

FILED

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CLERK, SUPREME COURT



**SUPREME COURT OF MISSOURI**  
**en banc**

MERRIE SUZANNE LUTHER, et al., )

Appellants, )

v. )

No. SC101412

DENNY HOSKINS, )

Respondent, )

and, )

MISSOURI STATE REPUBLICAN )  
COMMITTEE, )

Respondent. )

**APPEAL FROM THE CIRCUIT COURT OF COLE COUNTY**

The Honorable Christopher K. Limbaugh, Judge

Merrie Suzanne Luther and three other individuals ("Appellants") appeal the circuit court's judgment declaring House Bill 1 ("HB 1") does not violate article III, section 45 of the Missouri Constitution. HB 1 repealed congressional districts adopted in 2022 and established new congressional districts. The circuit court correctly concluded HB 1 is valid because article III, section 45 obligates the General Assembly to redistrict when the United

States census is certified to the governor but does not otherwise expressly limit the General Assembly's plenary power to legislate congressional districts. The judgment is affirmed.<sup>1</sup>

### **Factual and Procedural Background**

The United States Census Bureau conducted a decennial census in 2020.<sup>2</sup> The census results were certified to the governor in August 2021. As required by article III, section 45, the General Assembly established new congressional districts in 2022, following certification of the census to the governor.

In September 2025, the Missouri General Assembly enacted HB 1. HB 1 repealed the congressional districts established in 2022 and established new congressional districts without the certification of a new census to the governor. The governor signed HB 1 into law.

Appellants filed a declaratory judgment action alleging HB 1 is unconstitutional because article III, section 45 requires the General Assembly to divide the state into congressional districts "[w]hen" the United States decennial census is certified to the governor. Appellants sought a declaration that section 45 limits the General Assembly to a single congressional redistricting following certification of the United States census to the governor. Appellants also sought an injunction preventing the Secretary of State from utilizing the HB 1 congressional districts in any congressional election.<sup>3</sup>

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<sup>1</sup> This Court has jurisdiction because this appeal involves the validity of state statutes. Mo. Const. art. V, § 3.

<sup>2</sup> The United States census is conducted once every 10 years. U.S. Const. art. I, § 2, cl. 3.

<sup>3</sup> The circuit court permitted the Missouri Republican State Conference to intervene in defense of HB 1. Pursuant to Rule 52.12.

The case was tried on stipulated facts. The circuit court entered a judgment against Appellants, declaring HB 1 is a valid exercise of the General Assembly's plenary legislative power to establish congressional districts. This appeal followed.

In their sole point on appeal, Appellants claim HB 1 is invalid because article III, section 45 limits the General Assembly to a single congressional redistricting following certification of the census to the governor. Appellants acknowledge the Missouri Constitution does not expressly prohibit mid-decade congressional redistricting and, instead, argue the "Constitution denies such power by clear implication." The crux of Appellants' argument is that, because article III, section 45 identifies a specific time when the General Assembly shall legislate new congressional districts, the General Assembly cannot redistrict at any other time. Appellants are incorrect.

### **Standard of Review**

When reviewing a declaratory judgment, this Court will affirm the judgment "unless there is no substantial evidence to support it, unless it is against the weight of the evidence, unless it erroneously declares the law, or unless it erroneously applies the law." *Fletcher v. Young*, 689 S.W.3d 161, 164 (Mo. banc 2024) (quotation omitted). Because the facts are stipulated, this Court's review is limited to determining whether the circuit court properly declared and applied the law. *C.S. v. Mo. State Highway Patrol Crim. Just. Info. Serv.*, 716 S.W.3d 264, 266 (Mo. banc 2025). Questions of law involving constitutional interpretation are reviewed *de novo*. *Id.*

Constitutional text is interpreted to effectuate its "plain, ordinary, and natural meaning." *Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.*, 721 S.W.3d 135, 139 (Mo.

banc 2025) (quotation omitted). "The constitutional provision should be considered as a whole, with the primary objectives of the provision in issue in mind." *C.S.*, 716 S.W.3d at 267 (quotation omitted). "Because the rules of statutory interpretation mirror the rules for the interpretation of constitutional provisions, this Court does not utilize canons of construction when the language of a constitutional provision is plain and unambiguous."

*Robust*, 721 S.W.3d at 139.

### Analysis

The analysis of Appellants' claim begins with first principles. The General Assembly is vested with "[t]he legislative power[.]" Mo. Const. art. III, § 1. Unlike the United States Constitution, which grants specific powers to Congress, the Missouri Constitution only limits the General Assembly's plenary legislative power. It follows that "the General Assembly has the power to do whatever is necessary to perform its functions except as expressly restrained by the Constitution." *Liberty Oil Co. v. Dir. of Revenue*, 813 S.W.2d 296, 297 (Mo. banc 1991). Constitutional limitations on the legislative power are "strictly construed in favor of the power of the General Assembly." *Bd. of Educ. of City of St. Louis v. City of St. Louis*, 879 S.W.2d 530, 533 (Mo. banc 1994). This Court will not hold HB 1 unconstitutional "unless it clearly contravenes a constitutional provision." *City of St. Louis v. State*, 682 S.W.3d 387, 396 (Mo. banc 2024) (quotation omitted).

### Article III, section 45

Article III, section 45 is the only provision of the Missouri Constitution directly addressing congressional redistricting. It provides:

*When* the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and *each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts* corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be.

(Emphasis added).

Section 45 requires the General Assembly to legislate congressional districts "when" the decennial federal "census ... is certified to the governor." While section 45 obligates the General Assembly to legislate congressional districts once following certification of the census to the governor, it does not prohibit more frequent congressional redistricting. Strictly construing article III, section 45 "in favor of the power of the General Assembly[.]" *Bd. of Educ.*, 879 S.W.2d at 533, shows the word "when" limits what otherwise would be the General Assembly's prerogative to redistrict *less* frequently than once a decade.<sup>4</sup> The obligation to legislate congressional districts once a decade does not limit the General Assembly's power to redistrict *more* frequently than once a decade. Simply put, "when" does not mean "only when." Section 45, therefore, falls squarely within the rule that "an express enumeration of legislative powers ... cannot be considered as the exclusion of others not named unless accompanied by negative terms." *Bohrer v. Toberman*, 227 S.W.2d 719, 723 (Mo. banc 1950). The General Assembly may redistrict

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<sup>4</sup> While Appellants do not argue the Constitutional Convention debates support their claim, the dissenting opinion devotes 18 pages to depicting the historical context of article III, section 45 and the debates leading to its adoption. The debates indicate the convention delegates were motivated by the longstanding problem of infrequent congressional redistricting. Section 45 remedies this problem by limiting the General Assembly's power to redistrict less frequently than once per decade.

more frequently than once a decade because the power to do so is not "expressly restrained by the Constitution." *Liberty Oil*, 813 S.W.2d at 297 (citing *Bohrer*, 227 S.W.2d at 723). The mid-decade redistricting effectuated by HB 1 is consistent with article III, section 45 and does not "clearly contravene[]" it. *City of St. Louis*, 682 S.W.3d at 396 (quotation omitted).

Against this straightforward textual analysis of article III, section 45, Appellants and the dissenting opinion argue the word "when" sets *the* time for redistricting and, therefore, necessarily prohibits redistricting at any other time. In other words, they contend the word "when" means "only when." But the word "when" does not mean "only when." Against the backdrop of plenary legislative power to redistrict at any time, the word "when" as used in article III, section 45 simply triggers a time that the General Assembly must legislate congressional districts, and does not limit redistricting to that time only.

The dissenting opinion cites an 1868 treatise stating "[i]f directions are given respecting the times and modes of proceeding in which a power should be exercised there is at least a strong presumption that the people designed it should be exercised in that time and mode only[.]" Thomas Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union* 78-79 (Little, Brown, & Co. ed., 1868).<sup>5</sup> This Court does not declare statutes unconstitutional based on a

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<sup>5</sup> The dissenting opinion cites *Ex Parte Arnold*, 30 S.W. 768, 770 (Mo. 1895), and *State ex inf. Dalton v. Dearing*, 263 S.W.2d 381, 384 (Mo. banc 1954), both of which support its argument the word "when" actually means "only when." Both cases reference the "times or modes" language from the Cooley treatise, but it is not essential to the holding in either case. *Ex Parte Arnold* held a contempt order against a county voting official who refused to open ballot boxes for inspection was invalid because the "universal acceptance and

presumption. This Court invalidates a statute only if it "clearly contravenes" the Missouri Constitution. *City of St. Louis*, 682 S.W.3d at 396 (quotation omitted). When, as in this case, the issue is whether the Missouri Constitution limits plenary legislative power, the limitation must arise from express constitutional text. *Liberty Oil Co.*, 813 S.W.2d at 297. A textual limitation can arise "either in terms or by necessary implication," but in no case will this Court limit "the general powers conferred upon the Legislature ... under the notion of having discovered something in the *spirit* of the Constitution which is not even mentioned in the instrument." *State ex rel. Heimberger v. Bd. of Curators of Univ. of Mo.*, 188 S.W. 128, 133 (Mo. banc 1916) (quoting *Cooley's Const. Limitations* 236 *et seq.* (7th Ed.)) (emphasis added). Consistent with the modern formulation that a statute will be invalidated only if it "clearly contravenes" the constitution, *Heimberger* explained any limitation on the General Assembly's legislative power must be "clear beyond a reasonable doubt." *Id.* at 134.

The longstanding rule that an implied limit on legislative power arises only from the logically necessary implication of constitutional text is central to this Court's role as the

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judicial construction" of the constitutional requirement of an election "by ballot" had always meant elections by a secret ballot. 30 S.W. at 770. There is no universal acceptance of the dissenting opinion's hypothesis that "when" necessarily means "only when," and this Court has never so held. *Dearing* involved a *quo warranto* action filed by the Attorney General to remove an individual from a board because the governor failed to make the appointment within the time frame established by the Missouri Constitution. 263 S.W.2d at 383-84. This Court quoted the Attorney General's brief citing the "times or modes" language from the Cooley treatise, but quashed the writ of *quo warranto* because the governor's appointment was valid despite the fact it occurred after the constitutional deadline. *Id.* at 386. Neither *Ex Parte Arnold* nor *Dearing* shows "when" means "only when."

neutral arbiter responsible for constitutional interpretation. Adopting a more expansive view leads to the imposition of implied limits on legislative power based on non-necessary, permissive inferences, which invariably will carry an implicit policy preference that has no place in this Court's constitutional interpretation. That is why *Heimberger* emphasized that, when assessing the constitutionality of a state statute, this Court "cannot run a race of opinions upon points of right, reason, and expediency with the lawmaking power." *Id.* at 133 (quotation omitted). This Court will not draw an unnecessary, permissive inference that the word "when" as used in article III, section 45 actually means "only when."

### **Appellants' Remaining Arguments**

Appellants and the dissenting opinion also cite article III, section 10, which involves state legislative redistricting authority delegated to a redistricting commission.<sup>6</sup> Unlike article III, section 45, article III, section 10 provides state legislative districts "may be altered from time to time as public convenience may require." Appellants contend the lack of similar language in article III, section 45 is powerful evidence the General Assembly is prohibited from mid-decade redistricting. To the contrary, this language simply accounts for the fact that, unlike the General Assembly, a commission is not exercising plenary legislative power and, instead, is exercising only limited powers specifically delegated to it. *State ex rel. Teichman v. Carnahan*, 357 S.W.3d 601, 607 (Mo. banc 2012) (explaining "[t]he nonpartisan reapportionment commission is a constitutionally created commission

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<sup>6</sup> See Mo. Const. art. III, § 3(b) (providing an "independent bipartisan citizens commission shall redistrict the house of representatives"); Mo. Const. art. III, § 7(c) (providing the "senate independent bipartisan citizens commission shall redistrict the senate").



of limited authority" and, therefore, "only has the authority expressly granted to it by the language of the constitution and implicitly necessary to carry out its express duties"). If anything, the fact article III, section 10 specifically authorizes a redistricting commission to exercise its delegated redistricting authority more frequently than once a decade reflects a baseline understanding that mid-decade redistricting is permissible.

Appellants argue *Pestka v. State*, 493 S.W.3d 405 (Mo. banc 2016), shows article III, section 45 clearly implies the General Assembly lacks the power to conduct mid-decade congressional redistricting. The issue in *Pestka* was whether article III, section 32 limited the Senate's authority to override the governor's veto during a September veto session when the veto was issued more than five days before the end of the regular legislative session. *Id.* at 407. Article III, section 32 triggers a veto session "[i]f the governor returns any bill with his objections" on or after the fifth day before the end of the regular session. Because the governor's veto was not returned within the prescribed timeframe, a veto session was not triggered, and the Senate lacked authority to override the veto. *Pestka*, 493 S.W.3d at 413. *Pestka* held "[t]he plain language" of article III, section 32, along with "multiple" amendments to section 32, "reveals clearly the people's intent to limit veto sessions to late-vetoed bills." *Id.* at 411-12.

Unlike article III, section 32, article III, section 45 uses the word "when" as a trigger to act instead of the word "if" as a prerequisite to act. Further, unlike the multiple amendments to further limit the Senate's authority under section 32, section 45 has not been amended to "reveal clearly the people's intent" to further limit the General Assembly's authority to legislate congressional districts. *Pestka*, 493 S.W.3d at 412. As established,

requiring the General Assembly to legislate congressional districts "when" the census is certified to the governor does not mean "only when."<sup>7</sup> *Pestka* does not control the application of article III, section 45.

Appellants also point to *Conservation Commission v. Bailey*, 669 S.W.3d 61, 69 (Mo. banc 2023). In *Conservation Commission*, this Court held the article II, section 1 separation of powers clause prohibited the General Assembly from using its appropriation authority to intrude on powers vested in the executive branch. *Id.* at 69. Unlike *Conservation Commission*, there is no separation of powers issue in this case, and Appellants have not identified any other constitutional limitation on the General Assembly's congressional redistricting authority.<sup>8</sup>

Finally, Appellants cite non-binding, unpersuasive cases from other states interpreting different constitutional text, while also arguing mid-decade redistricting leads to "absurd" results. Appellants' assertion that mid-decade congressional redistricting is absurd ultimately is premised on a policy disagreement with the General Assembly, not constitutional text. As established, these policy concerns are beyond this Court's purview.

This Court's role is limited to interpreting and applying the text of the Missouri Constitution

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<sup>7</sup> Appellants cite *State v. Hamey*, 65 S.W. 946 (Mo. 1901), for the proposition article III, section 45 clearly implies a limit on the General Assembly's congressional redistricting power. In *Hamey*, this Court held a criminal statute violated the right to trial by jury by leaving it to the circuit court to make determinations typically left to the jury. *Id.* at 949-50. *Hamey* is inapposite, and stands only for the unremarkable proposition that the General Assembly's legislative power is limited by constitutional text establishing the specific individual right to a trial by jury.

<sup>8</sup> This same distinction negates Appellants' reliance on *Rebman v. Parson*, 576 S.W.3d 605, 608-11 (Mo. banc 2019), which held the separation of powers barred the General Assembly from withholding salaries for certain executive branch personnel.

as it is written, and upholding an exercise of legislative power "unless restrictions can be pointed out in the Constitution and the case shown to come within them." *Heimberger*, 188 S.W. at 133 (quotation omitted). Because the plain language of article III, section 45 does not limit the General Assembly's power to legislate congressional districts more frequently than once per decade, Appellants failed to show HB 1 clearly contravenes article I, section 45.

### Conclusion

The circuit court correctly concluded article III, section 45 of the Missouri Constitution does not limit the General Assembly's plenary legislative power to enact HB 1. The judgment is affirmed.

  
Zel M. Fischer, Judge

Powell, C.J., Broniec, and Gooch, JJ., concur;  
Wilson, J., dissents in separate opinion filed;  
Ransom and Russell, JJ., concur in opinion of Wilson, J.