural right to “life, liberty, and the pursuit of happiness,” replacing the “pursuit of happiness” with “the enjoyment of the gains of their own industry,” and adding that “to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.”¹²¹ The implication of this statement was broadened considerably by the addition of a provision to the Declaration of Rights that stated, “The enumeration of certain rights shall not be construed to deny, impair, or disparage others retained by the people.”¹²² The changes that the 1865 Constitution had made to make treason easier to prove and subject to harsher punishments were rescinded and these provisions restored the protections provided under the 1820 Constitution.¹²³ Where the 1865 Constitution had provided to pro-Union citizens blanket immunity from civil or criminal liability for actions taken under government direction during the Civil War, the 1875 Constitution extended such immunity also to those who had acted under the direction of officers of “the late Confederate States.”¹²⁴ And in one final adjustment responding to perceived abuses of the Civil War era, the 1875 Constitution provided

¹¹⁵ Compare 1865 Const. Art. I, §§ 6, 7 with 1875 Const. Art. II, § 3.

¹¹⁶ It was replaced with a very general statement that anyone acting under the state’s authority must take an oath “to support the Constitution of the United States and of this State, and to demean themselves faithfully in office.” 1875 Const. Art. XIV, § 6.

¹¹⁷ 1875 Const. Art. VIII, § 2.

¹¹⁸ 1875 Const. Art. I, § 9.

¹¹⁹ 1875 Const. Art. VIII, § 8.

¹²⁰ 1875 Const. Art. VIII, §11. This provision was carried over from the previous constitution. 1865 Const. Art. II, § 16.

¹²¹ 1875 Const. Art. II, § 4.

¹²² 1875 Const. Art. II, § 32. This language is a deliberate echo of the Ninth Amendment of the U.S. Constitution, and it served to reinforce the stridently individualistic character of the 1875 Constitution.

¹²³ 1875 Const. Art. II, § 13.

¹²⁴ 1875 Const. Art. XIV, § 2.

that the writ of habeas corpus could *never* be suspended,¹²⁵ whereas Missouri’s first two constitutions each permitted the suspension of habeas corpus “when, in cases of rebellion or invasion, the public safety may require it.”¹²⁶

Not every change made in the 1875 document was related to the distinctly punitive aspects of the Drake Constitution. As noted above, efforts to make elected officials more accountable for their use of power resulted in the 1865 Constitution imposing significant new restrictions on governmental authority. Unsatisfied with the effectiveness of those restrictions, the framers of the 1875 Constitution imposed even more stringent limits.

The Declaration of Rights received new sections that required elected officials to exercise the duties of their office personally,¹²⁷ and to make a proper accounting of all public money for which they had responsibility before assuming “any office of trust or profit in the State of Missouri.”¹²⁸ Similarly, the 1875 convention responded to citizens’ concerns about the abuse of eminent domain for the benefit of private companies (particularly railroads) by adopting a raft of protections for property rights. While Missouri’s two previous constitutions had each prohibited takings of private property unless for a public use, the state courts had permitted the use of eminent domain to transfer private property to other private owners so long as the condemning authority claimed that the transfers were in the public interest. The 1875 Constitution specified that only a handful of private uses, such as private ways of necessity and agricultural and sanitary purposes, should justify the deprivation of a private owner’s right to use his property—and importantly, the provision specified that courts were not to give any deference to legislative assertions about the “public” nature of a particular condemnation.¹²⁹ Additionally, the 1875 Constitution added to the “public use” provision that just compensation must be paid if government action resulted in the damaging of property, even if the action did not result in a *taking* of the property, and that if property was needed for railroad purposes, the owner was to retain title to the property taken.¹³⁰

A number of alterations to the articles addressing the branches of government further limited how they were permitted to operate. The new constitution did not allow members of the General Assembly to amend any bill in such a way that would “change its original purpose.”¹³¹ Once a bill other than a general appropriation act was passed, it could not go into effect until ninety days after the end of the session at which it was enacted unless it was expressly designated as an emergency act in the bill’s preamble and two-thirds of each house vote for an earlier effective date.¹³² The new constitution also imposed strict limits on how the General Assembly was permitted to use

¹²⁵ 1875 Const. Art. II, § 26.

¹²⁶ 1820 Const. Art. XIII, § 11; 1865 Const. Art. I, § 22. The earlier language was identical to that of U.S. Const. Art. I, § 9, cl. 2.

¹²⁷ 1875 Const. Art. II, § 18.

¹²⁸ 1875 Const. Art. II, § 19. The 1865 Constitution had only required such an accounting before one could be eligible to serve in the General Assembly. 1865 Const. Art. IV, § 12.

¹²⁹ Art. II, § 20.

¹³⁰ 1875 Const. Art. II, § 21.

¹³¹ 1875 Const. Art. IV, § 25. There seems to have been a very high level of concern about amendments being slipped into bills without the legislators understanding how they might affect the way the bill would function. A number of small procedural requirements were added to the 1875 Constitution that all seem to address this issue. See 1875 Const. Art. IV, § 37, requiring the signature of presiding officers before a bill could become effective and providing legislators with the ability to lodge formal protests if they believed that “any substitution, omission or insertion has occurred, so that the bill proposed to be signed is not the same in substance and form as when considered and passed by the house, or that any particular clause of this article of the Constitution has been violated in its passage.”

¹³² 1875 Const. Art. IV, § 36.

state funds, dictating the precise order of priority for which funds might be disbursed,¹³³ and outlining a very narrow range of circumstances under which the General Assembly was permitted to take on debt,¹³⁴ lend the credit of the state,¹³⁵ grant public money to individuals, associations, and corporations,¹³⁶ or authorize local governments to do the same.¹³⁷ The 1875 Constitution specifically denied the General Assembly’s authority to offer special benefits to government employees or contractors,¹³⁸ and similarly prohibited the legislature from any further investment in corporations,¹³⁹ and from releasing corporations from certain obligations owed to the state.¹⁴⁰ Additionally, the convention identified thirty-two specific categories of local or special laws in which the General Assembly was not permitted to dabble,¹⁴¹ only eleven of which had been identified in the equivalent section of the 1865 Constitution.¹⁴² Further, insofar as the General Assembly was permitted to pass local or special laws where a general law could not be made applicable,¹⁴³ the courts were specifically charged with deciding—without giving any deference to legislative arguments—whether a general law *could* have been made applicable.¹⁴⁴

The framers of the 1875 Constitution made only very minor adjustments to the Executive Branch of the state government, reinstating four-year terms for that branch’s elected officials and removing term limits for all executive officers but the Governor and State Treasurer, who were not permitted to succeed themselves in office.¹⁴⁵ This constitution also removed the requirement that the Governor and other executive officers be “white,”¹⁴⁶ and established an order of succession to be followed in the event that the Governor and/or Lieutenant Governor should for any reason be incapable of continuing in office.¹⁴⁷

Missouri’s court system got a fairly thorough overhaul in the 1875 Constitution. The framers

¹³³ 1875 Const. Art. IV, § 43.

¹³⁴ 1875 Const. Art. IV, § 44.

¹³⁵ 1875 Const. Art. IV, § 45.

¹³⁶ 1875 Const. Art. IV, § 46.

¹³⁷ 1875 Const. Art. IV, § 47.

¹³⁸ 1875 Const. Art. IV, § 48.

¹³⁹ 1875 Const. Art. IV, § 49. A separate provision in the new article addressing Counties, Cities, and Towns had a similar purpose. See 1875 Const. Art. IX, § 6.

¹⁴⁰ 1875 Const. Art. IV, §§ 50, 51. These provisions were a reaction to the fact that, between 1850 and the Civil War, the State had issued millions of dollars in bonds on behalf of railroad companies, only to leave the taxpayers on the hook when the companies collapsed or otherwise failed to follow through with their expected contribution. This led the state to effectively take over the railroads in 1868, at which time they owed the state \$30,000,000. The companies were sold for only \$6,000,000, leaving Missouri taxpayers to make up the difference. *Constitution Making in Missouri*, Missouri State Teachers Association, 1945, p. 15.

¹⁴¹ 1875 Const. Art. IV, § 53.

¹⁴² 1865 Const. Art. IV, § 27.

¹⁴³ 1865 Const. Art. IV, § 54, prescribed the steps that must be taken for such a law to be valid.

¹⁴⁴ This provision, as well as the expansion of the list of subjects for which special laws were prohibited, was necessitated by the continued abuses of special lawmaking in the decade following the ratification of the 1865 Constitution. In that time period, the General Assembly apparently avoided the restriction by deeming the restrictions inapplicable to various acts and relying on the courts to defer to their declaration. As a result, in the years between 1865 and 1875, “the percentage of local and special acts exceed[ed] that of public general laws.” Loeb, Isidor, “Constitutions and Constitution Making,” *Journal of the Missouri Constitutional Convention of 1875, Volume 1*, State Historical Society of Missouri, 1920, p. 32.

¹⁴⁵ 1875 Const. Art. V, § 2.

¹⁴⁶ 1875 Const. Art. V, § 5; Art. V, § 19.

¹⁴⁷ 1875 Const. Art. V, § 17.

expanded the Supreme Court from three judges to five,¹⁴⁸ and expanded their terms of office from six to ten years.¹⁴⁹ This constitution also eliminated the earlier practice of rotating the Supreme Court among four districts, instead calling for the establishment of a permanent facility in Jefferson City.¹⁵⁰ The statewide district court system introduced in 1865¹⁵¹ was discarded in favor of a single new intermediate court—the St. Louis Court of Appeals, whose jurisdiction was limited to St. Louis City and the counties of St. Louis, St. Charles, Lincoln, and Warren, comprised three judges, each elected to twelve year terms—with all of the circuit courts in the remaining counties being returned to the direct oversight of the Supreme Court.¹⁵² The 1875 Constitution made a slight change to the General Assembly’s prior ability to remove a judge upon the approval of two-thirds of each house, specifying that this procedure was only available where sickness, or physical or mental infirmity prevented the judge from doing his duties efficiently, and it also required the Governor’s agreement.¹⁵³

One of the more significant changes made to the 1875 Constitution had to do with how the document dealt with religious matters. It reordered and streamlined the religion provisions in the Declaration of Rights and added some new restrictions on the way in which government entities and religious entities were permitted to interact. Where the 1865 Constitution stated that “no preference can ever be given, by law, to any church, sect, or mode of worship,”¹⁵⁴ the 1875 Constitution offered a much more specific limitation: “No money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion, or any form of religious faith or worship.”¹⁵⁵ Similarly, the article dealing with education specified that no government authority could “make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university or other institution of learning controlled by any religious creed, church or sectarian denomination whatever,” neither could there be “any grant or donation of personal property or real estate... for any religious creed, church or sectarian purpose whatever.”¹⁵⁶ The constitutional deck was not completely stacked against religious interests, however, as is evidenced by the provision allowing properties used exclusively for religious worship to be exempted from taxation.¹⁵⁷ Additionally, the article addressing the Militia allowed that “no person who is religiously scrupulous of bearing arms can be compelled to do so, but may be compelled to pay an equivalent for military service, in such manner as shall be prescribed by law.”¹⁵⁸

The framers of the 1875 Constitution introduced a new article dedicated to Counties, Cities, and Towns. The article included several provisions that had previously been allocated to different

¹⁴⁸ 1875 Const. Art. VI, § 5.

¹⁴⁹ 1875 Const. Art. VI, § 4.

¹⁵⁰ 1875 Const. Art. VI, § 9; Art. VI, § 10.

¹⁵¹ 1865 Const. Art. VI, § 12.

¹⁵² 1875 Const. Art. VI, §13; Art. VI, § 42.

¹⁵³ 1875 Const. Art. VI, § 41.

¹⁵⁴ 1865 Const. Art. I, § 11.

¹⁵⁵ 1875 Const. Art. II, § 7.

¹⁵⁶ 1875 Const. Art. XI, § 11.

¹⁵⁷ 1875 Const. Art. X, § 6.

¹⁵⁸ 1875 Const. Art. XIII, § 1.

parts of previous constitutions, but it also included some important new elements. The most notable of these were the establishment of procedures through which cities with more than one hundred thousand residents (essentially, St. Louis and Kansas City) could adopt charters that would allow them a measure of autonomy in structuring and operating their local governments—although it should be noted that adopting a city charter would not prevent the General Assembly from exerting control over the municipalities.¹⁵⁹ Importantly, this article also provided explicit authority for the city of St. Louis to expand its municipal boundaries and to become independent of St. Louis County,¹⁶⁰ authority which the city exercised in short order.

The other new article in this constitution was dedicated to matters of taxation. Several of the provisions included in this article were carried over from earlier constitutions, but a number debuted in this document. In particular, the 1875 Constitution provided that the General Assembly could not “surrender or suspend” the power to tax corporations,¹⁶¹ it loosened the circumstances under which certain types of property could be exempted from taxation,¹⁶² it established procedures to govern the valuation of property and limits on rates of taxation for specified purposes,¹⁶³ prevented the taking or sale of private property for the payment of municipal debts,¹⁶⁴ and specified how the state treasury should be managed.¹⁶⁵

The 1875 Convention made several changes to the Education article. As noted above, the 1865 Constitution had specifically required that the distribution of public school funds should be made without regard to the color of the students on whose behalf the distribution was being made. The new constitution omitted this requirement.¹⁶⁶ In regard to the Board of Education first established in the 1865 Constitution, the 1875 document added the Governor as an ex officio member.¹⁶⁷ In the meantime, the new constitution also called for the creation of a Board of Curators for “the government of the state university.” This nine-member board would be appointed by the Governor with the advice and consent of the Senate.¹⁶⁸ The framers also specified that public funds generated from a variety of sources must be funneled into the public school fund,¹⁶⁹ and into county public school funds,¹⁷⁰ and that the state government was not permitted to allocate less than twenty-five percent of the state’s revenues “to be applied annually to the support of the public schools.”¹⁷¹

While the 1865 Constitution had included a brief article addressing Banks and Corporations,¹⁷² the equivalent article in the 1875 document had a markedly different tenor and was far more extensive. The 1875 Convention limited the General Assembly’s power to create or specially favor

¹⁵⁹ See Loeb, Isidor, “Constitutions and Constitutional Conventions in Missouri,” *Journal of the Missouri Constitutional Convention of 1875, Volume 1*, State Historical Society of Missouri, 1920, pp. 33-34. This was made explicit regarding St. Louis city and county, despite the exceptions made for these municipalities in so many regards. 1875 Const. Art. IX, § 25.

¹⁶⁰ 1875 Const. Art. IX, § 20.

¹⁶¹ 1875 Const. Art. X, § 2.

¹⁶² 1875 Const. Art. X, § 6.

¹⁶³ 1875 Const. Art. X, §§ 8, 11.

¹⁶⁴ 1875 Const. Art. X, § 13.

¹⁶⁵ 1875 Const. Art. X, §§ 15, 16, 19.

¹⁶⁶ Compare 1865 Const. Art. IX, § 2, with 1875 Const. Art. XI, § 3.

¹⁶⁷ 1875 Const. Art. XI, § 4.

¹⁶⁸ 1875 Const. Art. XI, § 5.

¹⁶⁹ 1875 Const. Art. XI, § 6.

¹⁷⁰ 1875 Const. Art. XI, § 8.

¹⁷¹ 1875 Const. Art. XI, § 7.

¹⁷² 1865 Const. Art. VII.

corporations,¹⁷³ and it also clarified the authority of the government over Missouri’s corporations, stating that they could not be exempted from application of police powers¹⁷⁴ or eminent domain.¹⁷⁵ The remainder of the article imposed various restrictions on the structure and operation of all corporations, but particularly railroads and banks. Under these provisions the state government effectively assumed control of all railroads within the state, among other regulations¹⁷⁶ declaring railways to be “public highways” and requiring the government to set “reasonable maximum rates of charges for the transportation of passengers and freight on said railroads.”¹⁷⁷

All in all, the 1875 Constitution evidenced a desire on the part of Missouri’s citizens to sharply restrict the authority of government officials of almost all types, reserving to the people themselves the opportunity to manage the direction of policy.¹⁷⁸ The Convention even considered a provision that would have explicitly denied the legislature any authority not expressly granted by the constitution. Since most courts start from the assumption that state governments have any authority not *denied* them by a constitution,¹⁷⁹ this would have been a highly unusual approach. Nevertheless, the framers of this document went out of their way to impose very strict controls on government actors.

The Modern Age and the 1945 Constitution

The 1875 Constitution served Missouri well for seventy years, although it endured a steady stream of amendments. All in all, the 1875 Constitution saw seventy amendments made prior to its wholesale replacement in 1945.¹⁸⁰ One amendment made in 1920 dictated that every twenty years electors of the state should vote on the question of whether to call “a convention to revise and amend the Constitution.”¹⁸¹ Although a constitutional convention was called in 1922, it did not result in the adoption of a new document. By 1942, however, the state’s voters had decided that a significant revision was in order.

The political climate at the time was radically different from that of the 1875 constitutional convention. In the intervening years Missouri had become more urban and more industrialized. Citizens had endured the Great Depression and had seen the court battles over and the eventual implementation of President Franklin Roosevelt’s New Deal programs, which followed a dramatic shift in the way the U.S. Supreme Court understood and applied constitutional principles. Faith in

¹⁷³ 1875 Const. Art. XII, §§ 1, 2, 3, 19, 23.

¹⁷⁴ 1875 Const. Art. XII, § 4.

¹⁷⁵ 1875 Const. Art. XII, § 5.

¹⁷⁶ For example, the article mandated certain pricing guidelines, Article XII, section 12, cooperation with competitors, Article XII, section 13, 23, and aspects of corporate governance, Article XII, sections 15, 17, 18, and 22.

¹⁷⁷ 1875 Const. Art. XII, § 14.

¹⁷⁸ Korasick, John, “A Bridge to the Future: The 1945 Constitution and the Modernization of Missouri,” *Official Manual State of Missouri 2005-2006*, Missouri Secretary of State, 2006, p. Also, Isidor Loeb points to speeches and examples of grossly mismanaged public finances and states that “members of the Constitutional Convention had personal experience with these conditions and their constituents were demanding relief and safeguards for the future.” Loeb, Isidor, “Constitutions and Constitutional Conventions in Missouri,” *Journal of the Missouri Constitutional Convention of 1875, Volume 1*, State Historical Society of Missouri, 1920, p. 27.

¹⁷⁹ “Upon principle and authority the rule is settled that acts of the legislature are to be presumed constitutional until the contrary is clearly shown... no court [is] authorized to declare an act of the legislature void, without being able to point out some specific clause of the Constitution to which it is repugnant.” *County Court of St. Louis County v. Griswold*, 58 Mo. 175, 192 (1874).

¹⁸⁰ Faust, Martin L., *Constitution Making in Missouri: The Convention of 1943-44*, National Municipal League, 1971, p. 3.

¹⁸¹ 1875 Const. Art. XV, § 3, as amended November 2, 1920.

governmental ability to improve society was at a high point, and concern about individual liberty – particularly as it pertained to private property rights – was at a relatively low point. These factors would be much evidenced by the constitution that resulted in 1945.

The 1943-44 Convention

In contrast to the selection of delegates to earlier constitutional conventions where a majority vote of the state’s citizens selected the delegates without regard to party affiliation,¹⁸² the special elections held on April 6, 1943, called for the selection of one Democrat and one Republican from each of the state’s 34 senatorial districts. On top of this mandatory bipartisanship, the local parties’ senatorial district committees were permitted to dictate the process by which nominations would be made. As a result, nearly two-thirds of the 68 delegates chosen from the senatorial districts were hand-picked by the committees themselves rather than selected by the party members of those districts. Furthermore, the additional 15 “at-large” delegates – seven Republicans, seven Democrats, and one anti-New Deal Democrat – were later chosen by an agreement hammered out between leaders of each party.¹⁸³

The 1943 Convention boasted a number of prominent Missouri citizens, including a former governor, two former congressmen, a former mayor of St. Louis, 24 former state legislators, and eight former judges.¹⁸⁴ Among the 83 delegates were 41 lawyers, seven farmers, six newspaper publishers and editors, five insurance agents, four college professors, three realtors, two labor officials, two salesmen, two housewives, a banker, a manufacturer, a civil engineer, a contractor, a title abstractor, and a funeral director.¹⁸⁵ The Convention first assembled in Jefferson City on September 21, 1943, and it did not finally adjourn until September 29, 1944. On February 27, 1945, at a special election held specifically to address the question of ratifying the new constitution, about 63 percent of the voters were in favor of ratification, although it is worth noting that only about twenty percent of registered voters cast a ballot on this issue.

Arrangement and Content

One of the primary aims of the 1943 convention was to streamline and improve the arrangement of the constitution. With the addition of scores of amendments, the 1875 Constitution had by the early 1940s reached the gargantuan length of 37,000 words and many of the amendments were ill-fitted to the articles in which they were found. The 1943 convention engaged in a thorough revision of the constitution, rearranging and consolidating dozens of provisions while also eliminating a number that were archaic and unnecessary. The end result was a document with a more intuitive arrangement that had also been “slimmed” to 26,000 words,¹⁸⁶ distributed over

¹⁸² It should be noted that the 1922-23 convention also ensured that its delegates were evenly divided between and designated by representatives of the two major parties. The convention consisted of “two delegates from each of the 34 senatorial districts and 15 delegates elected at large. ...[T]he amendment restricted each party to the nomination of one candidate for delegate in each senatorial district. The state committees of the two major political parties agreed also to the nomination by each of seven candidates for delegates-at-large, and jointly nominated a candidate for the fifteenth delegate-at-large, so that the convention was bipartisan in its membership.” Loeb, Isidor, “The Missouri Constitutional Convention,” *The American Political Science Review*, Vol. 18, No. 1, Feb. 1924, p. 18.

¹⁸³ Karsch, Robert F., *The Government of Missouri*, Lucas Bros. Publishers, 1961, p. 3.

¹⁸⁴ Faust, Martin L., *Constitution Making in Missouri: The Convention of 1943-44*, National Municipal League, 1971, p. 15.

¹⁸⁵ Faust, Martin L., *Constitution Making in Missouri: The Convention of 1943-44*, National Municipal League, 1971, p. 15.

¹⁸⁶ Note that this is *still* 2,000 words longer than the unamended draft of the 1875 Constitution.

twelve articles rather than the previous fifteen.¹⁸⁷

The twelve articles of the 1945 Constitution are as follows: Article I – Bill of Rights; Article II – Distribution of Powers; Article III – Legislative Department; Article IV – Executive Department; Article V – Judicial Department; Article VI – Local Government; Article VII – Public Officers; Article VIII – Suffrage and Elections; Article IX – Education; Article X – Taxation; Article XI – Corporations; Article XII – Amending the Constitution. The new document carried over from the 1875 Constitution the practice of splitting some Articles into subdivisions which addressed narrower aspects of the article’s broader subject matter. The article on the Legislative Department, for example, retained the 1875 Constitution’s sub-articles on Representation and Apportionment, Legislative Proceedings, and Limitation on Legislative Power, as well as the division of the article on Corporations into a section addressing Railroads and another concerning Banks. The 1945 Constitution also went further in this regard, breaking the article on the Executive Department into segments on Revenue, Highways, Agriculture, Public Health and Welfare, and Conservation, and dividing the article on Local Government into sections on Special Charters, Finances, City and County of St. Louis, and City of St. Louis.

The emphasis on creating a more intuitive organizational structure for the 1945 Constitution went far beyond these articles’ subheadings. The convention eliminated dozens of redundant or archaic provisions, and worked to consolidate and reorder those remaining into a logical progression.

The restructuring began with the Bill of Rights, which was returned to Article I after having been bumped to Article II in the 1875 Constitution. The 1943 Convention tried to group related provisions together. As usual, the article began with a set of four sections articulating the basis of all political power and outlining the proper relationship between the people and their governments, local, state, and federal.¹⁸⁸ Sections 5 through 13 can be broadly characterized as protections of personal autonomy, with the first three of these sections specifically addressing the relationship between the people, their governments, and matters of religion. Sections 14 through 22(b) address the relationship between the people and the judicial system, with most pertaining to the rights of citizens suspected of criminal offenses. Sections 23 through 25 focus on ensuring that the people have the means to keep themselves free from oppression. Sections 26 through 28 describe the extent of citizens’ rights to maintain ownership of property – although this constitution greatly lessened the extent of those rights.¹⁸⁹ The final three sections of the Bill of Rights address subjects (a right to bargain collectively,¹⁹⁰ the provision regarding treason,¹⁹¹ and a prohibition against

¹⁸⁷ Karsch, Robert F., *The Government of Missouri*, Lucas Bros. Publishers, 1961, p. 6.

¹⁸⁸ Section two (the main substance of which had been Article II, § 4 in the 1875 Constitution) declares the existence of the great natural rights included in Thomas Jefferson’s Declaration of Independence, including both “the pursuit of happiness,” which had been omitted from the 1875 Constitution, and the right to “the enjoyment of the gains of their own industry,” which had been added in the 1875 Constitution, as well as a new statement to the effect that “that all persons are created equal and are entitled to equal rights and opportunity under the law.” 1945 Const., Art. I, § 2. This provision is followed by the section reserving to the people “the inherent, sole and exclusive right” to shape the state’s government and change the state’s constitution, 1945 Const. Art. I, § 3, and a streamlined version of the section declaring Missouri an independent state, “subject only to the Constitution of the United States.” 1945 Const. Art. I, § 4.

¹⁸⁹ Article I, § 27 was entirely new and permitted the condemnation of property “in excess of that actually to be occupied by [a] public improvement or used in connection therewith[.]” Under this new provision, this excess property may be sold to new private owners.

¹⁹⁰ 1945 Const. Art. I, § 29.

¹⁹¹ 1945 Const. Art. I, § 30.

unelected officials making rules that impose fines or imprisonment if violated)¹⁹² that the convention did not think fit neatly into any of the previous categories. Five provisions from the 1875 Bill of Rights were omitted from the 1945 version.¹⁹³

Article III, which again addressed the Legislative Branch, saw a more extensive revision. Several sections from the 1875 Constitution were streamlined and/or combined with other provisions, and the convention moved into Article III several existing provisions related to the legislature that had previously been located elsewhere in the constitution.¹⁹⁴ Bucking the trend toward consolidation, however, the convention split the provision dealing with the citizens' initiative and referendum powers into six sections. The modifications made to these powers included the making of a clear distinction between the two—"initiative" referred to laws or constitutional amendments proposed by the people, "referendum" entailed a popular vote called to either approve or disapprove of a law passed by the General Assembly—and slight modifications as to both the number of signatures necessary before an issue would be placed on the ballot and the subject matter permitted to be addressed in an initiative.¹⁹⁵ There were also a number of provisions added to this article that were either entirely new or superseded previous sections dealing with similar subjects.¹⁹⁶ Most notable among these changes was the establishment of the

¹⁹² 1945 Const. Art. I, § 31.

¹⁹³ See 1875 Const. Art. II, § 8 (restricting the creation of religious corporations); Art. II, § 18 (requiring public officers to attend personally to their duties); Art. II, § 19 (requiring government workers responsible for public funds to make a full accounting of the funds in their care before they may be eligible for another office); Art. II, s. 31 (prohibiting involuntary servitude except after conviction for a crime); and Art. II, s. 32 (noting that the people retain rights not enumerated by the Constitution).

¹⁹⁴ 1945 Const. Art. III, § 10 is a combination of parts of 1875 Const. Art. IV, §§ 2, 5, 7, and 9; 1945 Const. Art. III, § 19 had previously been 1875 Const. Art. XIV, § 12; 1945 Const. Art. III, § 20 is a combination of 1875 Const. Art. IV, §§ 18-20, 23; 1945 Const. Art. III, § 21 is a combination of 1875 Const. Art. IV, §§ 24-26; 1945 Const. Art. III, § 24 is a combination of 1875 Const. Art. IV, §§ 27 and 30; 1945 Const. Art. III, § 27 is a combination of 1875 Const. Art. IV, §§ 31-32; 1945 Const. Art. III, § 28 is a combination of 1875 Const. Art. IV, §§ 33-34; 1945 Const. Art. III, § 30 is a combination of parts of 1875 Const. Art. IV, §§ 37-38; 1945 Const. Art. III, § 31 is a combination of 1875 Const. Art. IV, § 38 and 1875 Const. Art. V, § 12; 1945 Const. Art. III, § 38(a) is a combination (and revision) of 1875 Const. Art. IV, §§ 45-46 and part of § 47; 1945 Const. Art. III, § 39 is a combination (and revision) of 1875 Const. Art. IV, §§ 45, 48, 51, 52, 55, 56, and 1875 Const. Art. XIV, § 10; 1945 Const. Art. III, § 40, which is composed of many subdivisions, saw those subdivisions re-ordered and the elimination of provisions which had forbidden special laws "exempting property from taxation," 1875 Const. Art. IV, § 53(23), and "creating corporations, or amending, renewing, extending and explaining the charter thereof," 1875 Const. Art. IV, § 53(25); 1945 Const. Art. III, § 43, had previously been 1875 Const. Art. XIV, § 1; and 1945 Const. Art. III, § 46, had previously been 1875 Const. Art. XIII, § 2.

¹⁹⁵ Initiatives were formally bound by the same "single subject" rule applicable to laws passed by the General Assembly, 1945 Const. Art. III, § 50, and they were not permitted either to appropriate funds (unless the initiative itself created the source of funds to be appropriated) or to exercise legislative authority otherwise denied to the General Assembly by some part of the Constitution. 1945 Const. Art. III, § 51.

¹⁹⁶ See 1945 Const. Art. III, § 7 (establishing and stating guidelines for Senatorial Apportionment Commission); 1945 Const. Art. III, § 22 (introducing new procedures regarding bills referred to committees); 1945 Const. Art. III, § 25 (imposing a limit on the subject matter of bills introduced "after the sixtieth legislative day of any regular session"); 1945 Const. Art. III, § 35 (establishing constitutional basis for permanent joint committee on legislative research); 1945 Const. Art. III, § 44 (requiring rates of interest fixed by law to be applicable "to all lenders without regard to the type or classification of their business"); 1945 Const. Art. III, § 45 (tasking the General Assembly with the shaping of congressional districts "composed of contiguous territory as compact and as nearly equal in population as may be"); 1945 Const. Art. III, § 47 (creating and providing for the management of a State Park Fund); 1945 Const. Art. III, § 48 (granting the General Assembly broad powers "to preserve and perpetuate memorials of the history of the state... and to preserve places of historic or archaeological interest or scenic beauty"); 1945 Const. Art. III, §§ 49-53 (discussed above).

Senatorial Apportionment Commission, the ten members of which would be appointed by the governor from lists submitted by “the two political parties casting the highest vote for governor at the last preceding election” and whose responsibility it would be to agree upon the boundaries of senatorial districts. If no reapportionment plan could secure the vote of seven of the ten commissioners within the appropriate time constraints, the senate seats due to be contested in the next election would be filled by candidates “elected from the state at large” and a new Apportionment Commission would be appointed.¹⁹⁷ All in all, the changes that the 1945 Constitution made regarding the Legislative branch—slightly broadening the General Assembly’s authority to grant state funds to private parties and to make special or local laws—suggest greater trust in that branch than was shown in the previous constitution.

The article concerning the Executive Branch saw extensive modifications, most notable of which was the addition to several subdivisions dictating the operation of certain executive departments. While little changed about the general responsibilities assigned to the Governor and Lieutenant Governor, the 1945 Constitution broadened the executive department itself to include the usual elected officials (minus the Superintendent of Public Schools)¹⁹⁸ and “a department of revenue, department of education, department of highways, department of conservation, department of agriculture and such additional departments, not exceeding five in number, as may hereafter be established by law.”¹⁹⁹ The Governor was given the responsibility to appoint “the heads of all the executive departments... by and with the advice and consent of the senate.”²⁰⁰ Administrative agencies were authorized to promulgate rules and regulations,²⁰¹ but any of these “affecting private rights” were subject to judicial review²⁰² and (as mentioned above) agencies were not permitted to impose fines or imprisonment as punishment for violation of their rules.²⁰³

The 1943 Convention attempted to more clearly define the roles of the other executive officers. The state auditor was made responsible for establishing accounting systems for all public officials and political subdivisions of the state, auditing all state agencies and auditing the treasury “at least once annually.”²⁰⁴ The auditor was also to make an annual report to the governor and General Assembly, and could not be burdened with any duty “not related to the supervising and auditing of the receipt and expenditure of public funds.”²⁰⁵ The secretary of state was declared the custodian of the state’s public records and documents and was tasked with overseeing the state’s elections and corporations.²⁰⁶ The state treasurer was made custodian of all state funds and, together with the governor and state auditor, was to choose banking institutions into which to deposit those funds.²⁰⁷ The head of each executive department²⁰⁸ was given authority to “select and remove all appointees in the department except as otherwise provided in [the] Constitution, or by law,” but

¹⁹⁷ 1945 Const. Art. III, § 7.

¹⁹⁸ The convention transformed the position formerly called Superintendent of Public Schools into the commissioner of education, who would be selected by and chief administrative officer of the State Board of Education. 1945 Const. Art. IX, § 2(b).

¹⁹⁹ 1945 Const. Art. IV, § 12.

²⁰⁰ 1945 Const. Art. IV, § 17.

²⁰¹ 1945 Const. Art. IV, § 16.

²⁰² 1945 Const. Art. IV, § 45.

²⁰³ 1945 Const. Art. I, § 31.

²⁰⁴ 1945 Const. Art. IV, §13.

²⁰⁵ 1945 Const. Art. IV, §13.

²⁰⁶ 1945 Const. Art. IV, § 14.

²⁰⁷ 1945 Const. Art. IV, § 15.

²⁰⁸ All of which were now constitutionally required to be headquartered in Jefferson City. 1945 Const. Art. IV, §20.

those desiring to work in the state's charitable and penal institutions were required to submit to competitive examinations for placement and "preference in examination and appointment" was to be given to "any honorably discharged member of the armed services of the United States who is a citizen of this state and was such on entering the service."²⁰⁹

The Department of Revenue was the first executive department given its own subdivision in Article III. The department was partitioned into "divisions of collection, budget and comptroller, and other divisions as provided by law," each of which had clearly defined responsibilities.²¹⁰ The governor was given thirty days (as opposed to fifteen under the previous constitution) to submit a budget to the General Assembly,²¹¹ and the legislature was not permitted to "pass any appropriation other than emergency appropriations recommended by the governor" until it had acted on "all the appropriations recommended in the budget."²¹² The new constitution also gave the governor new authority over appropriations from the state treasury,²¹³ but also required the comptroller and the state auditor to certify the propriety of payments to be made out of the treasury.²¹⁴

While the people of Missouri had, in 1928, ratified a constitutional amendment providing for a state highway system,²¹⁵ the 1945 Constitution broadened this provision into a six-section subarticle. A bipartisan state highway commission,²¹⁶ most of the details of which were to be "fixed by law", would be broadly responsible for the location, design, construction, and maintenance of state highways.²¹⁷ Additionally, the new constitution made the highway commission responsible for approving the location, relocation, establishment, acquisition, construction, maintenance, and control of public airports and landing fields.²¹⁸ Additional new subsections were added that formalized the creation of the Department of Agriculture,²¹⁹ which had been created by statute in 1939, and the Department of Public Health and Welfare,²²⁰ which was a body newly envisioned by the convention.

The final subsection of the article addressing the Executive Department concerned the powers and responsibilities granted to the Conservation Commission. This commission was first authorized by constitutional amendment in 1936; most of the provisions included at the time of the amendment's adoption were carried over into the 1945 Constitution without alteration. In keeping with the convention's obsession with keeping a great deal of the state's power evenly divided, the four-member, governor-appointed commission was not permitted to have more than two members from the same political party.²²¹ The commission was given wide-ranging authority to manage the natural resources of the state, including the ability to "acquire by purchase, gift,

²⁰⁹ 1945 Const. Art. IV, § 19.

²¹⁰ 1945 Const. Art. IV, § 22.

²¹¹ 1945 Const. Art. IV, § 24.

²¹² 1945 Const. Art. IV, § 25.

²¹³ 1945 Const. Art. IV, § 27.

²¹⁴ 1945 Const. Art. IV, § 28.

²¹⁵ See 1875 Const. Art. IV, § 44a, adopted Nov. 6, 1928.

²¹⁶ 1945 Const. Art. IV, § 29, specifies that "not more than one-half of its members shall be of the same political party."

²¹⁷ 1945 Const. Art. IV, §§ 29-32.

²¹⁸ 1945 Const. Art. IV, § 33.

²¹⁹ 1945 Const. Art. IV, § 35, 36.

²²⁰ 1945 Const. Art. IV, § 37-39.

²²¹ 1945 Const. Art. IV, § 40(a).

eminent domain, or otherwise, all property necessary, useful, or convenient for its purposes[.]”²²² The commission was also given a dedicated fund into which would be deposited all “fees, moneys, or funds” collected in connection with the enforcement of laws and regulations within the commission’s general realm of responsibility, and this fund could not be used for any purpose other than the furthering of the commission’s efforts.²²³

Article V of the 1945 Constitution, dealing with the Judicial Department, represented one of the most significant changes the new document made to the existing structure of Missouri’s government, although the alterations also represented just one more link in a lengthy chain of constitutional adjustments of the state’s judiciary. Less than a decade after the 1875 Constitution was ratified, Missouri voters approved an eleven-section amendment that created a Kansas City Court of Appeals and permitted the legislature to create similar additional courts as it deemed advisable.²²⁴ Only six years later, in 1890, another amendment consisting of six sections was ratified, which expanded the number of judges on the Missouri Supreme Court from five to seven and also permitted the Supreme Court to sit in separate divisions. In 1940, voters adopted the Missouri Plan of judicial selection, which pioneered the inclusion of nonpartisan judicial selection commissions in the process of appointing certain judges.²²⁵

The Constitution of 1945 carried over the substance of many of these reforms, but streamlined them and also introduced some new elements to the state’s judiciary. Whereas the 1875 Constitution included forty-four sections regarding the Judicial Branch of government, the convention in 1945 condensed this number to twenty-nine—although it is worth noting that section 29 contained eight separate subsections. The newer aspects of the judiciary (i.e., those not derived from earlier constitutional provisions) included: 1) Supreme Court authority to set rules of practice and procedure for all courts;²²⁶ 2) Supreme Court authority to temporarily reassign judicial personnel “from one court to another as the administration of justice requires”;²²⁷ 3) discretion of appellate courts to hear cases *en banc* or to divide themselves into panels of no fewer than three judges;²²⁸ 4) Supreme and appellate courts’ authority to elect a chief justice or presiding judge from among their number, to serve a term of four years;²²⁹ 4) replacement of “justices of the peace” with a system of county magistrate courts;²³⁰ 5) judicial review of determinations made by administrative agencies;²³¹ and 6) establishment of subdivisions of circuit courts dedicated to

²²² 1945 Const. Art. IV, § 41.

²²³ 1945 Const. Art. IV, § 43.

²²⁴ See Amendment of 1884, adopted November 4, 1884.

²²⁵ The appellate judicial commission would be composed of seven members, including the Chief Justice of the Missouri Supreme Court, an attorney representative from each of the state’s three court of appeals districts to be elected by the members of the Missouri Bar residing in those districts, and a governor-appointed representative *not* a member of the Missouri Bar from each of the state’s court of appeals districts. Certain judicial circuits also adopted similar commissions, comprising five members each: the presiding judge of the district court of appeals, two attorney representatives elected by the members of the Missouri Bar residing in that circuit, and two governor-appointed representatives *not* members of the Missouri Bar. The Missouri Supreme Court was authorized to establish the terms to be served by commission members and to oversee the requisite elections. Mo. Const. Art. V, § 29(d).

²²⁶ 1945 Const. Art. V, § 5.

²²⁷ 1945 Const. Art. V, § 6.

²²⁸ 1945 Const. Art. V, § 7.

²²⁹ 1945 Const. Art. V, § 8. (Although the 1890 amendment gave the Supreme Court authority to elect its Chief Justice, the appellate courts had no similar power prior to the 1945 Constitution.)

²³⁰ 1945 Const. Art. V, §§ 18-21.

²³¹ 1945 Const. Art. V, § 22.

juvenile and domestic relations matters.²³²

The 1943 Convention also made some significant changes to the powers afforded to local government units. While the Constitution of 1875 had allowed cities to be grouped together in up to four classifications, the new constitution empowered the General Assembly to establish similar classifications for counties, and to make uniform the powers available to political units in each classification.²³³ The convention also provided constitutional rules to govern the consolidation of counties,²³⁴ the dissolution and annexation of counties,²³⁵ alternative forms of county government,²³⁶ and cooperation of up to ten counties in the provision of services or the construction and maintenance of public facilities.²³⁷ Counties with “more than 85,000 inhabitants” were also given the opportunity to adopt a charter form of government similar to that previously offered to cities.²³⁸

The convention made a few changes to provisions affecting cities and public officials as well. One of the most momentous changes was reducing population threshold at which cities were permitted to adopt a charter form of government from 100,000 to 10,000.²³⁹ A new section stripped the General Assembly of its authority to enact laws “creating or fixing the powers, duties or compensation of any municipal office or employment” within charter cities, providing that any “offices or employments so created shall cease at the end of the terms of any present incumbents.”²⁴⁰ Other new sections addressed local financial matters, such as a requirement that all “counties, cities, other legal subdivisions of the state, and public utilities owned and operated by such subdivisions” to “have an annual budget, file annual reports of their financial transactions, and be audited”;²⁴¹ permission for cities to take on greater debt with the approval of two-thirds of the voters;²⁴² authorization for certain political subdivisions to issue revenue bonds upon the approval of four-sevenths of the voters,²⁴³ and creating rules governing the refunding of those bonds.²⁴⁴ The convention also added a requirement that most public officers must be salaried,²⁴⁵ particularly those involved in “the investigation, arrest, prosecution, custody, care, feeding, commitment, or transportation of persons accused of or convicted of a criminal offence.”²⁴⁶ The city of St. Louis also received special recognition that it would function both as a city and a county “with the powers, organization, rights and privileges permitted by this Constitution or by law.”²⁴⁷

One of the most dramatic and consequential changes to Article VI in the 1945 Constitution was the addition of a provision that allowed the adoption of laws or ordinances “providing for the clearance, replanning, reconstruction, redevelopment and rehabilitation of blighted, substandard

²³² 1945 Const. Art. V, § 28.

²³³ 1945 Const. Art. VI, § 8.

²³⁴ 1945 Const. Art. VI, § 3.

²³⁵ 1945 Const. Art. VI, § 5.

²³⁶ 1945 Const. Art. VI, § 9.

²³⁷ 1945 Const. Art. VI, § 14.

²³⁸ 1945 Const. Art. VI, §§ 18(a)-18(l).

²³⁹ 1945 Const. Art. VI, § 19.

²⁴⁰ 1945 Const. Art. VI, § 22.

²⁴¹ 1945 Const. Art. VI, § 24.

²⁴² 1945 Const. Art. VI, § 26(d).

²⁴³ 1945 Const. Art. VI, § 27.

²⁴⁴ 1945 Const. Art. VI, § 28.

²⁴⁵ 1945 Const. Art. VI, § 12.

²⁴⁶ 1945 Const. Art. VI, § 13.

²⁴⁷ 1945 Const. Art. VI, § 31.

or insanitary areas... and for taking or permitting the taking, by eminent domain, of property for such purposes.”²⁴⁸ Suggested by representatives from Kansas City, the intent of this provision was to remove any doubt that cities were permitted not only to demolish properties that officials deemed to be threats to the health, safety, or well-being of the community, but also to put the real estate in the hands of owners that the government believed would use the property more responsibly. In short, this provision grafted the power of eminent domain onto Missouri governments’ police power, and allowing it to be applied to entire areas that the government deemed in need of “clearance, replanning, reconstruction, redevelopment, and rehabilitation,” rather than just against specific problem properties.

The convention made a couple of significant adjustments to the article dealing with education. The new constitution entitled citizens up to the age of twenty-one to participate in the public school system²⁴⁹ and it permitted the provision of adult education as long as the funds were not drawn from the designated school funds.²⁵⁰ The convention thoroughly reordered the state board of education, removing the four-member board of elected executive officials and replacing it with an eight-member bipartisan²⁵¹ board whose members would be appointed by the governor and confirmed by the state senate.²⁵² The board was given responsibility for electing a commissioner of education, appointing his chosen staff, and fixing the duties and compensation for each.²⁵³ The convention also took some small steps to address issues of race and education in that it authorized (although it did not require) the General Assembly to provide for desegregated schools,²⁵⁴ and it effectively required school districts to offer teachers of equal training and experience the same compensation, regardless of their race or color.²⁵⁵

The convention also modified the education article’s funding provisions dramatically. The 1945 Constitution divided the public school fund so that the state’s university system would now draw from a separate source of revenue, to be called the “Seminary Fund.”²⁵⁶ The provision addressing county and township school funds had been amended by the voters in 1944 to account for additional streams of funding and to give the General Assembly the discretion to invest those funds as seemed prudent.²⁵⁷ The version advanced by the 1943 convention, however, mandated the liquidation of “all real estate, loans, and investments... belonging to the various county and township school funds”, and for their investment in “registered bonds of the United States, or in bonds of the state or in approved bonds of any city or school district thereof, or in bonds or other securities the payment of which are fully guaranteed by the United States.”²⁵⁸ In one last addition to this article, the convention included a declaration that the state’s official policy would be “to promote the establishment and development of free public libraries”, although the implementation of this policy was left to the discretion of the General Assembly and local governments.²⁵⁹

²⁴⁸ 1945 Const. Art. VI, § 21.

²⁴⁹ 1945 Const. Art. IX, § 1(a).

²⁵⁰ 1945 Const. Art. IX, § 1(b).

²⁵¹ No more than four of the members may be “of the same political party.”

²⁵² 1945 Const. Art. IX, § 2(a).

²⁵³ 1945 Const. Art. IX, § 2(b).

²⁵⁴ 1945 Const. Art. IX, § 1(a).

²⁵⁵ 1945 Const. Art. IX, § 3(c).

²⁵⁶ 1945 Const. Art. IX, § 6.

²⁵⁷ See 1875 Const., Art. IX, § 8, as amended on Nov. 7, 1944.

²⁵⁸ 1945 Const. Art. IX, § 7.

²⁵⁹ 1945 Const. Art. IX, § 10.

The final major endeavor of the 1943 Convention was a significant modification of the state's system of taxation. The article dealing with taxation introduced nine new sections as well as a few other significant changes to existing provisions. Article X, section 4(a), divided all taxable property into three classes: 1) real property, 2) tangible personal property, and 3) intangible personal property. These distinctions were "based solely on the nature and characteristics of the property, and not on the nature, residence or business of the owner, or the amount owed." The section explicitly reserves to the legislature the authority to tax "franchises, privileges or incomes, ...excise or motor vehicle taxes, or any other taxes of the same or different types." Real property and tangible personal property would be subject to taxation based on its assessed value, at a percentage to be set by the General Assembly; intangible personal property would be taxed based on the "annual yield" of the property, and at a rate not to exceed eight percent.²⁶⁰ The state government would collect any revenues generated by intangible personal property taxes, keeping two percent for its own uses and distributing the rest back to the local jurisdictions within which the taxpayer lived.²⁶¹ The new constitution clarified that while the General Assembly was permitted to exempt from taxation all property used for religious, educational, or "purely charitable" purposes, it could only do so if the property was "not held for private or corporate profit."²⁶² Property "devoted exclusively" to forestry or the "reconstruction, redevelopment and rehabilitation of obsolete, decadent or blighted areas" could be exempted from taxation or afforded a reduced level of taxation for a period of time "not exceeding twenty-five years in any instance."²⁶³ While the convention in some ways expanded the taxing powers of the state and local governments,²⁶⁴ it also introduced new limitations on local governments' ability to tax,²⁶⁵ most notably by requiring any increase in taxes to be approved by "two-thirds of the qualified electors voting thereon."²⁶⁶ The new constitution also called for a commission whose purpose was "to equalize assessments as between counties" and "to correct any assessment which is shown to be unlawful, unfair, arbitrary or capricious."²⁶⁷

Taken as a whole, the 1945 Constitution represented a dramatic shift from the 1875 Constitution in terms of the authority the electorate was willing to grant to the state government. Perhaps reflective of the recent "Progressive Era" in American politics, the people of Missouri were clearly more open to delegating governmental power to bureaucratic state agencies and commissions whose personnel might not be directly accountable to the voters. The new constitution also frequently provided a mere skeleton of policy onto which the General Assembly was given the discretion to add substance, a sign that the convention (and the voters who ratified the document) were more comfortable with the competence and good intentions of their legislators

²⁶⁰ 1945 Const. Art. X, § 4(b).

²⁶¹ 1945 Const. Art. X, § 4(c).

²⁶² 1945 Const. Art. X, § 6.

²⁶³ 1945 Const. Art. X, § 7.

²⁶⁴ See 1945 Const. Art. X, §§ 4(c); 10(a) & 10(b) (empowering the General Assembly to divert state taxes to local purposes); 11(f) (authorizing the General Assembly to permit political subdivisions "to levy taxes other than ad valorem taxes" for "essential purposes").

²⁶⁵ See 1945 Const. Art. X, §§ 8 (reducing the maximum permissible property tax rate from twenty to ten percent); 13 (forbidding the sale of real property "for state, county or city taxes without judicial proceedings, unless the notice of sale shall contain the names of all record owners thereof, or the names of all owners appearing on the land tax book, and all other information required by law").

²⁶⁶ 1945 Const. Art. X, § 11(c). The two-thirds vote requirement had previously been introduced in a 1942 constitutional amendment related to special taxes levied by school districts. See 1875 Const. Art. X, § 27 as amended Nov. 3, 1942.

²⁶⁷ 1945 Const. Art. X, § 14.

than were the people who drafted and ratified the 1875 Constitution. This is also reflected in the greater autonomy that the 1945 Constitution offered local governments in regard to adopting their own charters and managing their affairs.

Conclusion

This overview of Missouri's constitutions has traced some dramatic shifts in the demands that this state's citizens have made of its foundational law. Unlike states such as Tennessee, the post-Civil War constitution of which has seen astonishingly little change since its adoption in 1870,²⁶⁸ one of the consistent themes throughout Missouri's history has been dissatisfaction with the state's constitutional status quo, a belief that we could and should craft better governmental institutions and/or more prudent limitations on the powers of those institutions. Missourians have demanded that their constitution change to meet the perceived needs of a changing society, although these alterations have sometimes later been found to be unwise.

Fortunately, our constitutional paradigm ensures citizens of the opportunity to continue in the work of creating a more perfect system of government. We can learn from the constitutional experiments not only in this state's history but also in the history of other states, so that when the next constitutional convention comes around we will be prepared to apply those lessons and, hopefully, to improve upon our foundational document by incorporating the best of what our predecessors understood about the importance of liberty and individual responsibility.

²⁶⁸ The Tennessee Constitution of 1870 has been amended only 32 times, "the fewest number of amendments for any state constitution in effect for such a long period of time." Maddex, Robert L., *State Constitutions of the United States*, Congressional Quarterly, Inc., 1998, p. 373.