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CONSTITUTIONAL REVISION IN WISCONSIN

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CONSTITUTIONAL REVISION IN WISCONSIN*

I. INTRODUCTION

Broad constitutional revision has become an issue in approximately one-third of the states in the past 5 years. The Michigan electorate ratified a new constitution in 1963. New Hampshire held its 15th constitutional convention in 1964. Rhode Island and Connecticut will hold constitutional conventions in 1965. Efforts to call constitutional conventions were rejected by the voters in Kentucky, Iowa, Pennsylvania and Missouri. Constitutional commissions have been established in 15 states, and proposals for revision continue to be made in a number of other states. In some, the current interest is a continuation of efforts long under way. In others it is a relatively recent development.

Pressures for constitutional revision are similarly being felt in Wisconsin. The Wisconsin Constitution, the only one ever approved by the electorate, was adopted in 1848. Now in effect for 117 years, it is the oldest state constitution west of the Atlantic coastal states. Only the 6 New England states have older constitutions (See Table I).

When the constitution was first drafted Wisconsin was practically an unsettled state. The total population of the state was 305,391. The largest city numbered 20,061 residents. Resources were undeveloped, while commerce and industries were yet to be founded. With changing times, efforts were begun to rewrite the constitution.

We do not know how many efforts to call a convention were introduced before the turn of the century. However, in 1906, 52 years after its adoption, a vigorous campaign was launched for a new constitution. Proponents of a constitutional convention argued that the old document was outmoded and that the amendment process was too slow to keep up with the times. Consequently, in 1907 a referendum for a constitutional convention passed the Assembly but was defeated in the Senate. Similar resolutions have been initiated at various times throughout this century, but the question has never been presented to the voters (See Table II).

In this decade, however, interest in constitutional revision has increased in Wisconsin as it has elsewhere. The Wisconsin Constitution provides for 2 methods of constitutional change - the amendment process and the constitutional convention. The purpose of this bulletin is to analyze the factors involved in determining whether a constitutional convention would be advisable for Wisconsin.

* Compiled by Mary Lou Kendrigan, Technical Assistant.

TABLE I. GENERAL INFORMATION ON STATE CONSTITUTIONS

State	Number of constitutions	Dates of adoption	Effective date of present constitution	Estimated length (no. of words)	Number of amendments	
					Proposed	Adopted
Ala.	6	1819;1861;1865;1868; 1875;1901	1901	80,000	367	212
Alaska	1	1956	1959	12,000	—	—
Ariz.	1	1912	1912	15,000	108	50
Ark.	5	1836; 1861;1864;1868; 1874	1874	21,500	(a)	59
Calif.	2	1849;1879	1879	70,000	600	350
Colo.	1	1876	1876	15,000	(a)	64
Conn.	1	1818(b)	1818	6,750	(a)	57(c)
Del.	4	1776;1792;1831;1897	1897	20,000	(a)	80(d)
Fla.	5	1839;1861;1865;1868; 1887	1887	14,500	176	117
Ga.	8	1777;1789;1798;1861; 1865;1868;1877;1945	1945	30,000	85	26
Hawaii	1	1950	1959	14,670	8	5(e)
Idaho	1	1889	1890	14,000	102	68
Ill.	3	1818;1848;1870	1870	15,000	30	13
Ind.	2	1816;1851	1851	7,816	47	20
Iowa	2	1846;1857	1857	11,000	(a)	21
Kans.	1	1859	1861	8,052	73	45(f)
Ky.	4	1792;1799;1850;1891	1891	21,500	40	18
La.	10	1812;1845;1852;1861; 1864;1868;1879;1898; 1913;1921	1921	227,000	566	439
Maine	1	1820	1820	12,438	107	89
Md.	4	1776;1851;1864;1867	1867	15,445	133	108
Mass.	1	1780	1780	11,361	98	81
Mich.	4	1835;1850;1908;1963	1964	19,203	—	—
Minn.	1	1858	1858	14,986	178	90
Miss.	4	1817;1832;1869;1890	1890	15,302	104	35
Mo.	4	1820;1865;1875;1945	1945	40,000	26	13
Mont.	1	1889	1889	22,000	46	30
Nebr.	2	1866;1875	1875	16,550	147	94
Nev.	1	1864	1864	15,840	97	56
N.H.	2	1776;1784(g)	1784	8,700	105	41(g)
N.J.	3	1776;1844;1947	1947	12,500	9	6
N.Mex.	1	1911	1912	22,400	130	55
N.Y.	6	1777;1801;1821;1846; 1868;1894	1894	45,000	174	133
N.C.	2	1776;1868	1868	14,000	(a)	(a)
N.Dak.	1	1889	1889	20,000	(a)	76
Ohio	2	1802;1851	1851	10,700	162	88

TABLE I. GENERAL INFORMATION ON STATE CONSTITUTIONS--Cont.

State	Number of constitutions	Dates of adoption	Effective date of present constitution	Estimated length (no. of words)	Number of amendments Proposed	Number of amendments Adopted
Okla.	1	1907	1907	36,412	135	49
Oreg.	1	1859	1859	21,982	249	111
Pa.	4	1776;1790;1838;1873	1873	15,092	92	62
Puerto Rico	1	1952	1952	9,000	5	5
R.I.	1	1843(b)	1843	6,780	70	36
S.C.	6	1776;1778;1790;1865; 1868;1895	1895	30,000	364	251
S.Dak.	1	1889	1889	25,000	132	71
Tenn.	3	1796;1835;1870	1870	8,220	24	10
Texas	5	1845;1861;1866;1869; 1876	1876	35,000	247	154
Utah	1	1896	1896	20,500	(a)	33
Vt.	3	1777;1786;1793	1793	4,840	193	44
Va.	5	1776;1830;1851;1868; 1902	1902	23,101	98	92
Wash.	1	1889	1889	28,235	(a)	39
W.Va.	2	1863;1872	1872	22,000	61	36
Wis.	1	1848	1848	10,717	99	66(h)
Wyo.	1	1890	1890	15,000	48	25

(a) Data not available.

(b) Colonial Charters with some alterations, in Connecticut (1662) and Rhode Island (1663), served as the first constitutions for these states.

(c) In 1955, 47 earlier amendments were recodified and incorporated in the constitution. Amendment I, adopted prior to 1955, was incorporated in the constitution in 1961. Nine amendments have been adopted since 1955.

(d) Figure does not include amendments of a local nature.

(e) Three amendments adopted in June 1959 in accordance with Public Law 86-3, 86th Congress, providing for Hawaii's admission.

(f) If a single proposition amends more than one section of the constitution, it may not be counted as more than a single amendment.

(g) The constitution of 1784 was extensively amended, rearranged and clarified in 1793. Figures show proposals and adoptions since 1793.

(h) Including two amendments subsequently held invalid by the Wisconsin Supreme Court.

Source: Book of the States 1964-65.

TABLE II. PROPOSALS TO CALL A CONSTITUTIONAL CONVENTION INTRODUCED IN THE WISCONSIN LEGISLATURE SINCE 1907

1907	AJR 21 Introduced by Mr. T. H. Miller (Rep.) La Crosse Co. Provided for the submission of this question to the electors at the next election for members of the legislature "Shall a constitutional convention be held?"	Adopted by the Assembly 60 to 32; nonconcurred in by the Senate 15 to 13.
	AJR 26 Introduced by Mr. Edward J. Berner (Soc.Dem.) Milwaukee Co. Provided for the submission of the following question to the next general election for senators and assemblymen "Shall a constitutional convention be called for the purpose of revising the Constitution of the State of Wisconsin?"	Indefinitely postponed. No roll call.
1909	AJR 19 Introduced by Mr. Fred Brockhausen (Soc. Dem.) Milwaukee Co. Question exactly like AJR 26 of 1907.	Indefinitely postponed. No roll call.
	AJR 45 Introduced by Mr. Fred Zimmerman (Rep.) Milwaukee Co. Question exactly like AJR 21 of 1907.	Indefinitely postponed, 57 to 27.
1911	AJR 20 Introduced by Mr. Frank Weber (Soc. Dem.) Milwaukee Co. Question same as AJR 26 of 1907.	Engrossment and 3rd reading refused 40 to 48.
1913	AJR 41 Introduced by Mr. C. D. Rosa (Rep.) Rock Co. Pointed out that 28 joint resolutions amending the constitution were introduced in 1909 and 53 in 1911 and proposed a convention in these words:	Adoption refused 35 to 54.

"Resolved, That the question of 'convention' or 'no convention' be submitted to the electors of this state at the next general election to be held in November, 1914; that said questions shall be taken by ballot and on ballots separate from the general ballot, and shall be deposited in a separate ballot box to be provided at the respective voting precincts for that purpose; that such ballot shall contain the words 'for convention' and 'against convention' and that the returns and canvass of votes cast on said question shall be made in all respects as the returns and canvass of votes for presidential electors; that it shall be the duty of the state canvassers to make proclamation of the result of such election, and that if a majority of all the votes cast on that subject at such election shall be in favor of a constitutional convention, it shall be the duty of the next legislature to provide for the calling of said convention, and be it further

Resolved, That it shall be the duty of the secretary of state to give notice to the electors of the state of the passage of these resolutions, by incorporating them in the notice to be given by him for a general election in November, 1914."

1915	AJR 21 Introduced by Mr. F. L. McGowan (Rep.) Adams-Marquette Co. Proposed that the question "Shall a constitutional convention be called for the purpose of revising or changing the Constitution of the State of Wisconsin" be submitted to the electors of this state at the next general election for members of the legislature, held in November, 1916. The resolution further provided that the ballots be in the form and marked as provided in subsection 8 of section 38 of the statutes, the votes canvassed and returned as in such election and results determined and published as provided by law. It also provided that the Secretary of State give notice of the election.	Indefinitely postponed. No roll call.
	SJR 19 Introduced by Senator G. B. Skogmo (Rep.) 10th Dist. Identical with AJR 21 of same year.	Indefinitely postponed. No roll call.
1917	AJR 23 Introduced by Mr. F. B. Metcalfe (Soc. Dem.) Milwaukee Co. Identical with AJR 21 of 1915 but updated.	Indefinitely postponed. No roll call.
	SJR 18 Introduced by Senator G. B. Skogmo (Rep.) 10th Dist. Identical with his 1915 proposal but updated.	Indefinitely postponed 20 to 12.
1919	AJR 14 Introduced by Mr. E. W. Knoppe (Soc.) Milwaukee Co. Same as AJR 23 of 1917.	Indefinitely postponed 57 to 33.
1921	AJR 15 Introduced by Mr. Julius Kiesner (Soc.) Milwaukee Co. Same as AJR 21 of 1915 but updated.	Indefinitely postponed 59 to 40.
1923	SJR 16 Introduced by Senator J. J. Hirsch (Soc.) 6th Dist. Same as AJR 21 of 1915 but updated.	Adoption refused. No roll call vote.
	AJR 7 Introduced by Mr. Julius Kiesner (Soc.) Milwaukee Co. Same as AJR 21 of 1915 but updated.	Adopted by Assembly without roll call vote; nonconcurred in by Senate 17 to 11.
1933	SJR 33 Introduced by Senator Polakowski (Soc.) Milwaukee Co. Identical with AJR 39 of same year.	Adopted 17 to 15, Rejected on reconsideration 16-13.
	AJR 39 Introduced by Mr. Edward H. Kiefer (Soc. Dem.) Milwaukee Co. Provided "...that this legislature deems it necessary to call a convention to revise the constitution of this state and that it herewith recommends to the electors of said state to vote for a convention. Be it further Resolved, That the question of calling a constitutional convention be submitted to the voters at the next general election to be held in November, 1934."	Rejected 45 to 39.

1935	AJR 37 Introduced by Mr. Edward H. Kiefer (Soc.Dem.) Milwaukee Co. Same as AJR 39 of 1933 but updated.	Adopted by Assembly without roll call vote; nonconcurred in by Senate 17 to 9.
1947	AJR 82 Introduced by Mr. F. S. Pfennig (Rep.) Kenosha Co. Provided "...that the question of whether the legislature shall at its regular session in 1949 provide for the calling of a constitutional convention to revise or change the Wisconsin Constitution be submitted to the electors at the general election to be held in November, 1948 and that on the referendum ballot there shall be printed the following question: 'Shall the legislature at its regular session in 1949 provide for the calling of a constitutional convention to revise or change the Wisconsin Constitution? For ☐ Against'" ☐	Adopted by Assembly 48 to 25; refused to reconsider 29 to 43; nonconcurred in by Senate without roll call.
1949	AJR 6 Introduced by Mr. Richard J. Steffens (Rep.) Winnebago Co. Same as AJR 82 of 1947.	Rejected 90 to 5.
1961	AJR 9 Introduced by Mr. Frederick Kessler (Dem.) Milwaukee Co. Provided for a referendum every ten years on the question of calling a constitutional convention.	Rejected Ayes 50; Noes 41.
	AJR 48 Introduced by Messrs. Barron, Flannigan, Kessler, Manders, Nowakowski and Ryan (Dem.) Milwaukee Co. and Ward (Dem.) St. Croix Co. Provided for the organization and operation of a constitutional convention.	Rejected Ayes 50; Noes 44.
1965	AJR 12 Introduced by Messrs. Kessler and McCormick (Dem.) Milwaukee Co, Mr. Brown (Dem.) Racine Co., and Mr. Nikolay (Dem.) Clark Co. Relating to the calling of a constitutional convention.	

II. MAJOR CRITICISMS OF STATE CONSTITUTIONS

Although, there is no such thing as an ideal state constitution to fit every state, there are certain guidelines of a general nature for a good state constitution that have found wide acceptance among persons experienced in governmental affairs. These characteristics include:

1. The constitution should be written in clear and understandable language.

2. The constitution should be brief and flexible.

3. The constitution should be restricted to fundamentals only.

4. The constitution should be adequate for meeting present needs and for serving future requirements.[1]

There is considerable evidence to indicate that almost every state constitution violates these principles. This presents serious problems, since restrictive and obsolete constitutions can deter progress and prevent efficient administration. State governments have grown rapidly since World War II under the pressure of necessity, but students of state government contend that the patterns of growth are often distorted and diverted from the areas of greatest need by unrealistic and obsolete constitutional restrictions. Although conditions vary considerable from state to state, it is possible to summarize the concensus of this thought into 7 major criticisms of state constitutions.

The first criticism frequently heard is that state constitutions are too long and too wordy. Constitutions of the state governments contrast sharply with that of the Federal Government. The written constitution of the Federal Government, perhaps the most complex governmental structure in the world today, contains only 6,600 words. This is slightly briefer than the constitutions of such small states as Rhode Island and Connecticut and a good deal shorter than the constitution of three-fourths of the states. In contrast, the Constitution of Louisiana is approximately 200,000 words and has been amended more than 300 times. In the early days of our history constitutions, noted for their brevity, did not go far beyond providing an outline or framework of government. However, in the latter half of the 19th century legislation of a general nature was increasingly written into the organic law. Thus we find in the constitutions of many states provisions regarding schools, highways, taxation, corporations, declarations of private rights, and other issues that could be best handled by statutes.[2] Professor Fellman has succinctly stated the problem presented by wordy constitutions:

> Excessive constitutional detail is bad for many reasons. It solidifies the entrenchment of vested interests. It makes temporary matters permanent. It deprives state legislatures and local governments of desirable flexibility and diminishes their sense of responsibility. It encourages the search for methods of evading constitutional morality. It makes frequent recourse to the amending processed inevitable. It hinders action in time of special stress or emergency. It stands in the way of healthy progress. It blurs the distinctions between constitutional and statute law, to the detriment of both. It creates badly written instruments full of obsolete, repetitious, misleading provisions. Above all, it confuses the public, and in fact makes it certain that few will ever bother to read the state constitution.[3]

Second, the criticism is levied against state constitutions that administrative authority is not vested in a single responsible executive. During the 19th century the trend was

toward solving democracy's problems by giving more political power to the people. This led to a long ballot with popular election of numerous executive officers. In addition, popular distrust of 19th century legislatures led to the inclusion of many constitutional restrictions upon the freedom of the legislature to function as the state's lawmaking body. For example, the provisions for particular administrative agencies would be written into the fundamental law. Often, when legislative abuses prompted creation of a new agency or reorganization of existing ones, reformers insisted upon spelling out the new administrative pattern in the constitution. As times changed and as Governors and Legislatures could not easily adjust constitutionally mandated administrative structures, additional departments and agencies were created by statute and piled upon the existing format of the executive branch. Thus state Governors are faced with the problem of dealing with 70 or more administrative commissions or boards, members of which often hold the positions for a longer period of time than the Governor does.[4]

Third, students of constitutional reform argue that these constitutions contain many ill-advised limitations on state legislative power. Much of the work of constitutional revision, so far as the Legislature is concerned, is a matter of determining not what should be added, but what might properly be taken out. Constitutional restrictions bear most heavily upon the fiscal powers of the Legislature, limiting the power to tax, to appropriate, to incur and finance debt, and to establish the administrative structure necessary to implement these powers. Of equal importance in hampering legislative action are the many essentially statutory provisions that have been given constitutional status. In a single 40-page section the Louisiana Constitution sets up a general highway fund and specifies minutely the license fee private automobiles are to pay each year. The Constitution of Pennsylvania directly regulates general corporate powers, corporate elections, qualifications of foreign corporations to operate within the state, and, specifically, corporate fiscal powers. It is "fundamental law" in Oklahoma that public schools teach the "elements of agriculture, horticulture, stock feeding and domestic science." This is typical of literally hundreds of items that can be found in state constitutions. Legislatures that are so restricted can and often do find ways to avoid constitutional restraints, but this encourages subterfuge and adds to expense in time and money.[5]

Fourth, critics contend that the state judicial systems are often complicated and inefficient. Constitutional creation of a number of different courts, and the definition of their jurisdictions led to rigidities in the court system. Since modifications in the court structure can be accomplished only by the cumbersome process of constitutional amendment, needed changes are frequently not made. As new demands have arisen, it has been much easier for state Legislatures, when authorized to do so, to add on to the court system the level and type of court required. The primary issue is not whether the various special courts and levels of courts are needed, but whether these different courts should be specifically created by constitutional provision. A 2nd consideration is the jurisdictional inadequacy that has developed, making it impossible for judges to deal adequately with the cases before them. Also open for question is the selection and tenure of judges in the state courts. Most severely criticized are those provisions which call for the direct, partisan elections of the judges.[6]

Fifth, proponents of constitutional revision, point to present constitutional provisions which make it difficult for municipalities and counties to adopt modern forms of government. Increasing concern has been exhibited over the multiplicity and complexity of units that form the systems of local government in the various states. Constitutional provisions

frequently dictate local government boundaries, organization and personnel, making it difficult, if not impossible, to reorganize counties, consolidate local governments, create federated communities, or carry out other plans or experiments destined to serve a region.[7]

Sixth, reformers believe that present constitutional provisions for legislative reapportionment are unrealistic. Historically legislative apportionment has been the most controversial section in state constitutional revision. In New Jersey it was so controversial that it was omitted from consideration in the enabling act for the constitutional convention of 1947. Apportionment also proved to be the most controversial issue in the Michigan Convention in 1962, and in Oregon it has been credited with much of the responsibility for the recent rejection of the new constitution by the State Senate. It is argued that placing responsibility for reapportionment in the hands of those who have a vested interest in the results, as has been done in the 43 states that require the Legislature to handle reapportionment, is an open invitation to a great deal of contention. While the "one man, one vote" criterion established by the courts will certainly give greater representation to the more populous areas and will also eliminate some of the argument, it is felt the problems created by provisions requiring apportionment to be handled by the Legislatures have been dramatized, but certainly not solved.[8]

Seventh, the processes of amendment are criticized as being either too rigid or too easy. Procedures for constitutional change should permit timely and orderly adjustments to the changing needs of the political community while at the same time encouraging constitutional stability and discouraging the use of the fundamental law for statutory purposes. Presently the states are plagued by constitutions that are either too easily amended, such as California's, which has more than 300 amendments, or are almost impossible to amend, such as the Tennessee Constitution, which has only been amended by convention.[9]

Although a flexible document containing only the broad outlines of government is generally accepted as the most workable form of constitution, it is generally recognized that there are several obstacles that make it difficult for state constitutions to develop along the federal pattern. In the first place, such a development would require vesting greater authority in state and local government. It would mean giving the executive and judicial branches freedom of action similar to that of their counterparts on the federal level. It would also mean the abolition of many of the present restrictions on state Legislatures. At the local level municipal governments and other political subdivisions would have to be released from the tight reins placed upon them by many of the elaborate and detailed provisions of the present constitutions. Thus, it would seem that state constitutions can develop along these lines only when the people are willing to place greater authority in the hands of their elected executives and legislators and in the local communities.

Secondly, while political opposition to constitutional change varies from state to state, it is safe to generalize to the extent of asserting that change will be opposed by those groups that are afforded special protection in the existing basic law. Such groups are easily discerned where tax limits are rigid, where taxes are earmarked by constitutional fiat for specific purposes, such as highway construction, or where governmental regulation is severely restricted by constitutional limitations.

Lastly, opposition to a more flexible constitution comes from persons who have worked hard to get their reforms written into a constitution. These people are reluctant to risk loss of these reforms by placing them at the mercy of legislative act.[10]

III. METHODS OF CONSTITUTIONAL REVISION

Three formal methods are provided in the state constitutions for making changes in their organization and content. One procedure that is available is the proposal of constitutional amendments by the Legislature. In addition, 14 states' constitutions provide for constitutional initiative, the introduction of a constitutional amendment through a petition submitted by a certain percentage of the voters (See Table III). The 3rd formal technique is the calling of a constitutional convention. Recently, 2 further methods for constitutional changes have also developed - the limited convention and the constitutional commission. The constitutional commission does not have constitutional status, but is used as a variant of the legislative amendment procedure.

A. The Amendment Process

The most common means of constitutional revision and modernization is, of course, the amendment process. Under their present constitutions, the number of amendments adopted by the states vary from 6 in New Jersey to 439 in Louisiana (See Table I). Much of the reason for this variance can be found in the different constitutional provisions for amendments. Some of the states require approval by 2 sessions of the Legislature, others only one. Similarly, the majority required for approval in the Legislatures varies. Delaware does not require that an amendment be ratified by the electorate, while some states require a majority of votes cast in the election, others a majority of votes cast on the amendment (See Table IV).

The amount of constitutional revision that is accomplished by the amending process is indicated by the fact that at the end of 1963 state constitutions contained a total of 3,733 amendments (See Table I). The trend continued in the November 1964 elections with well over 100 amendments and measures of direct legislation being approved by the electorate of 28 states and Puerto Rico. Proposals submitted to the voters have ranged over a wide area of subjects, including governmental organization and procedure, taxation, bond issues and bonding authority, education, social welfare, political subdivisions, and labor relations (See Table V). In the last 3 years Massachusetts, North Dakota and Nebraska have amended their constitutions to provide for an extension of the terms of constitutional officers to 4 years. Amendments to allow the Governor and Lieutenant Governor to run on the same ballot were passed in Connecticut, New Mexico and Hawaii. New Hampshire and Iowa revised the method for amending the constitution. The court systems were revised in Colorado, Illinois, Nebraska, Montana and North Carolina. Revisions concerning taxation have been approved in Florida, Arizona, Georgia, Washington, Utah, California, Minnesota and New Mexico.

TABLE III. CONSTITUTIONAL AMENDMENT PROCEDURE: BY INITIATIVE

State	Size of Petition	Referendum vote
Arizona	15% of total voters for Governor at last election	Majority vote on amendment
Arkansas	10% of voters for Governor at last election including 5% in each of 15 counties	Majority vote on amendment
California	8% of total voters for Governor at last general election	Majority vote on amendment
Colorado	8% of legal voters for Secretary of State at last general election	Majority vote on amendment
Idaho	10% of total voters for Governor at last general election	Majority vote on amendment
Massachusetts	3% of total vote for Governor at preceding biennial state election, no more than 1/4 from any one county	30% of total voters at election and majority vote on amendment
Michigan	10% of total voters for Governor at last general election	Majority voting in election
Missouri	8% of legal voters for Governor at last general election in each of 2/3 of the congressional districts in the state[a]	Majority vote on amendment
Nebraska	10% of total votes for Governor at last general election including 5% in each of 2/5 of the counties	Majority vote on amendment[b]
Nevada	10% of total votes cast in 75% of the counties at last general election	Majority vote on amendment
North Dakota	20,000 of electors	Majority vote on amendment
Ohio	10% of electors	Majority vote on amendment
Oklahoma	15% of legal voters for office receiving highest number of votes in last general state election	Majority voting in election[c]
Oregon	Not more than 10% of legal voters in last election for Justice of Supreme Court[a]	Majority vote on amendment

(a) Legislature is empowered to fix a smaller percentage.
(b) Votes cast in favor of amendment must be at least 35% of total vote at election.
(c) If amendment is voted on at general election, ratification is by majority voting in election. If it is voted on at a special election, ratification is by majority vote on the amendment.

Source: Book of the States, 1964-65.

TABLE IV. CONSTITUTIONAL AMENDMENT PROCEDURE: BY THE LEGISLATURE

State or other jurisdiction	Legislative vote required for proposal (k)	Approval by two sessions	Ratification by electorate	Limitations on the number of amendments submitted at one election
Alabama	3/5	No	MA	None
Alaska	2/3	No	MA	None
Arizona	Maj.	No	MA	None
Arkansas	Maj.	No	MA	(j)
California	2/3	No	MA	None
Colorado	2/3	No	MA	None
Connecticut	(a)	Yes	MA	None
Delaware	2/3	Yes	None	None
Florida	3/5	No	MA	None
Georgia	2/3	No	MA	None
Hawaii	(b)	(b)	MA	None
Idaho	2/3	No	MA	None
Illinois	2/3	No	(h)	None
Indiana	Maj.	Yes	MA	None
Iowa	Maj.	Yes	MA	None
Kansas	2/3	No	MA	3
Kentucky	3/5	No	MA	2
Louisiana	2/3	No	MA	None
Maine	2/3	No	MA	None
Maryland	3/5	No	MA	None
Massachusetts	(c)	Yes	MA	None
Michigan	2/3	No	MA	None
Minnesota	Maj.	No	ME	None
Mississippi	2/3	No	ME	None
Missouri	Maj.	No	MA	None
Montana	2/3	No	MA	3
Nebraska	3/5	No	MA	None
Nevada	Maj.	Yes	MA	None
New Hampshire	(d)	—	—	—
New Jersey	(e)	(e)	ME	None
New Mexico	Maj.	No	MA	None
New York	Maj.	Yes	MA	None
North Carolina	3/5	No	MA	None
North Dakota	Maj.	No	MA	None
Ohio	3/5	No	MA	None
Oklahoma	Maj.	No	ME	None
Oregon	Maj.	No	MA	None
Pennsylvania	Maj.	Yes	MA	None
Puerto Rico	2/3	No	MA	3
Rhode Island	Maj.	Yes	(i)	None
South Carolina	2/3	Yes	MA	None
South Dakota	Maj.	No	MA	None
Tennessee	(f)	Yes	ME	None
Texas	2/3	No	MA	None

TABLE IV. CONSTITUTION AMENDMENT PROCEDURE: -- Cont.

State or other jurisdiction	Legislative vote required for proposal (k)	Approval by two sessions	Ratification by electorate	Limitations on the number of amendments submitted at one election
Utah	2/3	No	MA	None
Vermont	(g)	Yes	MA	None
Virginia	Maj.	Yes	MA	None
Washington	2/3	No	MA	None
West Virginia ...	2/3	No	MA	None
Wisconsin	Maj.	Yes	MA	None
Wyoming	2/3	No	ME	None

MA - Majority vote on amendment.
ME - Majority vote in election.

(a) Majority of House of Representatives; next Assembly, 2/3 each house.

(b) Approval at two successive sessions required if votes in each house are majority but less than 2/3.

(c) Majority members elected sitting in joint session.

(d) No provision for proposal of amendments by legislature. Constitution amended only by constitutional convention.

(e) Three-fifths of all members of each house; or majority of all members of each house for two successive sessions.

(f) Majority members elected, first passage; 2/3 members elected, second passage.

(g) Two-thirds vote Senate, majority vote House, first passage; majority both houses, second passage. Since 1910, amendments may be submitted only at 10-year intervals.

(h) Majority voting in election or 2/3 voting on amendment.

(i) Three-fifths of voters on amendment.

(j) General Assembly limited to 3; no limit on number of initiative proposals.

(k) In all states not otherwise noted, the figure shown in this column refers to percentage of elected members in each house required for approval of proposed constitutional amendments.

Source: Book of the States 1964-65.

TABLE V. CONSTITUTIONAL AMENDMENTS - DIRECT LEGISLATION.
(Approved by the States--November 3, 1964*)

I. Governmental Organization, Procedure
II. Taxation
III. Bond Issues and Authority
IV. Education
V. Social Welfare
VI. Political Subdivisions
VII. Labor
VIII. Other

STATE	TOTAL	I	II	III	IV	V	VI	VII	VIII
Alaska	2			2					
Arizona	6		2		2		1	1	
California	15	1	1	3	1	3	2	1	3
Colorado	2	1			1				
Connecticut	3	3							
Florida	9	2	1	1	3				2
Georgia	12	1	2		4	3	1		1
Hawaii	4	1			3				
Idaho	3	1		1			1		
Iowa	1	1							
Maine	2			2					
Maryland	5	3					1		1
Massachusetts	6	5							1
Minnesota	2		1						1
Montana	1	1							
Nevada	1								1
New Hampshire	5	4							1
New Jersey	2			2					
New Mexico	9	2	1	1	1		3		1
New York	1								1
North Carolina	1			1					
North Dakota	3	1						1	1
Oregon	2								2
Rhode Island	6	1		5					
South Dakota	1						1		
Texas	3				1	1			1
Utah	2		1						1
Washington	5		1	3			1		
Puerto Rico	1	1							
Total	115	29	10	21	16	7	11	3	18

*Includes measures ratified in twenty-eight states and Puerto Rico. In these states the tallies were available by late November. Several additional states had such measures on the ballot, but the results were not yet known.

Source: State Government News, December 1964.

TABLE VI. CONSTITUTIONAL CONVENTIONS HELD SINCE 1900

State	For a Complete Revision	New for Admission To Statehood	For a Partial Revision	Limited to a very few Amendments
Alabama	1901[1]			
Alaska		1956[1]		
Arizona		1910[1]		
Arkansas	1918[2]			
Connecticut	1902[2] & 1965[8]			
Hawaii		1950[1]		1959[5]
Illinois	1919[2]			
	1922[2]			
Louisiana	1913[1]			
	1921[1]			
Michigan	1908[1] & 1961-62[1]			
Missouri	1945[1]		1923[4]	
Nebraska			1920[3]	
New Hampshire	1918[2]		1902[4]	
	1921[2]		1912[4]	
	1963[7]			
New Jersey	1947[1]			
New Mexico		1910[1]		
New York	1915[2]		1938[4]	
Ohio			1912[3]	
Oklahoma	—	1907[2]		
Rhode Island	1965[8]			1955[5]
				1958[6]
Tennessee				1953[6]
				1959[6]
Virginia	1902[1]			1945[6]
				1956[6]

1. Ratified in its entirety by the electors.
2. The entire revision was rejected by the electors.
3. This revision included a number of amendments, all of which were adopted by the subsequent vote of the electors.
4. A substantial number of amendments were submitted, only a part of which were adopted by a vote of the electors.
5. Limited from one to six amendments. Those submitted were adopted by the electors.
6. Of the limited few proposals submitted, only part were adopted by the electors.
7. New Hampshire also held conventions in 1930, 1938, 1941 and 1955, but none of them submitted any substantial number of amendments. For example, the 1955 convention approved six amendments and killed fifty-one other proposals. Since 1793, 101 amendments have been submitted, but only 37 were ratified by the people
8. Convention is now in session.

Source: State Constitutional Revision in Nebraska and Other States, Nebraska Citizens Council Inc., 1961.

TABLE VII. CONSTITUTIONAL CONVENTIONS

State or other jurisdiction	Procedure for calling constitutional convention: Vote required in legislature	Approval by two sessions	Referendum vote	Popular ratification of convention proposals
Alabama	Maj.	No	ME	—
Alaska	Maj.	No	MP	V
Arizona	Maj.	No	MP	MP
Arkansas	Maj.	No	—	MP
California	2/3	No	MP	ME
Colorado	2/3	No	MP	ME
Connecticut	Maj.	No	—	X
Delaware	2/3	Yes	MP	X
Florida	2/3	No	MP	X
Georgia	2/3	No	—	MP
Hawaii	—	No	MP	MP
Idaho	2/3	No	MP	MP
Illinois	2/3	No	ME	ME
Indiana	—	—	—	—
Iowa	—	—	MP	X
Kansas	2/3	No	MP	X
Kentucky	Maj.	Yes	MP	X
Louisiana	Maj.	No	MP	X
Maine	2/3	No	—	X
Maryland	—	No	ME	MP
Massachusetts	Maj.	No	MP	X
Michigan	Maj.	No	MP	MP
Minnesota	2/3	No	ME	—
Mississippi	Maj.	No	—	X
Missouri	—	No	MP	MP
Montana	2/3	No	MP	ME
Nebraska	3/5	No	MP	MP
Nevada	2/3	No	MP	X
New Hampshire	—	No	MP	—
New Jersey	—	—	—	—
New Mexico	2/3	No	MP	MP
New York	Maj.	No	MP	MP
North Carolina	2/3	No	ME	X
North Dakota	—	—	—	—
Ohio	2/3	No	MP	MP
Oklahoma	—	No	MP	MP
Oregon	Maj.	No	MP	X
Pennsylvania	Maj.	No	—	V
Puerto Rico	2/3	No	MP	MP
Rhode Island	Maj.	No	MP	MP
South Carolina	2/3	No	ME	X
South Dakota	2/3	No	ME	X
Tennessee	Maj.	No	MP	MP
Texas	Maj.	No	MP	MP

TABLE VII. CONSTITUTIONAL CONVENTIONS -- Cont.

State or other jurisdiction	Procedure for calling constitutional convention: Vote required in legislature	Approval by two sessions	Referendum vote	Popular ratification of convention proposals
Utah	2/3	No	ME	ME
Vermont	—	—	—	—
Virginia	Maj.	No	MP	X
Washington	2/3	No	ME	ME
West Virginia ...	Maj.	No	ME	ME
Wisconsin	Maj.	No	MP	X
Wyoming	2/3	No	ME	V

ME - Majority voting in election.
MP - Majority voting on the proposition.
X - There appears to be no constitutional or general statutory provision for the submission of convention proposals to the electorate in these states, but in practice the legislature may provide by statute for popular ratification of convention proposals in specific instances.
V - Popular ratification required but no provision for size of vote.

Source: Book of the States 1964-65.

B. Constitutional Conventions

Constitutional amendments, however, provide for only piecemeal revision. The most common method for total revision has been the constitutional convention. Since the turn of the century, 18 state conventions have been held for the purpose of drafting new constitutions (See Table VI).

Thirty-eight states have procedures in their constitutions for calling a constitutional convention (See Table VII). Only 2 states, Georgia and Maine, provide that the Legislature may issue the call for a convention without a popular referendum. The other 36 states require that the electorate approve the convention call. Ten of these states have made it mandatory for the convention question to be submitted at periodic intervals to the voters. The interval that is required for submission of the question to the voters varies from 7 to 20 years, the most frequent requirement being 20 years (See Table VIII).

TABLE VIII. CONSTITUTIONAL PROVISIONS REQUIRING CONVENTION QUESTION TO BE SUBMITTED PERIODICALLY TO THE ELECTORATE

State	Required Interval	Also Anytime at Legis. Discretion	Officer Responsible for Placing Question on Ballot
Alaska	10 yrs.	yes	Sec. of State
Hawaii	10	yes	Lt. Gov.
Iowa	10	yes	--
Maryland	20	no	--
Michigan	16	yes	--
Missouri	20	yes	Sec. of State
New Hampshire	7	no	Town Selectmen and Assessors
New York	20	yes	--
Ohio	20	yes	--
Oklahoma	20	yes	--

There are 12 states that do not have any provisions in their constitutions for calling constitutional conventions. These states are Arkansas, Connecticut, Indiana, Louisiana, Massachusetts, Mississippi, New Jersey, North Dakota, Pennsylvania, Rhode Island, Texas and Vermont (See Table VII). The courts have held that in these states the Legislature may issue the call. The traditional interpretation is that the legislative power to act is implied where there is no expressed limitation or prohibition in the constitution. The most recent conventions were held in Missouri, New Jersey, Alaska, Hawaii, Michigan and New Hampshire. The call has been issued for conventions to be held in 1965 in Rhode Island, Connecticut and Tennessee. Since 1900 general revision by means of a convention has been attempted in 15 other states (See Table IX).

TABLE IX. UNSUCCESSFUL ATTEMPTS AT CALLING A CONVENTION

Connecticut (a)[1]	Twice by the Legislature in 1953, 1959
Florida (b)[1]	In 1958
Iowa[2]	Voters in November 1960
Kentucky[4]	By the voters in 1947; voters 1960[4]
Louisiana[1]	By the legislature in 1950 and by the voters in 1956
Maryland (c)[1]	By the voters in 1950; by the Legislature in 1960[3]
Massachusetts[3]	By the Legislature 1960[3]
Michigan (c)[1]	By the voters in 1926, 1942, 1948, 1958
Mississippi[1]	By the Legislature in 1958
Nebraska[1]	By the Legislature in 1947, 1949, 1951, 1953, 1955, 1957, 1959
New York[1]	By the voters in 1959
Ohio[1]	By the voters in 1932 and 1952
Oklahoma[1]	By the voters in 1950
Oregon[1]	By the Legislature in 1951
Pennsylvania[1]	Three times by the Legislature in 1951, 1956, 1957. Five times by the voters, in 1921, 1924, 1935, 1953 and 1963
South Carolina[1]	By the Legislature in 1951
Texas[1]	By the Legislature in 1949, 1951
Missouri[1]	By the voters in 1962.

a. The Connecticut Legislature rejected a proposal for a general revision convention, but submitted a codification of 47 existing amendments adopted since 1818, plus one new amendment. The rearrangement was ratified and adopted in 1953.

b. The legislative proposal for calling a convention was declared to be invalid by the Supreme Court in Florida.

c. In Maryland in 1950 and Michigan in 1959, a majority of votes cast on the question favored a convention, but the proposed call failed to obtain a majority of the votes cast at the election as required by the constitution.

Source: 1. Nebraska Citizens Council, Inc. (1961)

2. State Government News (Dec. 1960)

3. National Civic Review (May 1960)

4. Review of Government (Jan. 1961)

C. Limited Conventions

Several states have recently used the technique of the limited convention to accomplish integrated revision of specific subjects (See Table VI). In each case, the subjects to be considered were set forth by the Legislature in the call and ratified by popular vote. None of these conventions made any effort to go beyond the call, and the voters ratified most of the changes proposed.

Rhode Island pioneered by holding the first limited convention in 1944, concerned with war voting. Another convention, limited to 3 subjects, was held 11 years later. The 1955 convention completed its work in only one day. The 200 delegates were chosen in a non-partisan election and served without pay.

In 1945 a limited convention met in Virginia to revise suffrage provisions and make it possible for absent members of the armed forces to vote. The 50 delegates were elected from the state senatorial districts. The convention met for 4 days in order to review legislative acts adopted pursuant to the revised constitutional provision. The revised provision was approved by the voters.

Tennessee has also had 2 limited conventions, in 1953 and 1959. The first convened April 22, 1953, and adjourned 3 months later. It was limited to consideration of specified articles and its 8 proposals were all approved by the voters. The 1959 convention met July 21 and adjourned 7 days later. It was limited to consideration of 3 subjects but acted on only the one which granted the county treasurer ("trustee") a 4-year term.

In 1960 the Kentucky electorate voted against a convention which would have been limited to 12 subjects. These subjects were: (1) The organization and powers of local government; (2) The judicial department and the courts; (3) Compensation of public officers; (4) Succession to the office of Governor; (5) Misfeasance, malfeasance and nonfeasance by public officials; (6) Official oaths; (7) The railroad commission; (8) The legislative department; (9) The mode of revision or amendment of the constitution; (10) Incompatibility of offices; (11) Terms and tenure of state officers other than Governor and Lieutenant Governor; and (12) Removal of limitations on the holding of real estate.

D. The Revision Commission

Because of the need for expert study in the area of constitutional revision, many states have made use of small specialized bodies for studying the constitutions and recommending changes. The most popular type has been the constitutional revision commission, although several states have employed other official groups such as the Joint Legislative Committee established by California in 1947. New Jersey created the first constitutional revision commission in 1852, and since that time this technique has been used with increasing frequency. New Jersey leads all other states in the use of the commission, having created a total of 7, while Vermont and New York are next with a total of 5 and 4 respectively. Commissions are presently in operation in several states.

Since many different functions have been performed by constitutional revision commissions, it is difficult to arrive at an adequate definition, but generally the commission may

be defined as an ad hoc body created independently or jointly by the Legislature and executive for the purpose of studying a state's constitution and making recommendations concerning reform. The principal task of commissions has been to study the constitution, either as a whole or in part, and to propose amendments or draft a complete revision. A commission is an advisory body with no independent sphere of power and is subordinate to the organ of government that creates it. Although the term "constitutional commission" has been applied ambiguously to many groups, it is usually distinguished from purely research and fact-finding bodies, such as those which are established to provide reference material for a convention, but have no policy function or authorization to make recommendations for revision.

The majority of constitutional commissions have been established by the Legislature and the Governor jointly, but some have been created solely by one or the other. The commissions' memberships have varied from 3 to 45. Commission members are usually persons with a great deal of knowledge of state government. As a rule appropriations for the commissions have been quite small, with members receiving no compensation beyond their actual expenses.

Commissions have usually been left free to determine their own organization and methods of procedure. Normally a commission will establish committees to study various aspects of the constitution and submit recommendations in plenary session. Most commissions have employed a small staff, but this has depended principally on the expertise of the members and the service of existing state agencies. Public hearings are often held and various interest groups are permitted to submit their opinions regarding constitutional reform. The final report of the commission is usually submitted to the Governor and the Legislature, at which time the function of the commission ceases.

Commissions are more restricted than the convention in that they can only make recommendations. Such proposals must then be approved by the Legislature before they are submitted to the electorate.

IV. CONSTITUTIONAL REVISION IN WISCONSIN

The constitution provides for 2 methods of revision--the constitutional convention and the amendment process. As the last convention in Wisconsin was the 1848 convention which drafted the original constitution, all constitutional revision since 1848 has taken place by means of amendment. In 1960 the Governor appointed a commission to study the need for constitutional revision.

A. Amendments

As the Governor is not involved in the amendment process, amendments are introduced as joint resolutions rather than as bills. Unlike ordinary legislation, which can be enacted by a majority of those present provided they constitute a quorum, a joint resolution to amen the constitution must be agreed to by a majority of the members elected to each of the 2 houses; and a roll call must be taken. The amendment must pass both houses of 2 successive Legislatures in exactly the same wording. The amendment is then presented to the electorate and must be ratified by a majority of the people voting on the specific amendment. Unlike the federal and many state constitutions, the Wisconsin Constitution is amended by adding to and deleting from the pertinent existing sections rather than by stringing a whole series of unrelated changes at the end of the document. Thus, while the constitution has been amended 75 times, it remains a compact document with the amendments incorporated into the text.

The Wisconsin Constitution is one of the shortest state constitutions, with approximately 11,000 words. It is shorter than the Model State Constitution of 12,000 words. Eight states have shorter documents--Connecticut, Iowa, Kansas, Maine, Maryland, Rhode Island, Tennessee and Vermont. The shortest constitution is that of Rhode Island with 6,650 words, while Louisiana has the longest constitution with over 200,000 words (See Table I).

By the end of the 1963 session there had been initiated 1,082 attempts to amend the constitution. Of these, 75 were finally approved by the voters, but 2 were declared unconstitutional. Two more amendments were adopted by the 1965 Legislature and ratified by the electorate in the April elections. This brings the total number of amendments to the Wisconsin Constitution to 75, affecting 43 sections.

It was not until 1870 that the first important amendment to the constitution was adopted. Only 17 changes were approved before the turn of the century.

Important amendments to the original constitution have related to suffrage, salaries of elected officials, frequency of legislative sessions; tax affairs, including the legislation authorizing the income tax and the state's forestry tax on property; enlargement of the state Supreme Court; and the state aviation program. The people and the state Legislature have also agreed to amend the constitution on such matters as giving the State Superintendent of Public Instruction a 4-year elective term on a nonpartisan basis, to legalize state aid for veterans' housing, to grant home rule rights for cities and villages, to provide for the recall of elective officials, to permit state financing of a highway program, and to liberalize the tenure for sheriff (See Table X).

TABLE X. HISTORY OF CONSTITUTIONAL AMENDMENTS

Constitution Art.	Sec.	Subject	Date of Election	Vote For	Against
IV	4	Assemblymen, 2-year terms	Nov. 1854	6,549	11,580
IV	5	Senators, 4-year terms	"	6,348	11,885
IV	11	Biennial legislative sessions	"	6,752	11,589
V	5	Governor's salary, change from $1,250 to $2,500 a year	Nov. 1862	14,519	32,612
IV	21	*Legislators' pay changed to $350 a year	Nov. 1867	58,363	24,418
V	5	*Governor's salary, changed from $1,250 to $5,000 a year	Nov. 1869	47,353	41,764
V	9	*Lt. governor's salary increased to $1,000 a year	"	"	"
I	8	*Against grand jury system	Nov. 1870	48,894	18,606
IV	31, 32	*Private and local laws, prohibited on 9 subjects	Nov. 1871	54,087	3,675
VII	4	Supreme court, 1 chief and 4 associate justices	Nov. 1872	16,272	29,755
XI	3	*Indebtedness of municipalities limited to 5%	Nov. 1874	66,061	1,509
VII	4	*Supreme court, 1 chief and 4 associate justices	Nov. 1877	79,140	16,763
VIII	2	*Claims against state, 6-year limit	"	33,046	3,371
IV	4,5, 11	*Biennial sessions; assemblymen 2-year, senators 4-year terms	Nov. 1881	53,532	13,936
IV	21	*Legislators' pay changed to $500 a year	"	"	"
III	1	*Voting residence 30 days; in municipalities voter registration	Nov. 1882	36,223	5,347
VI	4	*County officers except judicial, vacancies filled by appointment	"	60,091	8,089
VII	12	*Clerk of court, full term election	"	"	"
XIII	1	*Political year; biennial elections	"	"	"
X	1	State superintendent, qualifications and pay fixed by legislature	Nov. 1888	12,967	18,342
VII	4	*Supreme court, composed of 5 justices of supreme court	Apr. 1889	125,759	14,712
IV	31	*Cities incorporated by general law	Nov. 1892	15,718	9,015
X	1	State superintendent, pay fixed by law	Nov. 1896	38,752	56,506
VII	7	*Circuit judges, additional in populous counties	Apr. 1897	45,823	41,513
X	1	*State supt., nonpartisan election, 4-year term, pay fixed by law	Nov. 1902	71,550	57,411
XI	4	*General banking law authorized	Nov. 1902	64,836	44,620
XI	5	*Repealed; formerly required referenda on banking laws	"	"	"
XIII	11	*Free passes prohibited	"	67,781	40,697

TABLE X. HISTORY OF CONSTITUTIONAL AMENDMENTS -- Cont.

Constitution Art.	Sec.	Subject	Date of Election	Vote For	Vote Against
VII	4	*Supreme court, 7 justices, 10-year terms	Apr. 1903	51,377	39,857
III	1	*Suffrage for full citizens only	Nov. 1908	85,838	36,733
V	10	*Governor's approval of bills in 6 days	"	85,958	27,270
VIII	1	*Income tax	"	85,696	37,729
VIII	10	*Highways, appropriations for	"	116,421	46,739
IV	3	*Apportionment after each federal census	Nov. 1910	54,932	52,634
IV	21	Legislators' pay $1,000 a year	"	44,153	76,278
VIII	10	**Water power and forests, appropriations for	"	62,468	45,924
VII	10	*Judges' salaries, time of payment	Nov. 1912	44,855	34,865
XI	3	*City or county debt for lands, discharge within 50 years	"	46,369	34,975
XI	3a	*Public parks, playgrounds, etc.	"	48,424	33,931
IV	1	Initiative and referendum	Nov. 1914	84,934	148,536
IV	21	Legislator's pay $600 a year, 2¢ a mile for additional round trips	"	68,907	157,202
VII	6, 7	Judicial circuits, decreased number, additional judges	"	63,311	154,827
VIII	new	State annuity insurance	"	59,909	170,338
VIII	new	State insurance	"	58,490	165,966
XI	new	Home rule of cities and villages	"	86,020	141,472
XI	new	Municipal power of excess condemnation	"	61,122	154,945
XII	1	Constitutional amendments, submission after 3/5 approval by one legislature	"	71,734	160,761
XII	new	Constitution amended upon petition	"	68,435	150,215
XIII	new	Recall of civil officers	"	81,628	144,386
IV	21	Legislators' pay fixed by law	Apr. 1920	126,243	132,258
VII	6, 7	Judicial circuits, decreased number, additional judges	"	113,786	116,436
I	5	*Jury verdict 5/6 in civil cases	Nov. 1922	171,433	156,820
VI	4	Sheriffs, no limit on successive terms	"	161,832	207,594
XI	new	Municipal indebtedness for public utilities	Nov. 1922	105,234	219,639
IV	21	Legislators' pay $750 a year	Apr. 1924	189,635	250,236
VII	7	*Circuit judges, additional in populous counties	Nov. 1924	240,207	226,562
VIII	10	*Forestry, appropriations for	"	336,360	173,563
XI	3	*Home rule for cities and villages	"	299,792	190,165
V	5	*Governor's salary fixed by law	Nov. 1926	202,156	188,302
XIII	12	*Recall of elective officials	"	205,868	201,125
IV	21	Legislators' pay $1,000 for session	Apr. 1927	151,786	199,260
VIII	1	*Severance tax: forests, minerals	"	179,217	141,888
IV	21	*Legislators' salary fixed by law	Apr. 1929	237,250	212,846
VI	4	*Sheriffs succeeding themselves for 2 terms	"	259,881	210,964

TABLE X. HISTORY OF CONSTITUTIONAL AMENDMENTS--Cont.

Constitution Art.	Sec.	Subject	Date of Election	Vote For	Vote Against
V	10	*Item veto on appropriation bills	Nov. 1930	252,655	153,703
V	5	*Repealed; related to governor's salary	Nov. 1932	452,605	275,175
V	9	*Repealed; related to lieutenant governor's salary	"	427,768	267,120
VII	1	*Wording of section corrected	"	436,113	221,563
XI	3	*Municipal indebtedness for public utilities	"	401,194	279,631
III	1	*Woman suffrage	Nov. 1934	411,088	166,745
XIII	11	*Free passes, permitted as specified	Nov. 1936	365,971	361,799
VIII	1	*Instalment payment of real estate taxes	Apr. 1941	330,971	134,808
VII	15	*Justice of peace, abolish office in first class cities	Apr. 1945	160,965	113,408
VIII	10	*Aeronautical program	"	187,111	101,169
VI	4	Sheriffs, no limit on successive terms	Apr. 1946	121,144	170,131
IV	33	*Auditing of state accounts	Nov. 1946	480,938	308,072
VI	2	*Auditing (part of same proposal)	"	"	"
X	3	Public transportation of school children to any school	"	437,817	545,475
XI	2	Repeal; relating to exercise of eminent domain by municipalities	Nov. 1948	210,086	807,318
II	2	Repeal prohibition to tax federal lands in Wisconsin	Apr. 1949	245,412	297,237
VIII	10	*Veterans' housing	"	311,576	290,736
II	2	*Repeal prohibition to tax federal lands in Wisconsin	Apr. 1951	305,612	186,284
XI	3	*City debt limit 8% for combined city and school purposes	"	313,739	191,897
IV	3, 4, 5	***Apportionment based on area and population	Apr. 1953	433,043	406,133
VII	9	*Judicial elections to full terms	"	386,972	345,094
VII	24	*Judges: qualifications, retirement	Apr. 1955	380,214	177,929
XI	3	*School debt limit, equalized value	"	320,376	228,641
IV	26	*Teachers' retirement benefits	Apr. 1956	365,560	255,284
VI	4	Sheriffs, no limit on successive terms	"	269,722	328,603
XI	3a	*Dedication of land to cities, etc.	"	376,692	193,544
XIII	11	Free passes, not for public use	"	188,715	380,207
VIII	10	*Port development	Apr. 1960	472,177	451,045
XI	3	*Debt limit in populous counties, 5% equalized	Nov. 1960	686,104	529,467
IV	26	Salary increases during term	Apr. 1961	297,066	307,575
IV	34	*Continuity of civil government	"	498,869	132,728
VI	4	Sheriffs, no limit on successive terms	"	283,495	388,238
VIII	1	*Personal property, classification for tax purposes	"	381,881	220,434
XI	2	*Eliminate jury verdict of necessity in municipal eminent domain	"	348,406	259,566

TABLE X. HISTORY OF CONSTITUTIONAL AMENDMENTS -- Cont.

Constitution Art.	Sec.	Subject	Date of Election	Vote For	Against
XI	3	*Debt limit 10% equalized value for integrated aid school district	Apr. 1961	409,963	224,783
IV	3	*"Indians not taxed" exclusion removed from apportionment formula	Nov. 1962	631,296	259,557
IV	23	*County executive officer; 4-year term	"	527,075	331,393
VI	4	*County executive (part of same proposal)	"	"	"
IV	23a	*County executive veto power	"	524,240	319,378
IV	3	Apportionment at second session	Apr. 1963	232,851	277,014
IV	26	Salary increases during term	"	216,205	335,774
XI	3	*Equalized value debt limit	"	285,296	231,702
VIII	10	Increase the allowable state tax for forestry purposes	Apr. 1964	440,978	536,724
XI	3	Adjust the basis of valuation of property for debt limit purposes	"	336,994	572,276
XII	1	Permit the inclusion of several reasonably related items in a single proposition when submitted to the electorate	"	317,676	582,045
VI	4	*Abolish the officers of coroner and surveyor in counties having a population of 500,000 or more	Apr. 1965	380,059	215,169
IV	24	*Revise the constitutional definition of consideration to permit certain kinds of lotteries	"	454,390	194,327

* Ratified

** Ratified but declared invalid by supreme court in "State ex rel Owen v. Donald," 160 Wis. 21, 151 N.W. 331.

*** Ratified but declared invalid by supreme court in "State ex rel Thompson v. Zimmerman," 264 Wis. 644, 60 N.W. 2nd 416.

Source: Wisconsin Blue Book, 1964, and Office of Secretary of State.

TOTALS:

Constitutional Amendments Presented to the Wisconsin Electorate:	111
Constitutional Amendments Approved by the Wisconsin Electorate:	77
Constitutional Amendments Rejected by the Wisconsin Electorate:	34

(Two proposals were declared invalid)

B. The Revision Commission

Serious efforts for more comprehensive revision of the constitution began in the late 1940's. At that time agitation began for a committee to study the constitution (See Table XI). On April 26, 1960 Governor Gaylord Nelson announced the appointment of a 15-member Temporary Commission on Constitutional Revision, composed of lawyers, scholars and public spirited citizens. Cochairmen of the commission were Supreme Court Justice Thomas Fairchild and G. Burgess Ela. Professor David Fellman, an authority on constitutional law, and Attorney General John W. Reynolds were on the commission, as well as Dean Seitz of Marquette University Law School. The commission was directed "to make a recommendation as to the best method of achieving constitutional revision if it is found that revision is necessary." The commission served without pay and without compensation for its expenses.

After 4 general sessions and detailed work through subcommittees over a 6-month period, the commission's report was presented to the Legislature in December 1960[11]. At that time the commission did not advise a constitutional convention. It did, however, make several proposals for constitutional revision (See Table XII). Not charged with any responsibility for implementing its recommendations, the commission ceased to function after its report was submitted.

During the 1961 and 1963 legislative sessions many proposals relating to recommendations made by the commission were introduced into the Legislature. Fifty such proposals were introduced in the 1961 Legislature and 34 in the 1963 session (See Table XIII). There is, of course, no way of knowing which of these amendments would have been introduced in the normal course of events and which were stimulated by the commission's efforts.

Five of the recommendations of the commission were similar to proposals already adopted by the 1959 Legislature on 1st consideration. These 5 passed 2 sessions of the Legislature, were presented to the voters, and 3 of them were ratified in April 1961.

The first such recommendation amended Article VIII, Section 1. This amendment gave the Legislature an option to place merchants' stock-in-trade, manufacturers' materials and finished products, and livestock in a separate class that may be taxed at rates uniform for this class only.

The second amendment abolished the requirement of jury verdicts of necessity in city and village eminent domain actions. (Article XI, Section 2. This provision was unique among the states.) As a result of the amendment cities and villages were put on an equal footing with other governmental units and utilities.

The third amendment granted power to the Legislature, in the event of enemy attack, to provide for continuity of civil government by filling positions quickly in case of widespread casualties among the officials of the state. Included in such powers is the replacement of unavailable state or local officials, whether elected or appointed. Sixteen other states have adopted a similar constitutional amendment.[12]

In 1963 Governor Reynolds named a 19-member commission to give further study and to draft and promote proposals for constitutional amendment. Most of the members of the 1960 commission are on the present commission, and, in addition, an assemblyman and a senator, from each party, was named. The members also serve without compensation, and there are no funds for expenses of any kind.

TABLE XI. PROPOSALS FOR STUDIES OF THE NEED FOR A CONSTITUTIONAL CONVENTION

1949	Bill No. 222, A. By Mr. Gade (Dem.) Racine Co. and Mr. Huber (Dem.) Milwaukee Co. This proposal would have created a committee of 9 appointed by the Governor and including representation of labor, business, agriculture, the general public and at least one from the faculty of the university of Wisconsin law school. An appropriation of $5,000 was made for the study but members of the committee were to receive expenses only. It was charged with studying "the need for revision of the State Constitution in view of present day requirements."	Indefinitely postponed 68 to 24.
1951	Bill No. 246, A. Introduced by Mr. Huber (Dem.) Milwaukee Co., Mr. Lourigan (Dem.) Kenosha Co., Mr. Molinaro (Dem.) Kenosha Co. and Mr. Proxmire (Dem.) Dane Co. This proposal created a nonpartisan interim commission of 15 composed as follows: 1. One from the executive branch of state government selected by the Governor. 2. One member of the supreme court selected by the chief justice. 3. 4 senators, 2 from each party, selected by the committee on committees. 4. 4 assemblymen, 2 from each party, selected by the speaker. 5. One citizen member each from the fields of law, education, industry, agriculture and labor selected by the legislative members of the commission. It was to receive appropriations of $5,000 on July 1, 1951 and 1952. Its charge was to "study and consider the State Constitution in relation to a modern and future Wisconsin society and shall recommend in a report to the next regular session of the legislature revisions of the Constitution deemed to be necessary."	Indefinitely postponed due to sine die adjournment without roll call vote.
1957	Bill No. 396, S. Introduced by Senator Wilkie (Dem.) Dane Co. and Senator Moser (Dem.) Milwaukee Co. This proposal created a nonpartisan commission of 17 members, the composition of which was the same as the 1951 commission except that it had 2 more citizen members and no law school representation was required. Its charge was the same as in 1951 and it was to receive an appropriation of $10,000.	Indefinitely postponed without a roll call.

1957 - Continued

	Bill 495, A. Introduced by Mr. C. J. Schmidt (Dem.) Milwaukee Co., Mr. Hardie (Dem.) Jackson and Trempealeau Cos. and Mr. Molinaro (Dem.) Kenosha Co. This proposal was the same as Bill No. 396, S.	Indefinitely postponed 59 to 30.
1959	Bill No. 372, S. Introduced by Senator Wilkie (Dem.) Dane Co., Senator Moser (Dem.) Milwaukee Co., Senator Zaborski (Dem.) Milwaukee Co., Senator Stalbaum (Dem.) Racine Co. and Senator Maier (Dem.) Milwaukee Co. This proposal was essentially the same as the 1957 proposal except that the 7 citizen members were to be appointed by the Governor and the appropriation was increased to $10,000 for 1959 and $10,000 for 1960.	Indefinitely postponed without a roll call.
	SJR 94 Introduced by the Joint Committee on Finance. Near the end of the first segment of the trifurcated session of 1959 all of the studies which had been proposed to that time were screened and those considered desirable were integrated into this joint resolution. Paragraph (6) of the proposal provided that the Judiciary Committee of the Legislative Council should study the subject matter of Bill 372,S., which related to a commission to determine the need for a constitutional convention. However, due to lack of time, the judiciary committee made no recommendations on the subject matter of Bill 372, S.	

TABLE XII. RECOMMENDATIONS OF THE CONSTITUTIONAL REVISION COMMISSION

A. Revisions Deserving Highest Priority

1. Amendment of Article IV, Section 3, to provide for reapportionment on a nonpartisan basis.

2. Relaxation of the provision of Article IV, Section 23, requiring that the legislature shall establish but one uniform system of town and county government. (To enable the legislature to provide alternative systems in accordance with needs of localities.)

3. Amendment of Article V, Section 1, and Article VI, Section 1, so as to provide a 4-year term of office for the Governor and other constitutional officers.

4. Amendment of Articles V, VI, and X to reduce the number of elected state executive officers.

5. Amendment of Articles V and VI to permit the establishment of a "Cabinet" type of State government with appropriate limitations on the number of executive agencies, and authority to the Governor for supervision of executive agencies.

6. Relaxation of the restrictive provisions of Article VIII pertaining to State debt. (To enable the State to contract debt up to a prescribed amount under prescribed circumstances.)

7. Amendment of Article VI to provide a procedure for nomination, election and appointment of Supreme Court justices that will combine the merits of election and appointment.

8. Amendment of Article VIII, Section 1, to permit the legislature to authorize assessment of certain classes of personal property such as merchants' and manufacturers' inventories and livestock not in uniformity with real and other personal property but uniform within each class.

9. Relaxation of the provisions of Article XI, Section 2, requiring a jury verdict of necessity prior to the exercise of the power of eminent domain by a municipal corporation. (To enable the legislature to provide the manner in which necessity shall be determined in municipal corporation eminent domain proceedings.)

10. Amendment of Article XII, Section 1, to eliminate unnecessary obstacles and delay in the constitutional amendment procedure and to provide for broadening of the permissible scope of an amendment.

11. Addition to the Constitution of a suitable provision to insure the continuity of state and local government in the face of catastrophe.

B. Other Substantial Questions Deserving Consideration

1. Amendment of Article IV, Section 11, to provide for annual or continual sessions of the legislature.

2. Amendment of Article V, Sections 7 and 8, to authorize the legislature to determine who shall be Governor, when, during a vacancy in that office, the Lieutenant Governor is unable to serve.

3. Amendment of Article VI, Section 4, to authorize the legislature to prescribe a method for selection other than by election of some county officers.

4. Amendment of Article VI to provide for uniform jurisdiction and procedure for all inferior courts.

5. Relaxation of Article VIII, Section 10, insofar as it excludes by specific reference to matters stated therein other public purposes for which public money may be spent.

6. Amendment of Article X to authorize the legislature to provide for the manner in which public instruction shall be supervised.

7. Addition to the Constitution of a provision establishing a procedure for constitutional amendment through popular initiative.

8. Addition to the Constitution of authorization for the creation of commissions on constitutional revision.

9. Addition to the Constitution of a provision declaring policy with respect to municipal and county home rule.

C. Other Matters for Study, Including Obsolete, Unnecessary, or Cumbersome Provisions

1. Elimination of bill of rights sections on imprisonment for debt, bankruptcy, slavery and feudal tenures (I, 16, 17, 2, 14)

2. Age limit for voters (III, 1)

3. Deletion of obsolete sentence dealing with election of Senators (IV, 5, last sen.)

4. Deletion of section on stationery and printing (IV, 25)

5. Clarification of clause dealing with extra compensation and salary change (IV, 26)

6. Repeal of section on the militia (IV, 29)

7. Revision of section on special and private laws (IV, 31)

8. Prohibition of special and private laws relating to local government (IV, 31, 5, 8, 9)

9. Repeal of section on general laws on enumerated subjects (IV, 32)

10. Repeal of section outlining the judicial circuits (VII, 5)

11. Repeal of various sections dealing with the courts (VII, 8, 12, 13, 14, 15, 16, 17, 18, 19, 22)

12. Eliminate time limits on payment of state debts (VIII, 2, second sentence)

13. Clarification of provision on accrual of all forfeitures to the state (X, 2)

14. Revision of provision giving special treatment to banking corporations (XI, 1)

15. Separation of municipal home rule from debt provisions (XI, 3)

16. Elimination of enumeration of purposes for eminent domain (XI, 3a)

17. Elimination of section on acquisition of lands by state and subdivisions (XI, 3a)

18. Reconsideration of two-thirds vote requirement for banking legislation (XI, 4)

19. Elimination of all but first sentence in paragraph dealing with the political year (XIII, 1)

20. Repeal of dueling clause as obsolete (XIII, 2)

21. Revision of provision on eligibility for office (XIII, 3)

22. Elimination of section on voting by residents on Indian lands (XIII, 5)

23. Elimination of section of removal of county seats (XIII, 8)

24. Elimination of sentence dealing with election or appointment of county officers (XIII, 9, first sentence)

25. Elimination of section on passes, franks and privileges (XIII, 11)

26. Revision of the provision dealing with the recall (XIII, 12)

27. Obsolescence of various sections in the Schedule (XIV, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, possibly 15 /statutory/)

28. Addition of due process and equal protection clauses /new/

Source: Committee on Constitutional Revision Report to the Governor, December 16, 1960.

TABLE XIII. SUMMARY OF ACTION ON RECOMMENDATIONS OF THE CONSTITUTIONAL REVISION COMMISSION - 1961 - 1964

Revisions Deserving Highest Priority

Proposals Concerning:	Total Amendments Introduced (1961-63)	Adopted (1st Consideration) 1961-63	Adopted (2nd Consideration) 1961-63	Results of the Referendum
(1) Reapportionment	3	0	--	--
(2) Uniformity Clause	5	0	--	--
(3) 4-year term	31	0	--	--
(4) Shorter Ballot	3	0	--	--
(5) Organization of State Agencies	6	0	--	--
(6) State Debt	4	0	--	--
(7) Election of Supreme Court Judges	0	0	--	--
(8) Personal Property Classifications	4	*	1	A. (4-61)
(9) Eminent Domain (Jury Verdicts)	1	*	1	A. (4-61)
(10) Amendment Procedure	9	1	1	R. (4-64)
(11) Continuity of Civil Government	1	*	1	A. (4-61)
TOTALS	67	1	4	A. - 3 R. - 1

Other Substantial Questions Deserving Consideration

(1) Annual Legislative Session	0	--	--	--
(2) Gubernatorial Succession	0	--	--	--
(3) Election of County Officers	5	0	--	--
(4) (Inferior) Court Uniformity	0	--	--	--
(5) Allocation of Public Funds	5	2	1	R. (4-64)
(6) Supervision of Public Instruction	4	0	--	--
(7) Constitutional Initiative	2	0	--	--
(8) Constitutional Revision Commission	2	0	--	--
(9) Home Rule	0	--	--	--
TOTALS	18	2	1	R. 1

*Adopted in 1959 Legislature; A. - Approved
R. - Rejected

Initially the second commission took the same stand as its predecessor concerning a constitutional convention. However, in April 1964, 2 constitutional provisions, incorporating recommendations of the earlier commission, were rejected by the voters.

One of these proposals would have amended Section 10 of Article VIII to increase the allowable state tax for forestry purposes from two-tenths to one-fourth of one mill of the taxable property in the state[13].

The other proposal, called by Justice Fairchild an important building block for sound constitutional revision, was designed to make revision via the amending process more feasible. It would have given the Legislature broader latitude in submitting to the electorate as a single question a revision of a portion of the constitution or of items reasonably related to each other. For example, it would have allowed the 4-year terms for all 5 officers, or a new article on state finance, or a new article on the court system to be so combined. Both commissions considered that this proposal would have been of great help in submitting amendments for the purpose of revision. Although the League of Women Voters conducted a vigorous effort in support of the proposal and although it had considerable newspaper support, it was defeated.[13] After that election there was a shift in thinking concerning the need for a constitutional convention. In February 1965 the commission rejected, by the narrow margin of 8-7, a recommendation which favored a constitutional convention. Speculation developed that a majority were beginning to favor a convention. Then, at the May 4th meeting, the commission for the first time endorsed a recommendation for a constitutional convention. This recommendation was passed also by the narrow vote of 8-7.

The commission's recommendation is in no way binding on the Legislature. However, independent of the recommendation a joint resolution was introduced by Assemblymen Kessler and McCormick to allow the Wisconsin voters to decide at the general election in November 1966 if the state should hold a constitutional convention.

At the public hearing on this joint resolution, supporters of a convention included the Milwaukee Bar Association, the legislative committee of the Milwaukee County Board, the City Club of Milwaukee and the Women's Court and Civic Conference of Milwaukee, as well as Milwaukee County Executive Doyne, Attorney General Bronson C. LaFollette, and Norman Gill, Executive Director of the Citizen's Governmental Research Bureau of Milwaukee.

Registering in opposition of the resolution at the hearing were Mrs. Donald Clausen, President of the Wisconsin League of Women Voters, the Wisconsin Manufacturer's Association, and the Wisconsin League of Senior Citizens. The Republican Party at its 1965 state convention in La Crosse also rejected the idea of a convention.

C. Major Issues Involved in Constitutional Revision

Recently, a consensus seems to have developed that the commission should concentrate its efforts around certain specific issues. The issues most frequently mentioned are: (1) a 4-year term for constitutional officers; (2) the possibility of electing a Governor and Lieutenant Governor on a single ticket; (3) elimination of the offices of Secretary of State, State Treasurer, and perhaps the Attorney General from the ballot; (4) revision of the provision on state finance, particularly the section on the state debt; (5) relaxation of the

requirement of uniform town and county government; (6) a new article on courts and the judiciary; and (7) creation of a nonpartisan commission for periodic reapportionment.[14]

The purpose of this section will be to summarize the history of the proposals in Wisconsin. In addition the commission's recommendations for revising the amendment process will be analyzed.

(1) Four-year Term for Major Constitutional Officers – In 1940, 23 states had 2-year terms for major constitutional officers. Today Wisconsin is one of 11 states that still retains the 2-year term. Recent constitutional changes have been from the shorter term to the 4-year term. Since 1950, 10 states have extended gubernatorial terms from 2 to 4 years (See Table XIV).

TABLE XIV. TREND IN THE TERMS OF OFFICE, 1937-1964

Year	Governor	Lieutenant Governor*	Secretary of State	Treasurer	Attorney General
		States Having 2-Year Terms			
1937	24	–	19	–	20
1946	21	17	18	21	17
1958	16	14	15	17	15
1964	11	9	10	12	10
		States Having 4-Year Terms			
1937	23	–	19	–	21
1946	26	20	20	20	25
1958	33	23	24	23	27
1964	38	28	29	27	34

* 12 states do not have a Lieutenant Governor popularly elected.

As originally adopted the Wisconsin Constitution provided 2-year terms for all nonjudicial state and county officers except assemblymen, who were to be elected annually and the State Superintendent of Public Instruction for whom no definite term was established. In 1854 a constitutional amendment providing 2-year terms for assemblymen and 4-year terms for senators was submitted to the electorate but was rejected. Another amendment on this subject was ratified in 1881. The electorate approved an amendment establishing a 4-year term for State Superintendent of Public Instruction in 1901. Since 1900 there have been introduced approximately 50 joint resolutions to amend the constitution to provide a 4-year term for the major constitutional officers, but no such resolution has ever passed the Legislature. There is a question as to whether the short term gives a Governor sufficient time to become familiar with the office and to develop and put into operation a program on the basis of which his capacity to govern can be judged by the voters. A 4-year term also reduces the time that the Governor must spend in campaigning. On the other hand, short terms were originally instituted to make the election process more democratic. Short terms make an official more accountable to the electorate for his actions by making it easier to get rid of inefficient, corrupt or unwanted officeholders[15]. Legislative action on this proposal since the report of the commission is shown in the following table:

TABLE XV PROPOSED CONSTITUTIONAL AMENDMENTS RELATING TO FOUR-YEAR TERM OF OFFICE FOR CONSTITUTIONAL OFFICERS 1961-65

1961	(1) Governor and Lieutenant Governor	
	a. Jt. Resolution 29, S., to amend Article V, Section 1 of the Constitution, relating to the term of office for Governor and Lieutenant Governor.	Withdrawn by author
	b. Jt. Resolution 16, S., to amend Article V, Section 1 of the Constitution, relating to the terms of office for Governor and Lieutenant Governor.	Nonconcurred in
	c. Jt. Resolution 50, A., to amend Article V, Section 1 of the Constitution, relating to the terms of office for Governor and Lieutenant Governor.	Rejected 51-38
	(2) Governor	
	a. Jt. Resolution 21, A., to amend Article V, Sections 1 and 3 of the Constitution, relating to the term of office for the Governor.	Rejected 45-38
	(3) Lieutenant Governor	
	a. Jt. Resolution 22, A., to amend Article V, Sections 1 and 3 of the Constitution, relating to the term of office for Lieutenant Governor.	Rejected (No roll call)
	(4) Attorney General	
	a. Jt. Resolution 19, S., to create Section 1b of Article VI of the Constitution, relating to the term of office of the Attorney General.	Nonconcurred in (No roll call)
	b. Jt. Resolution 27, S., to create Section 1b of Article VI of the Constitution, relating to the term of office of the Attorney General.	Withdrawn by authors
	c. Jt. Resolution 34, A., to amend Article VI, Section 1 of the Constitution, relating to the term of the Attorney General.	Rejected 68-16

d. Jt. Resolution 47, A., to create Section 1b of Article VI of the Constitution, relating to the term of office of the Attorney General.	Rejected (No roll call)

(5) Secretary of State

a. Jt. Resolution 17, S., to create Section 1a of Article VI of the Constitution, relating to the term of office of the Secretary of State.	Nonconcurred in (No roll call)
b. Jt. Resolution 28, S., to create Section 1a of Article VI of the Constitution, relating to the term of office of the Secretary of State	Withdrawn by author
c. Jt. Resolution 36, A., to amend Article VI, Section 1 of the Constitution, relating to the term of Secretary of State	Rejected (No roll call)
d. Jt. Resolution 46, A., to create Section 1a of Article VI of the Constitution, relating to the term of office of the Secretary of State.	Rejected (No roll call)

(6) State Treasurer

a. Jt. Resolution 18, S., to create Section 1c of Article VI of the Constitution, relating to the term of office of State Treasurer.	Nonconcurred in
b. Jt. Resolution 26, S., to create Section 1c of Article VI of the Constitution, relating to the term of office of the State Treasurer	Withdrawn by author
c. Jt. Resolution 35, A., to amend Article VI, Section 1 of the Constitution, relating to the term of State Treasurer	Rejected 69-12
d. Jt. Resolution 45, A., to create Section 1c of Article VI of the Constitution, relating to the term of office of the State Treasurer.	Rejected (No roll call)

1963

(1) Governor and Lieutenant Governor

a. Jt. Resolution 34, S., to amend Article V, Sections 1 and 3 of the Constitution, relating to the term of office for the Governor and Lieutenant Governor. — Rejected 17-16

(2) Governor

a. Jt. Resolution 104, S., to create Section 3m of Article V of the Constitution, relating to the term of the Governor. — Laid on table

b. Jt. Resolution 48, A., to amend Article V, Sections 1 and 3 of the Constitution, relating to the term of office for the Governor. — Died in committee

(3) Lieutenant Governor

a. Jt. Resolution 103, S., to create Section 3n of Article V of the Constitution, relating to the term of office for Lieutenant Governor. — Laid on table.

b. Jt. Resolution 49, A., to amend Article V, Sections 1 and 3 of the Constitution, relating to the term of office for Lieutenant Governor. — Rejected 56-38

(4) Attorney General

a. Jt. Resolution 35, S., to create Section 1b of Article VI of the Constitution, relating to the term of office of the Attorney General. — Adoption refused 16-11

b. Jt. Resolution 105, S., to amend Article VI, Section 1 of the Constitution, relating to the term of the Attorney General. — Laid on table

c. Jt. Resolution 50, A., to amend Article VI, Section 1 of the Constitution, relating to the term of the Attorney General. — Rejected 56-37

(5) Secretary of State

a. Jt. Resolution 36, S., to create Section 1a of Article VI of the Constitution, relating to the term of office of the Secretary of State.	Adoption refused 16-12
b. Jt. Resolution 107, S., to amend Article VI, Section 1 of the Constitution, relating to the term of Secretary of State.	Laid on table
c. Jt. Resolution 46, A., to amend Article VI, Section 1 of the Constitution, relating to the term of Secretary of State.	Rejected 57-36

(6) State Treasurer

a. Jt. Resolution 37, S., to create Section 1c of Article VI of the Constitution, relating to the term of office of the State Treasurer.	Adoption refused 16-11
b. Jt. Resolution 106, S., to amend Article VI, Section 1 of the Constitution, relating to the term of the State Treasurer.	Laid on table

1965 (1) Governor and Lieutenant Governor

a. Jt. Resolution 5, S., to amend Article V, Sections 1 and 3 of the Constitution, relating to four-year terms of office for the Governor and Lieutenant Governor and the election of those officers by a single vote.	Passed Senate 19-12 Assembly referred to Committee on Elections

(2) Governor, Lieutenant Governor, Secretary of State, Attorney General, and State Treasurer

a. Jt. Resolution 4, A., to create Article V, Sections 1m, 1n and 1p of the Constitution, relating to four-year terms of office for the Governor, Lieutenant Governor, Secretary of State, State Treasurer and Attorney General.	Assembly adopted 88-7 Senate nonconcurred 16-15

(2) Joint Election of Governor and Lieutenant Governor - In 1954 New York became the first state to put into effect a constitutional provision for the joint election of both Governor and Lieutenant Governor, a single vote being cast for both offices. The new Michigan Constitution has similar provisions. Connecticut and New Mexico voters ratified like amendments in November 1962, Hawaii in November 1964. Commissions in Rhode Island and Kansas have also recommended this system. The Alaska Constitution provides for the election of the Secretary of State jointly with the Governor. This officer performs the functions of the Lieutenant Governor.

The significance of the office of Lieutenant Governor in Wisconsin may be measured by the fact that 4 times in the history of our state, a Governor has died and the duties of his office devolved upon the Lieutenant Governor. In 2 of these cases the Lieutenant Governor who succeeded to the office of Governor was of a different party than his predecessor. Including the 1964 election, there have been 10 times when the Wisconsin voters have elected men of opposing parties to the offices of Governor and Lieutenant Governor.

In 1962 and 1964 John W. Reynolds as Democratic candidate for Governor, advocated the joint election of these 2 officers. The 1964 Democratic candidate for Lieutenant Governor, Patrick J. Lucey, in advocating this proposal, stated that he would be less than useless as Lieutenant Governor with a Republican Governor. In both of these elections, however, the majority of the electorate split their ballots in voting for the top 2 constitutional officers.[16] Six resolutions have been introduced since 1960 to provide for a single ballot for both offices (See Table XVI).

Opposition to this proposal seems to center around the fear that if the 2 officers were elected on a single ticket, the gubernatorial position would be dominant with little attention being paid to the Lieutenant Governor's position.

TABLE XVI. PROPOSED CONSTITUTIONAL AMENDMENTS RELATING TO THE ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR BY SINGLE VOTE 1961-65

1961	AJR 23, to amend Article V, Section 3 of the constitution, relating to the election of Governor and Lieutenant Governor by single vote.	Assembly rejected 52-32
1963	AJR 47, to amend Article V, Section 3 of the constitution, relating to the election of Governor and Lieutenant Governor by single vote.	Rejected 48-45
	SJR 33, to amend Article V, Section 3, of the constitution, relating to the election of Governor and Lieutenant Governor by single vote.	Rejected 22-11
	SJR 108, to amend Article V, Section 3, of the constitution, relating to the election of Governor and Lieutenant Governor by single vote.	Laid on table.

1965	AJR3, to amend Article V, Section 3 of the constitution, relating to the election of Governor and Lieutenant Governor by single vote.	Passed Assembly 90-5 Senate referred to committee on judiciary, public hearing held 5/5/65
	SJR5, to amend Article V, Sections 1 and 3 of the constitution, relating to 4-year terms of the office for the Governor and Lieutenant Governor and the election of those officers by a single vote.	Passed Senate 19-12 Assembly referred to committee on elections

(3) Limiting the Number of Elected State Officers - The trend in more recent constitutions has been to follow the federal example, where only the President and Vice President are elected, while the top administrative officials are appointed by the President. In New Jersey the Governor is the only executive officer who is elected. Alaska elects the Governor and the Secretary of State, and Hawaii, the Governor and Lieutenant Governor. The Michigan Constitution reduced the number of elected officials from 10 to 5.

TABLE XVII. METHOD OF SELECTION OF CONSTITUTIONAL OFFICERS

	States in Which Appointed	States in Which Elected by Voters	States in Which Elected by Legislature
Governor	–	50	–
Lieutenant Governor	–	38	1
Secretary of State	7	39	3
Attorney General	7	42	1
Treasurer	5	41	4

The Wisconsin Constitution provides for 6 constitutional officers to be elected statewide. These officers include the Governor, Lieutenant Governor, Secretary of State, Treasurer, Attorney General and Superintendent of Public Instruction. Twenty-seven states elect a larger number of executive officials than does Wisconsin (See Table XVIII). An attempt to further reduce the number of elected offices began in Wisconsin in 1959 with Senate Joint Resolution 25.[17] This resolution, defeated in the Senate, would have repealed the offices of Treasurer and Secretary of State. Since that time, 4 similar resolutions have been introduced (See Table XIX).

Those in favor of this proposal feel that it would be an important step toward allowing the Governor to, in fact, exercise the power of chief executive of the state. Opposition is based on the theory that it is more in line with democracy for the people to determine who should serve in these high-level positions. In addition, such officials serve as a check on the Governor.

TABLE XIX. PROPOSED CONSTITUTIONAL AMENDMENTS RELATING TO THE APPOINTMENT OF SECRETARY OF STATE, TREASURER AND ATTORNEY GENERAL 1961-65

1961	SJR 35, to amend Section 2 of Article VI, so as in effect to repeal said section; and to amend Section 8 of Article V, Sections 1 and 3 of Article VI, Sections 7 and 8 of Article X and Section 4 of Article XIII of the constitution, relating to the number of constitutional officers.	Rejected 24-8
	AJR 24, to amend Article VI, Section 1, of the constitution, relating to the changing of the elective offices of Secretary of State, Treasurer and Attorney General to appointive offices by the Governor.	Rejected (No roll call)
1963	AJR 52, to amend Article VI, Section 1 of the constitution, relating to the changes of the elective offices of Secretary of State, Treasurer and Attorney General to appointive offices by the Governor.	Rejected 52-43
1965	SJR 6, to create Article VI, Sections 1m, 1n and 1p of the constitution, relating to changing the offices of Secretary of State, Treasurer and Attorney General to be appointive by the Governor.	Rejected 29-2

TABLE XVIII. ELECTIVE STATE OFFICIALS--EXECUTIVE-ADMINISTRATIVE

(Executive councils, legislative auditors, and agencies generally headed by boards are omitted.)

Number of Officials Elected by People	Number of States		Comments
1	4	New Jersey,* New Hampshire,* Tennessee, Maine*	
2	2	Hawaii, Alaska*	Hawaii Lt. Governor acts as Secretary of State. Alaska Secretary of State elected as and in lieu of Lt. Governor.
3	2	Virginia, Maryland*	
4	2	New York, Pennsylvania	
5	3	Rhode Island, Wyoming,* Utah*	
6	10	Massachusetts, Minnesota, Delaware, Colorado, Connecticut, Missouri, Ohio, Vermont (1), Wisconsin, Oregon* (3)	Oregon Secretary of State acts as auditor; Attorney General statutory. Vermont Attorney General statutory.
7	11	Texas (1), Nevada (1), Nebraska, Illinois, Indiana (1), Montana, California, Arkansas, Iowa (1), Arizona,* Florida*	Indiana Attorney General statutory.
8	8	South Dakota, Kansas (1), Alabama, Michigan (1), New Mexico, Kentucky, Idaho (1), South Carolina (1)	
9	4	Washington (1), North Dakota, Louisiana, Georgia	
10	4	Oklahoma, Mississippi (3), North Carolina, West Virginia* (5)	Oklahoma 5-member commissions of agriculture and land not included.

* States having no Lieutenant Governor.

In parentheses the number of officials popularly elected under statutory rather than constitutional authority.

Source: The Book of the States 1960-61, pp. 124-125.

(4) Revision of the Provision on State Finance, Particularly with Reference to State Debt, —Article VIII of the Wisconsin Constitution sets a state debt limit of $100,000, except to repel invasion or suppress insurrection, and forbids debt for works of internal improvement. Several constitutional amendments have been passed which alter the limitation in respect to specific works of internal improvement, such as public highways, airports, veterans' housing, and, most recently, the improvement of port facilities. However, all attempts to change the debt limit itself - and they have been numerous - have failed.

In Wisconsin, as in many other states, the constitutional debt limit has been circumvented through the use of special financing arrangements. The practice has been criticize on the grounds that it is "an indirect way of doing what the constitution directly prohibits," that it is substantially more costly and time consuming, that it is confusing and disturbing to the citizens, and that it removes public funds from legislative controls.

Numerous attempts have been made to change the debt limit. The majority of these, obviously, have proposed amendments to Section 6 of Article VIII, the section which contains the $100,000 limit. However, there have also been proposals which would have left the provisions of Article VIII, Section 6, intact and would have created authority for additional indebtedness outside that section.

In general, the proposals to change the debt limit provision fall into 4 major classes: 1) to abandon the $100,000 limit, basing the limit instead on some outside standard such as a certain percentage of the value of taxable property, or of the aggregate per capita income, of Wisconsin; 2) to retain the $100,000 debt limit but permitting the contracting of additional debt, on the basis of a qualified vote in the Legislature, for purposes specified in the proposals; 3) to do away with any limit on the debt itself, limiting the debt in effect by retaining a specified repayment period in the constitution; and 4) to permit the state or its counties, or both combined, to contract debt in addition to the $100,000 state debt limit for specified purposes.

Of the many proposals placed before the Wisconsin Legislature, only 4 ever passed first consideration (1909 SJR 25; 1913 AJR 17; 1919 SJR 98; 1921 SJR 22). None passed second consideration. Accordingly, none were ever submitted to the electorate for ratification.

Defenders of retaining this fiscal restriction fear the ability of the Legislature to keep the debt within reasonable limits if left to its own discretion.

The results of the proposals on this subject introduced into the Legislature 1961-1965 are shown in the following table. [18]

TABLE XX. PROPOSED CONSTITUTIONAL AMENDMENTS RELATING TO STATE DEBT 1961-65

1961

(1) Jt. Resolution 40, S., to amend Section 9 and to create Section 11 of Article VIII of the constitution, relating to authorizing the state to contract public debt for state buildings. — Rejected 19-12

(2) Jt. Resolution 44, A., to amend Section 9 and to create Section 11 of Article VIII of the constitution, relating to authorizing the state to contract public debts for state buildings.	Rejected 49-41
1963	
(1) Jt. Resolution 43, A., to amend Section 9 and to create Section 11 of Article VIII of the constitution, relating to authorizing the state to contract public debt for state buildings.	Refused to engross 46-48
(2) Jt. Resolution 4, A., Special Session, to amend Section 9 and to create Section 11 of Article VIII of the constitution, relating to authorizing the state to contract public debt for highway construction.	No action taken; died on sine die adjournment of the 1963 Special Session
1965	
(1) Jt. Resolution 64, A., to create Article VIII, Section 11 of the constitution, relating to state debt. (1st consideration).	Indefinitely postponed.
(2) Jt. Resolution 57, S., to create Article VIII, Section 11, of the constitution relating to public debt contracted by dummy corporations.	Senate referred to committee on Judiciary.

(5) Optional forms of Town and County Government – Although there has been no basic revision of the structure of county government since its formative years, there has been a growing recognition of the need for some change. In the last 60 years well over 100 proposed constitutional amendments have been introduced into the Legislature, on this subject but only three minor revisions have been ratified by the electorate. Much criticism about the organization of county government has been directed at the uniformity clause. Article IV, Sec. 23 states: "The legislature shall establish but one system of town and county government which shall be as nearly uniform as practicable..." The uniformity clause has required substantial similarity in the basic organizational pattern of the counties. Forty proposals have been introduced to amend just this clause. In early years, the problem of uniform county government was raised primarily in connection with Milwaukee County. It was apparent that Milwaukee County with its large urban population could not easily fit into the mold of county government existing elsewhere in the state. A large number of these proposals sought to permit the consolidation of city and county government in Milwaukee. A number of the more recent proposals to amend the uniformity clause also specifically authorized the appointment of county constitutional officers rather than their election, or at least included the option to appoint them.

Only two amendments to the uniformity clause ever passed first consideration, one in 1939 and one in 1943. In each case they passed by a heavy majority, but failed to gain approval on second consideration. A study of the legislative action on the bills attempting

to modify the uniformity clause was put out by the Legislative Reference Library in 1962.[19] The following table shows the action on such bills in the 1961-65 Legislatures.

TABLE XXI. PROPOSED CONSTITUTIONAL AMENDMENTS RELATING TO UNIFORMITY OF COUNTY GOVERNMENT, 1961-65

1961	
(1) Jt. Resolution 62, S., to amend Sections 22 and 23 of Article IV, Section 4 of Article VI and Section 12 of Article VII of the constitution, relating to uniformity of county government.	Rejected 25-7
(2) Jt. Resolution 4, A., to amend Article IV, Sections 22 and 23, Article VI, Section 4 and Article VII; Section 12 of the constitution, relating to uniformity of county government.	Rejected 72-25
1963	
(1) Jt. Resolution 15, S., to amend Article IV, Section 23 of the constitution, relating to uniformity of county government.	Laid on table
(2) Jt. Resolution 30, S., to amend Sections 22 and 23 of Article IV of the constitution, relating to uniformity of county government.	Rejected 22-8
(3) Jt. Resolution 53, A., to amend Article IV, Section 23 of the constitution, relating to uniformity of county government.	Rejected 51-38
1965	
(1) Jt. Resolution 15, A. to amend Article IV, Section 23 of the constitution, relating to uniformity of county government.	Indefinitely postponed 55-35
(2) Jt. Resolution 61, A. to amend Sections 22 and 23 of Article IV of the constitution, relating to uniformity of county government.	Indefinitely postponed.

(6) A New Article on the Judiciary — Wisconsin's Constitution provides for a system of courts consisting of a Supreme Court, circuit courts, courts of probate, and justices of the peace. It also authorizes the Legislature to create statutory courts. A joint resolution was introduced during the 1955 session of the Legislature which would have abolished all but the Supreme Court and the circuit courts, creating a unified court system It was adopted after being amended to retain the justice courts with limited jurisdiction. However, the amendment failed to pass the 1957 Legislature. A statutory court reorganization plan, effective in 1962, was enacted by the Legislature. The plan combined county courts and statutory courts, and emasculated the jurisdiction of the justice of the peace, but the constitutional provisions which resulted in a multiplicity of courts still remain unchanged.

The Wisconsin Constitution provides for the election of judges, but the governor is given sole power to fill vacancies by appointment.

In practice a great majority of Wisconsin judges have come into office through gubernatorial appointment. There has always been considerable controversy concerning the best method of selecting judges. Plans that would combine the elective and appointive methods of choosing Supreme Court justices, such as the Missouri plan, have been widely discussed. A judicial commission would nominate candidates when vacancies occur. The governor would be required to fill vacancies from among candidates so nominated. After having served a specified time, the voters would decide whether justices so appointed should be retained. The preliminary draft of the revised "Model State Constitution" changes its position from the Missouri plan to appointment by the Governor with confirmation by the (unicameral) Legislature. There have been no proposals introduced into the Legislature since the 1960 report of the Wisconsin Commission on Constitutional Revision to provide for the kind of unified court system that the commission recommends. [20]

The 1963 Legislature adopted a proposed constitutional amendment to abolish the office of justice of the peace. This proposal has been reintroduced in the 1965 session, for "2nd consideration," as Senate Joint Resolution 26.

(7) Creation of a Nonpartisan Commission for Periodic Reapportionment – Wisconsin's Constitution requires reapportionment following every Federal census. Both houses of the Wisconsin Legislature have been apportioned "according to the number of inhabitants" since the Wisconsin Constitution was enacted in 1848. Thus, Wisconsin has not been as dramatically affected by the recent Supreme Court decisions as those states that used area as a criterion in their legislature's composition. Nonetheless, reapportionment has been an issue of constant conflict in the past few years, involving heated legislative debates, special sessions, executive vetoes, and a great deal of litigation. After 32 years the Wisconsin Legislature accomplished the revision of Congressional districts in 1963. However they were not able to handle reapportionment of the Legislature with equal success.

In February 1964 the Wisconsin Supreme Court declared the Legislature's apportionment invalid and ordered a plan of apportionment by May 1. Since the governor vetoed the reapportionment plan adopted by the legislature, the court on May 14, 1964, promulgated a plan for legislative apportionment which will be in effect until the Legislature and Governor pass a valid law.

Amendments to provide for reapportionment if the Legislature fails to act were introduced in 1961 and 1963, but no such legislation had been introduced in the 1965 session, to May 15, 1965. (See Table XXII)

TABLE XXII PROPOSED CONSTITUTIONAL AMENDMENTS

RELATING TO REAPPORTIONMENT ON A NON-PARTISAN BASIS

1961 –	(1) Jt. Resolution 38, S., to amend Article IV, Section 3 of the Constitution, relating to apportionment when the Legislature fails to apportion.	Rejected 23-10
	(2) Jt. Resolution 13, A., to amend Section 3 of Article IV of the Constitution, relating to apportionment of members of the Senate and Assembly if the Legislature fails to act.	Rejected 49-37
1963 –	(1) Jt. Resolution 77, A., to amend Section 3 of Article IV of the Constitution, relating to apportionment of members of the Senate and Assembly if the Legislature fails to act.	Rejected 52-38

(8) Revision of the Amending Process - The commission has made 2 specific proposals designed to make the amendment process more feasible. One would have permitted more rapid submission to the voters if a proposal was so widely accepted as to attain a two-thirds vote in each house on first consideration. Such a proposal would be submitted to popular vote without delay for consideration by the following Legislature. This proposed amendment was introduced in the 1961 and 1963 Sessions of the Legislature but was defeated. It is again pending before the 1965 Legislature.

Thirty-five states permit a constitutional amendment to be submitted to the people after action by a single Legislature. Nineteen of these states require a two-thirds vote, 7 a three-fifths vote and 9 a mere majority (See Table IV). So that a minority of one more than one-third of the Legislature could not prevent the electorate from voting on an amendment, the commission recommended, as an alternative, the retention of the present provisions. Thus, if an amendment does not receive a two-thirds vote under first consideration, it may still be presented to the voters if it is able to gain a majority vote in 2 consecutive legislative sessions.

The other proposed change concerns broadening the scope of an amendment. Article XII, Section 1, states "that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately." The Supreme Court has interpreted this provision quite strictly. Based on these decisions, the Attorney General has ruled that a change to a 4-year term for constitutional officers would require a separate amendment for each office. Similarly, a revision of the debt limit provisions of Article XI, Section 3, would involve integrated changes in several subdivisions of that section. Thus, under the present amendment procedure, a revision of the debt limit would require the new provision to be submitted to the electorate as a number of separate, technically detailed, extremely complicated questions. The Commission has recommended that the Legislature be allowed to submit to the electorate a revision of a portion of the constitution or of items reasonably related as a single question. Both commissions considered such a revision in the amendment process as a key to other constitutional reforms.

A proposal to revise the amendment procedure was approved by the 1961 and 1963 Legislatures. It had considerable newspaper support, as well as the indorsement of the League of Women Voters, who conducted a vigorous campaign in its behalf. Nevertheless, it was defeated at the April 1964 elections. The majority of the electorate indicated their preference for the present procedure which allows them to consider each suggested change individually (See Table X).

A resolution has been introduced in the 1965 Legislature which would permit an amendment to deal with more than one subject and to be voted on as a single referendum question. This resolution (Senate Joint Resolution 51) would also permit revision of the constitution - in whole or in part - if the proposed revision is passed by two-thirds of both houses of a single legislative session and approved by the voters in a referendum.

V. THE PROS AND CONS OF HOLDING A CONSTITUTIONAL CONVENTION IN WISCONSIN.

A. Pros.

Those who feel that a constitutional convention should be called in Wisconsin argue:

(1) State government must be strengthened if the states are to fulfill their responsibilities in the twentieth century. The constitution written 117 years ago is filled with unrealistic restrictions upon efficient operations of all branches of government - the executive, legislative, judicial and local governmental units as well. Nineteenth century restrictions on the state government are largely responsible for the increasing part that the Federal Government is taking in what are essentially local matters. If the state constitution were rewritten so as to allow more flexibility on the part of state officials, the state would be more capable of performing its role in the federal system. The considerable success of conventions in other states indicate the kind of progress along these lines that could be made in Wisconsin.

(2) The needed revisions cannot be accomplished by means of the amendment process That process is inadequate to do the job because:

(a) Complicated issues are at a grave disadvantage when this method is used. When the voter is confused or uncertain he is likely to cast a "No" vote. Voters are often inclined to say "No" because they do not understand the issue that is presented to them, believing that to be negative is to be safe.

(b) Since the constitution requires that each change must be submitted to the electorate separately, it is impossible to draft a set of amendments providing for the necessary revision in a manner that would not invite a great deal of confusion. If some of the amendments were approved and others rejected, havoc would ensue. For example, proposals to extend the governor's term to four years should go hand-in-hand with proposals to strengthen his administrative responsibilities. If the term were extended without giving the governor additional authority, the state may simply be saddled with an ineffective administration for four years rather than two. There is also the possibility that the voters may approve the extension of the term of some officers and not of others. Again, revision of the debt limitation affects several sections of the constitution. Rejection of one question or another would open the door to a great deal of litigation. For this reason, attempting the kind of total revision that is necessary by means of constitutional amendment involves considerable risk of confusion.

(3) A constitutional convention gives the people of the state an opportunity to evaluate the document as a whole. Calling a convention does not commit the state to any general or specific proposal for change in the constitution. The approval of a convention would simply be a commitment to a comprehensive review of the present constitution and careful consideration of proposed revisions. In a constitutional convention there is an opportunity to appraise the document systematically, studying its strengths and weaknesses, bringing the parts into a consistent relationship with each other, and revising the wording so as to produce a concise and well-integrated constitution.

(4) There is no need to fear that a convention would be dominated by extreme radicals or extreme conservatives. A convention would be no more radical and no more conservative than the Legislature. Delegates to the convention would be elected by the voters. Furthermore, it would be necessary to submit the convention's proposals to the voters before they became effective. The constitution could not be changed without the electorate's approval. Every regular constitutional convention in America's history points to the absurdity of fearing control by any one group. All of these conventions have reflected the various interests of the state in which they were held.

(5) A convention affords a more conducive atmosphere for a comprehensive analysis of the constitution. Constitutional conventions attract highly qualified delegates who would not be interested in election to the Legislature. Although not available for legislative service, legal experts and scholars are often willing to act as delegates to a constitutional convention. At the same time, a convention is able to concentrate solely on constitutional revision, free of the issues, partisan conflicts, and other pressures with which the Legislature must be concerned.

(6) A constitutional convention is the best available bargain for providing Wisconsin citizens with a stimulating educational experience. A convention increases the peoples' understanding and knowledge of the constitution and state government. The publicity surrounding the convention would lead to increased discussion, raising the level of public awareness concerning constitutional problems and furthering the general understanding of the issues involved in revision. In referring to the Michigan Convention, Governor Romney stated that it "introduced a period of stimulating and exciting public concern with these ordinarily mundane affairs that will certainly not subside for some time to come." Michigan was afforded this valuable educational opportunity for less than one-two hundredth of the amount that the state government alone spent on education during the 1962-63 fiscal year. Admittedly the educational value of a convention is difficult to evaluate, but certainly no more difficult than the value received from the funds spent on education in one year. The considerable benefits that would accrue to Wisconsin from a constitutional convention would certainly be worth the modest expenditure that the convention would entail.

B. Cons

Opponents of a Constitution Argue:

(1) The Wisconsin Constitution does not need total revision. It is much shorter and more flexible than the majority of state constitutions. Any revision that is necessary can be best accomplished by the amendment process. It is admittedly not easy to provide for change under the requirement for approval by two successive legislatures and a popular referendum; however, this machinery assures careful deliberation, study and ample opportunity for popular information and discussion. It has never been demonstrated that any part of the constitution that needs amendment cannot be changed under the present procedure. Furthermore it must be remembered that constitutional revisions affect the fundamental law of the community. The constitution was intended to be something more than statutory law, which changes to reflect the political tastes of the times. It was intended to be a permanent legal fabric that would be changed only through reflection, not by impulse. This is the reason why two successively chosen legislatures are involved. Furthermore it was intended that any changes should be completely understood by the electorate. This is why even minor modifications are submitted as separate questions in the referenda.

(2) A convention could lead to many changes in the fundamental law which the majority of the electorate oppose. A constitutional convention does not allow for careful study of each proposed revision. It would therefore more easily allow particular groups to gain their ends with propositions hidden among 40 or 50 others in the complex constitutional document that is submitted to the electorate. In this way, a convention presents the danger of changes being ratified that, considered separately, would be rejected, resulting in revisions in the fundamental law of the state that the majority do not favor. These revisions would result simply because they had been presented as an obscure part of the voluminous document that the voters were forced to accept or reject in its entirety.

(3) Major changes in that document would make a great deal of legislation necessary and could also lead to extensive litigation in order to determine the exact meaning and judicial interpretation of the law. Wholesale tampering with the constitution could create an immense amount of confusion for the legislature and the judiciary. The present constitution has carefully evolved over 117 years.

(4) A convention runs the risk of being controlled by a minority, a minority that could write their will into the fundamental law of the state. An election for delegates to a convention does not arouse the interest of the majority of the voters. The experience in Michigan demonstrated this fact: in spite of a vigorous bipartisan publicity drive, only twenty per cent of the electorate voted in the election of delegates. Furthermore the subsequent constitution was ratified by only a very slim majority. Thus, almost as many people opposed the work of the convention as favored it. A convention in Wisconsin would probably be dominated by those who are interested in change. It is very likely that it would not be representative of the majority, who are basically satisfied with the constitution as is.

(5) A constitutional convention is not a panacea. Even under the most ideal circumstances changes are not going to be made unless a consensus has developed favoring those changes. There are numerous examples of pet proposals of reformers that have not gained

approval in the state constitutional conventions. Many of the so-called "reforms" have not been possible in Wisconsin by amendment, because the people of this state do not approve of them. An indication that a convention is not a cure-all can be seen in the fact that the states which have rewritten their constitutions only a few years ago are again attempting revisions today. The constitutions of Georgia and Missouri were both totally revised in 1945. Since that time both constitutions have been amended several times, and 1964 saw the question of total revision being seriously posed again in both states.

(6) If the other pitfalls could be avoided, there is still the factor of cost. Even if the expense of a convention were to be considered an investment in the citizenship education of the people of this state, that effect could be achieved more effectively by a special session called by the Governor for the purpose of proposing amendments to the constitution. Since a special session is limited to the specific topics listed in the Governor's call, this method would avoid needless debate on experimental proposals, thereby concentrating discussion on those areas of the constitution which actually need revision. Holding a constitutional convention involves a great deal of expense. The cost of recent conventions in other states has ranged from $200,000 to more than $2 million. Wisconsin can find better ways to spend the taxpayers' money.

Footnotes

[1] Martin L. Faust, "Constitutional Convention in Missouri," Business and Government Review, March - April, p. 17-18.

[2] David Fellman, "What should a State Constitution Contain," State Constitutional Revision, ed. W. Brooke Graves, Public Administration Service, Chicago (1960) p. 137-158.

[3] Ibid. p. 146.

[4] Ferrel Heady, "State Constitutions: The Structure of Administration," Salient Issues of Constitutional Revision, National Municipal League, New York (1961) p. 3-4.

[5] Patricia Shumate Wirt, "The Legislature," Ibid. p. 68-79.

[6] John H. Romani, "The Courts," Ibid. p.115-135.

[7] Edward M. Kresky, "Local Government," Ibid. p. 150-162.

[8] Romani, op. cit., p. 34-48.

[9] Albert L. Sturm, Methods of State Constitutional Reform, Institution of Public Administration, University of Michigan (1954) p. 29-79.

[10] William Hindman, "Road-Blocks to Conventions," National Municipal Review (March 1948).

[11] Report of The Governor's Commission on Constitutional Revision (1960).

[12] For further analysis of this issue see IB-224, "Three Proposed Amendments to the Wisconsin Constitution to be submitted to the April 1963 Election," Legislative Reference Bureau (1963).

[13] For further information see the Legislative Reference Bureau publication, "Proposed Constitutional Amendments and Referendum to be submitted to the Wisconsin Voters at the April 7, 1964 Election" (IB 64-4).

[14] Justice Thomas E. Fairchild, "Governor's Commission on Constitutional Revision," The Wisconsin Bar Bulletin (June 1964).

[15] See IB-183, "Length of Term of State Constitutional and County Officers other than Judicial, "Legislative Reference Bureau (1959).

[16] See B-630, "Single vote for Governor and Lieutenant Governor," Legislative Reference Bureau (1963).

[17] See IB-183, Legislative Reference Bureau, op.cit.

[18] See IB-216, Legislative Reference Bureau, "The $100,000 Debt Limit to the Wisconsin Constitution," Legislative Reference Bureau (1962).

[19] See IB-215, "One hundred and one proposed constitutional amendments to change the structure of county government in Wisconsin 1901-61," Legislative Reference Bureau (1962).

Footnotes -- Cont.

[20] "Constitutional Problems and Constitutional Change," League of Women Voters, Madison (1962) p.6.

[21] For further analysis of the legislative action on the commission's report see, B 64-6, "Implementing the Recommendations of the Commission on Constitutional Revision submitted to the Governor in December 1960," Legislative Reference Bureau (1964).

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