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Illinoisans said yes!

On the evening of Dec. 15, 1970 — 40 years ago today — a large group gathered in Chicago's Sheraton Hotel to learn whether the voters of Illinois would adopt a new constitution. I was there, along with many members and staffers of the Sixth Illinois Constitutional Convention, political workers, friends and relatives.

We knew that voters in downstate Illinois were skeptical about the proposed new constitution. Would the "Yes" votes from Chicago and the suburbs carry the day?

A year earlier, on Dec. 8, 1969, the 116 delegates first met and were sworn in amid much ceremony and media attention. For the most part, these delegates hoped to succeed in forging a modern constitution to replace Illinois' century-old "horse and buggy" constitution. Not everyone in Illinois was so sure. Many did not want a new constitution. Change means, well, change.

For the next nine months the delegates and staff labored. The delegates studied, talked, listened, argued and traveled around the state to listen and learn. In the closing days of August, they compromised amid the heat of argument and parliamentary wrangling — and they pulled together the constitution they would propose to the voters.

On Sept. 3, 1970, they gathered for the Closing Day Ceremonies in the Hall of Representatives of the Old State Capitol. Mahalia Jackson sang. Secretary of State Paul Powell, reminding us that we were living in a turbulent time, quoted Dickens: "It was the best of times, it was the worst of times ..." Gov. Richard B. Ogilvie praised the proposed constitution. To the applause of staffers, relatives and guests, the delegates signed the document carrying the fruit of their labors with a quill pen.

The challenge then was to win endorsements and votes. With a few exceptions, the delegates enthusiastically backed the proposed constitution. They campaigned for ratification all over the state.

Many politicians and organizations became early supporters, urging a "Yes" vote at the Dec. 15, 1970, referendum. Ogilvie, the Republican Party (at least officially), the League of Women Voters of Illinois, the United Auto Workers and the Illinois Agricultural Association announced their support early.

Then a mixed lot of opponents surfaced. Reportedly, the absence of a 5 percent cap on individual income tax rates was drawing a negative reaction in the western suburbs. A suburban taxpayers group, Save our State, condemned the revenue article because it set few restrictions on taxation. Conversely, most of organized labor opposed the revenue article because it contained tax *restrictions*, including the prohibition of a graduated income tax. Moreover, most business organizations were lukewarm.

The Chicago Bar Association initially objected because the possibility of appointing judges through "merit selection" was to be decided as a separate issue and not as part of the main document. It came on board quite late and chiefly in the hope that merit selection would garner the necessary votes. The Chicago Tribune was another holdout, perhaps because it was waiting to see how Chicago's powerful mayor, Richard J. Daley, would weigh in. Everyone knew that his was the deciding vote, as it would move the thousands of precinct workers to get out the vote one way or the other.

Would the mayor, who had been active in Illinois constitutional revision since 1947, pass up the one chance he would ever have to see a new Illinois constitution?

So, when Daley announced his support on the Sunday



Law and Public Issues

By Ann M. Lousin

Professor Ann M. Lousin has been on the faculty of The John Marshall Law School since 1975. Before then, she was a research assistant at the 1969-1970 Illinois constitutional convention and parliamentarian of the Illinois House of Representatives. Her treatise "The Illinois State Constitution: A Reference Guide" was published in December 2009. She can be contacted at 7lousin@jmls.edu.

after Thanksgiving, we cheered. His support held the promise that he would deliver the several hundred thousand votes necessary to overcome southern Illinois' traditional opposition to any constitutional change.

What made him decide to favor the new constitution and why did he delay announcing his decision? After the convention, the Cook County Democratic Party had held public hearings on the pros and cons of the proposed constitution. The mayor attended many of these sessions. He may have made up his mind then, but held back for politically strategic reasons.

Two delegates wrote him a letter pointing out that the proposed constitution was the best he could expect to see in his lifetime. The mayor certainly favored the strong home rule powers for Chicago and even Cook County. One of the delegates was David Stahl, his deputy mayor, and the other was Dawn Clark Netsch, a Democrat independent of the Daley organization. Stahl told me that in 1973 the mayor said that this letter was what finally convinced him he should back the proposed constitution.

So, as the returns rolled in Dec. 15, we began to celebrate. Cook County's two-to-one "yes" vote margin was outpacing downstate's opposition. We had a new constitution!

As years passed, we realized how rare those celebrations would be. After Illinois succeeded in revising its constitution, Montana adopted a new constitution in 1972, and Louisiana in 1974. Georgia adopted new constitutions in 1976 and 1982. When Rhode Island in 1985 held the last convention, the voters refused to ratify change.

A few states are considering holding "con cons." I have received inquiries from several states, most recently from Pennsylvania and California. They call those of us who were participants in the Illinois constitutional convention because our success was rare. They call because they think that the constitution Illinois voters adopted 40 years ago is a remarkably good constitution. They know that the people of most states have said no to new constitutions.

On Dec. 15, 1970, the people of Illinois said yes.

This is the latest of three articles on the Sixth Illinois Constitutional Convention I have written for the Law Bulletin. The others were "Miracle in Springfield," Dec. 8, 2009, and "Taking a look at 'original intent' in 1787 and 1970," March 23, 2010. I thank Delegate Ronald C. Smith, a professor at The John Marshall Law School, for his assistance.