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## CONSTITUTIONAL REVISION IN ILLINOIS

Kenneth C. Sears\*

IT IS generally accepted in Illinois that the State constitution is sadly in need of amendment and apparently a majority of the voters who have any thought about the matter agree that the present Illinois constitution is so sadly out of date that a constitutional convention is the only feasible scheme for making the necessary changes within a reasonable period of time.

In view of these conclusions why is it that the State of Illinois has not assembled a constitutional convention or at least adopted some needed constitutional amendments during the past years? In the answer lies the most serious governmental difficulty in this state; namely, that for *practical purposes* we are unable to have a constitutional convention or to secure the needed amendments. The *constitutional* difficulty arises out of Article XIV of the Illinois constitution requiring that to adopt an amendment or to assemble a constitutional convention it is neces-

sary for a majority of all the voters, who express themselves in any manner in a *general* election, to vote in favor of such a proposal. Illinois finds itself in the unfortunate position of being one of about six states which still have such an unworkable constitutional provision. A priori it may seem entirely correct that a proposed constitutional amendment or a proposal to assemble a constitutional convention should have the approval of the majority of all the voters in a general election. However, when realities are faced it will be clear that great numbers of voters in general elections refuse to bother themselves over constitutional amendments and proposals for constitutional conventions. The experience in New York and Illinois indicates that only about forty to fifty per cent of the voters in a general election will normally express themselves on constitutional amendments or constitutional conventions.<sup>1</sup> Obviously the provision in the Illinois constitution today that requires a ma-

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<sup>1</sup> In addition to the statistics for Illinois set forth later in this article, see Hutchins, *New York Red Book* (1936) 439, 450-2, 642-6, and Sears, *State Constitutions in Illinois and New*

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York (1935) 17 *Chi. Bar Ass'n. Rec.* 55. See, in general, Powell, *A Plan for Facilitating Constitutional Amendment in Illinois* (1935) 30 *Ill. L. Rev.* 59; Sears, *Voting on Constitutional Conventions and Amendments* (1935) 2 *U. of Chi. L. Rev.* 612.

majority of all the voters at the polls to approve an amendment or a proposed convention amounts to a total prohibition upon action if less than fifty per cent plus of the voters express themselves in favor of the proposition.

For some time there has been a realization in the Illinois General Assembly that there is something wrong with our system of voting on constitutional amendments and conventions. Some effort was made to correct the situation prior to 1935 but nothing came of it. Governor Horner has been in favor of assembling a constitutional convention and it is generally understood that in the General Assembly that met in 1935 he favored Senate Bills No. 280 and No. 357 which were introduced by Senator Mayor. The Mayor bills provided that in voting on a constitutional proposal the ballot should be so printed that on the left side of the large ballot containing the names of the various candidates for the various offices there would be a place where every voter could indicate whether he was in favor of the constitutional proposal. A vote on the proposal in this column would take precedence over any inconsistent vote by reason of voting in a party circle. The Mayor bills also provided that any political party having a ticket on the ballot could in its legally authorized state convention adopt a resolution for or against a constitutional proposal. Such action, if taken, would be recorded at the foot of the party column and a vote in the party circle would be a vote in favor

of the party action on the constitutional proposal unless a voter indicated a contrary vote in the special constitutional proposal column on the left side of the ballot, or unless the voter picked out and voted in favor of the contrary action taken by some other party convention and recorded in that party's column.

In support of the Mayor bills it should be stated that since 1891 it has been *practically* impossible to amend the constitution of Illinois. During this period of forty-seven years only one amendment of any importance has been adopted. This one gave Chicago the rather small measure of home rule it now enjoys, and was adopted after strenuous efforts by both political parties, backed by a favorable press in Chicago. It was a community uprising that cannot be secured very often.<sup>2</sup> The only other amendment adopted in this period was a bond issue for waterways and of no real importance in the operation of our state government. There are many voters, apparently, who lack interest in the ordinary operation of government but who will vote in favor of the expenditure of public funds.

Before 1891 the five attempts to amend the constitution of 1870 were successful. The changes were desirable and included (1) permission for the Governor to veto specific items in appropriation bills; (2) abolition of convict contract labor; and (3) a bond issue for the Columbian Exposition. Why was it possible for the majority

<sup>2</sup> Constitutional Convention Bulletins, Illinois (1920) 177-9; Gardner, The Working of the

State-Wide Referendum in Illinois (1908) 5 Am. Pol. Sci. Rev. 394.

sentiment to prevail on constitutional amendments prior to 1891 and very seldom to prevail after 1891? Since the requirements for amending the present constitution have remained the same, the answer is that there is a difference in the mechanics of voting. Prior to 1891 there was no official ballot. Political parties prepared their own ballots and distributed them at the polls. The parties, if they favored a proposed constitutional amendment, could print the affirmative of the issue on their ballots. A voter using such a ballot voted for the proposed change unless he used diligence to read the ballot and then "scratch" the proposed amendment. This was the system of voting that was known to those who drafted the constitution of 1870. It has been stated that this constitution is the most difficult of all state constitutions to amend; but apparently such was not the intention of its drafters. Nor was it difficult to amend prior to 1891, while the system of voting with which the drafters were familiar remained the legal method of voting.

How different is the history of constitutional amendments since 1891! Between 1891 and 1899 proposed amendments were placed on the candidates' official ballot and underneath the names of the candidates.<sup>3</sup> The results were that no proposed amendment received as much as twenty-five per cent of the votes, counting both yeas and nays, of the voters at a general election. In 1899 the separate or "little" ballot was adopted.<sup>4</sup> This re-

sulted in a much larger percentage of the voters voting upon proposed amendments, but, as stated, only one substantial change was made in the constitution from 1899 to 1929. In the latter year Governor Emmerson persuaded the legislature to enact a law whereby proposed amendments are placed in a separate column on the left side of the candidates' ballot.<sup>5</sup> The test has not been a long one, but this is apparently worse than the separate or "little" ballot for no proposed amendment has been at all close to adoption since 1929.

In view of this sad record since 1891, it is necessary to provide some other method of voting or else adhere to a method of voting that makes it practically impossible to amend a constitution which has already broken down in several respects and which will become more and more obsolete as the years pass by.

The Mayor bills sought to weld together the Emmerson Law of 1929 and the method of voting that was effective prior to 1891. If adopted they would have afforded all voters ample opportunity to express themselves for or against any constitutional proposition by simply making a cross in the proper square. Since 1891 the majority sentiment of the voters, who have opinions to express has been defeated on nearly every occasion by a pernicious system of automatic voting by which those not expressing a preference are counted as negative voters. The purpose of the Mayor bills was to correct

<sup>3</sup> See note 2, *supra*.  
<sup>4</sup> Ill. Laws, 1899, 151.

<sup>5</sup> Ill. Laws, 1929, 393.

this system so that the majority sentiment in this state could prevail. Such is the essence of democracy. True, the method of correction involves a system of automatic voting in the sense that a voter, who believes in party government and who votes in the party circle, votes as his party votes on constitutional proposals. But as he can disagree with his party on any particular candidate, likewise he can disagree with his party on any particular proposal, and his disagreement, manifested by a cross in the proper square, takes precedence over his cross in the party circle.

Those who opposed the Mayor bills were generally of two sorts. First, many voters in this state have been opposed to any substantial change in the constitution of 1870. It is perfectly consistent for them to oppose a change in the present method of voting which makes it *practically* impossible to amend the constitution. But these individuals are seldom frank to admit the reason for their opposition. They recognize that if they reason aloud they will be set down as hopeless standpaters or reactionaries and that their opposition will count for little.

The second class of opponents consisted of voters who were willing to amend the constitution but who actually feared that under the Mayor bills the party leaders of the two major parties would conspire to amend the

constitution in a selfish way to the disadvantage of the common interest. This means that such an objector is unwilling to trust a two-thirds majority of each house in our General Assembly, the majority of the delegates to the two major conventions,<sup>6</sup> and the alertness on the part of one-half of the voters at the general election when the proposal is submitted for ratification. That a vicious proposal could obtain all of this is certainly improbable. There is no denial that it would be possible. What is there in political life that is not possible? Revolution is possible and a constitution that cannot be amended sooner or later will result in a revolution, peaceful or otherwise. It should have been sufficient to calm the nervous fear of the second type of voter to point out (1) that between 1870 and 1891 no unmeritorious amendment was adopted; (2) the major parties in this state have never been radical organizations but have been conservative groups that as a whole have lagged behind the progressive ideas in other states; and (3) the same method that makes it possible to adopt a vicious proposal makes it possible to repeal the proposal. After all, whoever heard of a government that does not place power somewhere and that does not make it necessary for the rest of us to take our chances with those charged with the power?

<sup>6</sup> If only one of the major party conventions endorses a proposed amendment and the other opposes it, the opposing actions almost certainly will nullify each other. If one endorses and the other refrains from action, the proposal is in a favorable position for adoption. But

politics are such that it is hardly to be expected that neither of the major party conventions will oppose a proposed amendment that is seriously detrimental to the public welfare.

## VOTING ON AMENDMENTS

It will be valuable at this place to record the history of constitutional proposals in the State of Illinois since the present constitution was adopted in 1870.<sup>7</sup>

<i>Year and Amendment</i>	<i>Total Vote Cast at Election</i>	<i>Necessary Majority</i>	<i>For</i>	<i>Against</i>	<i>Not Voting</i>
1878 Drainage and Ditching	448,796	224,399	295,960 (65.9%)	60,081 (13.4%)	92,755 (20.7%)
1880 County Officers	622,306	311,154	321,552 (51.7%)	103,966 (16.7%)	196,788 (31.6%)
1884 Veto of Appropriation Items	673,096	336,549	427,821 (63.6%)	60,244 (8.9%)	185,031 (27.5%)
1886 Anti-Contract Convict Labor	574,080	287,041	306,565 (53.4%)	169,327 (29.5%)	98,188 (17.1%)
1890 World's Fair Bonds	677,817	338,909	500,299 (73.8%)	55,073 (8.1%)	122,445 (18.1%)
1892 Gateway Amendment	871,508	435,755	84,645 (9.7%)	93,420 (10.7%)	693,443 (79.6%)
1894 Labor	873,426	436,714	155,393 (17.8%)	59,558 (6.8%)	658,475 (75.4%)
1896 Gateway Amendment	1,090,869	545,435	163,057 (14.9%)	66,519 (6.1%)	861,293 (78.9%)
1904 Chicago Charter	1,089,458	544,730	678,393 (62.3%)	90,038 (8.2%)	321,027 (29.5%)
1908 Deep Water- way Bonds	1,169,330	584,666	692,522 (59.2%)	195,177 (17.7%)	281,631 (24.1%) [sic]

Notice the great difference in the record after the Ballot Act of 1891 took away from the political parties the function of printing their own ballots.

In 1899 the separate or "little" ballot was adopted for constitutional proposals.

<sup>7</sup> Illinois Blue Book (1935-36) 36-9.

<i>Year and Amendment</i>	<i>Total Vote Cast at Election</i>	<i>Necessary Majority</i>	<i>For</i>	<i>Against</i>	<i>Not Voting</i>
1916 Revenue Amendment	1,343,381	671,691	656,298 (48.9%)	295,782 (22%)	391,301 (29.1%)
1918 To Call a Constitutional Convention	975,545	487,773	562,012 (57.6%)	162,206 (16.6%)	251,327 (25.8%)
1924 Gateway Amendment	2,579,860	1,289,931	704,665 (27.3%)	397,835 (15.4%)	1,477,360 (57.3%)
1926 Revenue Amendment	1,912,706	956,354	651,768 (34.1%)	476,455 (24.9%)	784,483 (41%)
In 1929, the Emmerson law became effective.					
1930 Revenue Amendment	2,332,696	1,166,349	371,812 (15.9%)	513,861 (22%)	1,447,023 (62.1%)
1932 Gateway Amendment	3,465,926	1,732,964	1,080,541 (31.2%)	275,329 (7.9%)	2,110,056 (60.9%)
1934 To Call a Constitutional Convention	2,935,192	1,467,597	691,021 (23.5%)	585,879 (20%)	1,658,292 (56.5%)

The Mayor bills with the support of Governor Horner made splendid progress in the session of 1935 until they met the opposition of the Kelly-McCormick combination. The bills passed the Senate with practically no opposition. It is the information of the author, however, that within an hour of their passage, Colonel Robert R. McCormick of the Chicago Tribune, who up to that time had ignored them in his newspaper, called Senator Searcy and asked him to move for a re-consideration. Senator Searcy made the

motion which was rejected by an overwhelming vote and the bills went to the House of Representatives. Then the Chicago Tribune and the Illinois Manufacturers Association got busy. The Tribune followed its usual style of editorialized news articles of the most partisan and unfair type in opposition to the bills. Finally on a Saturday the Tribune announced triumphantly that Mayor Kelly had been reached over the telephone in his Wisconsin retreat and that the Mayor denounced the bills as very bad bills for the reason that

they gave too much power to the politicians.<sup>8</sup> When the House of Representatives next met, Representative Adamowski, floor leader for the Democratic party and at that time working with the Cook County Democratic organization, and without notice, as the author is informed, to Governor Horner, moved to lay the bills on the table. Although the bills were on the calendar for second reading in the House without reference to committee the motion prevailed with a whoop and the legislation was dead for the session. There was some thought on the part of Governor Horner, apparently, to have the action rescinded but nothing definite was finally done about it.

The Mayor bills were re-introduced in the 1937 session in the House of Representatives of the General Assembly by Representatives Vicars, Hubbard, and Knauf. Again Governor Horner was understood to be in favor of them but he did not seem to move very decisively at any time to push them. As a result they dragged along, finally being reported favorably by the Judiciary Committee of the House of Representatives. They were argued before the Committee of the Whole of the House of Representatives on May 12, 1937. No definite action was taken and the bills were never brought to a vote.

Meantime the Chicago Tribune began to feel sorry for stockholders in state banks and advocated the submis-

sion of a constitutional amendment to change the harsh restrictions on state banks in Illinois. A resolution to submit such an amendment was adopted and it will appear upon the ballot in November, 1938.<sup>9</sup>

There have been only two objections offered to the Mayor bills. The main objection is that the bills, if enacted, would give too much power to political organization over amendments of the Illinois Constitution. No doubt many honestly feel and others profess to feel that in this way a harmful amendment of the Constitution could be adopted by a political combination. The proponents of the legislation admit that such is possible but submit: (a) that there is nothing in the history of Illinois to show that such is likely and that there is nothing in the history of other states such as Ohio and Nebraska which have used a similar system, to show that anything harmful resulted from such a plan; and (b) make a counter assertion that, while the proposed legislation has never been suggested as ideal legislation and offer it with regret, Illinois is in such a situation that something constructive by all means must be done. It is desirable to use a method which was known to those who framed Article XIV, the constitutional amendment and revision provision, in order to get Illinois out of the quicksand in which it is being engulfed. The proponents further assert that even if the legislation has a

<sup>8</sup> Chicago Tribune, June 1 and 2, 1935.

<sup>9</sup> Ill. Laws, 1937, 1225. In November, 1937, the Tribune advocated an amendment to prevent local officers from qualifying as members of the General Assembly. Credit was given to Mr.

Loesch who "has pointed the way to the removal of serious obstruction to good government in Illinois." But just what is Mr. Loesch's "way" to secure the adoption of this amendment?

danger with reference to constitutional amendments, it has absolutely no danger, other than the danger inherent in any constitutional convention, in so far as the legislation would be applicable to the calling of a constitutional convention as distinguished from the submission of a constitutional amendment in a general election. The difference is this: even if a constitutional convention is assembled under the Illinois constitution by the method of voting provided in the Mayor bills, still that convention must submit its proposals to a vote of the qualified voters in a special rather than a regular election. This special election will be one in which there will be nothing upon the ballot except the proposals of the convention. In such an election there will be no party column nor any party circle; there will be nothing to vote upon except constitutional proposals. Thus no person will go to the polls in such a special election unless he is interested in voting upon constitutional proposals or upon a new constitution submitted as a whole, if a future convention should be so foolish as to try that method again. Accordingly, the writer challenges every person in the State of Illinois to point out a single danger in the Mayor bills in so far as these bills apply to the calling of a constitutional convention as distinguished from the submission of a constitutional amendment in a general election. The only exception to this challenge is the danger that is inherent in the calling of any constitutional convention. In order to avoid this inherent danger one has to take the position

that he is not in favor of any convention whatsoever. It is believed, therefore, that if Illinois expects to get out of the quicksand with its constitution it will be necessary, unless it is willing to face an acute crisis that may arise from failure to act, to pass at least that part of the legislation embodied in the Mayor bills that is applicable to constitutional conventions.

The second objection to the Mayor bills is that they make use of the party circle method of voting. True, but what is the harm of using the legally approved method of voting in Illinois in order to escape the dangers of a *practically* unamendable constitution? Nothing, but the hobgoblin of consistency and a passion for the Massachusetts ballot which has been many times rejected by the Illinois General Assembly.

It may be a matter of some interest to explain why it was that in 1918 Illinois under the present system of voting in this state voted in favor of calling a constitutional convention. An examination of the large Chicago newspapers printed in 1918 reveals that at that time every one of these newspapers was in favor of calling a constitutional convention except one, to-wit, the Chicago Daily Journal. The latter was a newspaper of small influence and its own policy was such as to negative any influence with thinking persons. Its attitude was that it would be dangerous to have a constitutional convention with Governor Lowden the chief executive because he would favor his wealthy associates. That paper took the position that it would be well to

have a constitutional convention if Dunne were governor. It is hard to believe that such a partisan, personal attitude would carry any appreciable conviction. All of the other large papers supported a new constitutional convention. Chief among the supporters was the Chicago Tribune. It not only supported the proposal but advocated the proposition with its usual vehemence.

Other favorable factors for securing the necessary vote for the calling of this constitutional convention can be stated. (1) The World War was drawing to a close. On the day that the voters voted for a constitutional convention the "screamer" headline in the Tribune was "Terms Go to Berlin." A short time previously Austria had quit and on November 5, the voting day, practically everyone knew that the war was all but over. Naturally this brought a feeling of elation to which many can still testify. (2) There was another proposition on the little ballot, along with the proposal for a constitutional convention, which attracted wide and very favorable attention, namely a \$60,000,000 bond issue for a state-wide system of hard roads. This had received a very general support and was the occasion of favorable paid advertisements in the daily press. Governor Lowden was making a very active campaign for this proposal and also for the calling of a constitutional convention. (3) In addition there were three other propositions on the little ballot, to-wit, a \$3,000,000 bond issue for the Michigan Boulevard link, a proposition to abolish private banks in Illinois, and

a proposition for a traction franchise. All of the large papers in Chicago, with the exception of the Journal, were advocating that the voters vote for all five propositions. The slogan was "Vote 'Yes'" for every proposition on the little ballot. The creation of such an atmosphere when the voters were feeling more prosperous than possibly they have ever felt in this country had a tremendous appeal. Such was the very favorable condition under which the voters in Illinois proceeded on November 5, 1918, to call a constitutional convention. But a similar favorable condition can rarely arise.

In 1918 the Chicago Tribune, as stated, vigorously supported the calling of a constitutional convention. In 1934 the same paper vigorously and unfairly opposed the calling of a constitutional convention. It is interesting to contrast the arguments of 1918 with those of 1934.

Editorial: Saturday, November 2, 1918.

"FOR A NEW CONSTITUTION

\* \* \* \* \*

"It must be kept firmly in mind that our constitution is fifty years old; that it was adopted to serve the purposes of its time; and that since that time our whole economic structure has undergone great changes. Failure to indorse a movement for a new constitution would be equivalent to keeping a child in swaddling clothes through youth and old age.

\* \* \* \* \*

"Fifty years ago we had no great traction systems. And yet we are endeavoring to manage these huge concerns under a fundamental law that has long been outgrown. Fifty years ago we had no electric lights, no telephone systems, no automobiles. Still we are trudging along under an antiquated plan of conduct and

trying to give intelligent direction to vast new enterprises.

"Fifty years ago the distribution of population was different; only nineteen out of every 100 persons lived in cities. Now 64 out of every 100 persons live in cities. This rearrangement makes necessary some radical reforms in the fundamental law.

"Balloting has become ponderous under the old constitution. Ballot reforms will give people a more direct control of government. City, county, and township governments operate clumsily. A new constitution will provide for equitable taxation and systematic government.

"Court reforms are necessary and general harmony among the people is desirable, but unobtainable under the old constitution.

"Voters must in no wise consider they are taking a step in the dark or acting in unwise haste. A vote for the constitutional convention does not mean immediate revamping of the constitution. It means simply that a representative convention will be called to plan the new constitution. The people are a direct anchor to windward throughout the entire proceeding. They have the right, in a subsequent election, to reject or accept any and all parts of the new constitution as formulated. This is a safeguard against possible manipulation.

"The adoption of the convention proposition is merely the first step. There is every opportunity to retrace that step if the work of the convention is not satisfactory. But to give the state every opportunity for necessary reform, do not fail to vote 'Yes!'"<sup>10</sup>

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Editorial: Tuesday, August 7, 1934.

"THE CONSTITUTION OF ILLINOIS

"The voters of Illinois will determine next November whether a constitutional convention is to be called in this state.  
\* \* \*

"The proposal should be voted down. As long as the present constitution stands, Illinois will continue to be a commonwealth of freemen. No one knows what

a new constitution may provide, but every one knows that we are passing through a period of extraordinary emotional strain. The times are made to order for the acceptance of political quackery and economic nostrums. Naziism, other forms of Fascism, and communism are spreading over the civilized world. They have already made inroads in our country. A constitutional convention meeting as this time may not be swept off its feet by mass hysterias, but the danger is great; it is avoidable and it should be avoided.

"If a wholesale revision of the constitution is advisable, and there is grave doubt on that score, the work can be postponed until sober judgment is again safely in the ascendant. Meanwhile it is ridiculous to pretend, as some have done, that the present constitution is unlivable. Obviously it is not. We have come through nearly five years of extraordinary difficulties without a change in the fundamental law. The demands for relief have been met. The fiscal problems of the local governments are yielding, even in Cook county. Last year the local governments collected more money than was spent, with the result that the burden of floating debt is diminishing. Criminal activities are decreasing. There is no crisis, fiscal or otherwise, which demands instant treatment through a change in the fundamental law.

"Today life and property are secure in Illinois. Men are free. The world-wide sweep toward despotism can make little progress in this jurisdiction. Men may worship as their consciences dictate. They may speak their minds and publish their thoughts and observations without hindrance. Their farms, their houses and their savings cannot be confiscated under the pretense of an emergency and in the name of what some zealot thinks to be the higher good. The right of the tax collector to poke his fingers into every citizen's pocketbook is strictly limited, as it should be, particularly in times like these.

"In its essentials our state constitution is sound and satisfactory. There is much in the state and its government which

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<sup>10</sup> It was also argued that Chicago needed to eliminate twenty-one unnecessary governments

and to acquire a greater measure of home rule. Chicago Tribune, Nov. 2, 1913, 5.

can be improved, but it is absurd to argue that the constitution is wholly or even largely at fault. The voters have selected some men who should not be intrusted with public office. That will happen under a new constitution as well as the existing one. The elected officers of the government have made mistakes. A new constitution will not remedy that fault. Judges have been stupid or venal. That, also, is not the fault of the present constitution and will not be remedied by a new one.

"The calling of a constitutional convention would rally all the disaffected, all the cranks and crackpots. The debates in the convention would heighten the existing distrust of the city population by the rural population, and vice versa. The convention might easily arouse religious antipathies just as the last effort to rewrite the constitution did. The speeches by the champions of the employers and the employed would certainly do nothing to improve industrial relations and might provide the prelude for civil disturbances.

"The proposal to hold a constitutional convention is a proposal to create new emotional strains at a time of great emotional excitement. It is a proposal to revive old animosities and create new ones. The convention would provide just such troubled waters as Communists and Fascists most desire. They could ask no better opportunity to destroy free government."

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Editorial: Thursday, August 16, 1934.

"UNDER A NEW STATE CONSTITUTION

"One of the substantial objections to a comprehensive revision of the state constitution which the proposed constitutional convention would attempt has not been given the attention it deserves. The present constitution is not merely the long and detailed document adopted by the people of Illinois in 1870. It is also the interpretations and applications of its provisions by the courts which have accumulated in the sixty-four years since its ratification. This body of law is embodied in 585 volumes of decisions of the Supreme and Appellate courts of the state rendered in

the multifarious litigations of the people of Illinois through more than six decades. . . .

"If and where the new constitution adopts exactly the same phraseology as the present constitution, former decisions may be followed, but in all other cases, and they must be many and important since the argument for a convention is based on alleged need for a general change of the present constitution, the legal rights of the citizen under the new laws must wait upon numberless new determinations by the courts." . . .

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Editorial: October 18, 1934.

"WHAT KIND OF A CONSTITUTIONAL CONVENTION?"

"Those who favor the summoning of a constitutional convention in Illinois have had many months in which to tell precisely what they expect the new state constitution to provide which the present one does not provide. Nov. 6 is fast approaching and still the information is lacking. . . .

"As a matter of fact, these reforming ladies and gentlemen even if they get their convention are not likely to get what they want from it. The convention will be made up of two members from each of the state's fifty-one senatorial districts. These districts have not been reapportioned in accordance with population in thirty-three years. Meanwhile there have been profound changes in the distribution of population in this state. The delegates sent by 29 per cent of the population will have a majority in the convention and this majority will come, without exception, from backward areas. Such delegates will be concerned less to permit the state to grow in a healthy fashion than to prevent further decay where decay is inevitable and even wholesome. . . .

"The last convention, which met in January, 1920, suffered somewhat from the same type of personnel. The consequence was that the constitution drafted by the delegates was snowed under in the popular vote on Dec. 12, 1922. The vote all over the state was 5 to 1 against. The vote in Cook county was 19 to 1 against. Why waste half a million dollars to

achieve the same result in 1935 or 1936? Whatever defects may exist in the present constitution can be corrected at far less expense by the amending process."

Aside from the striking change of attitude from the Chicago Tribune of Theodore Roosevelt to the Chicago Tribune of Franklin Roosevelt it is well to examine a few arguments of the Tribune which opposed the calling of a convention in 1934. (1) The proponents were chided for not bringing forth their arguments. These arguments were made but what did the Tribune do except to ignore and distort them? That apparently is Colonel McCormick's idea of the freedom of the press. (2) It was asserted that a convention was costly and dangerous; the safe way to make a few needed changes was by the amendment method. Yes, the Tribune was in favor of an amendment method that for *practical* purposes has not worked under the method of voting since 1891. Then how many really important amendments will the Tribune support even if they are submitted by the General Assembly? (3) Voters were told that over five hundred volumes of Illinois appellate court reports safeguarded their liberties and that these would be in danger of sacrifice if a convention were called. If there is anything in the large American experience with constitutional conventions this is the merest piffle. Aside from that, however, this argument means just one thing, to-wit, that the longer we live the more court reports we shall have and stronger and stronger grows this reason for never having a consti-

tutional convention. (4) As a crowning insult to one's intelligence, the Tribune argued that a convention should not be called in 1934 because the delegates thereto would be selected in the senatorial districts that were last formed in 1901 and were therefore unrepresentative of the voters. Again, the result of the argument is no convention within any predictable future. To judge by the past, there will be no legislative redistricting unless something in the way of a political revolution occurs. It appears therefore that the Tribune, well satisfied with its present position, desires an essentially static society in Illinois and has forgotten the tale of Frankenstein.

#### *Conclusions*

Assuming that a majority of the voters in Illinois desire a constitutional convention it has been demonstrated, it is believed, that the real problem in Illinois is to secure a method by which this desire can be made effective. The Mayor bills will make it possible to secure a convention now and not in the remote future. Also, such a convention can be secured without any political risk other than that which is inherent in a constitutional convention. The Mayor bills also will make it possible to secure needed amendments by the amending process if the voters do not desire a constitutional convention. However, in this instance there is some political risk. But the risk will seem minor and entirely worth while to those who have faith in democratic processes. It would be an excellent program for Illinois to use the Mayor

bills to secure one vital amendment, to-wit, an amendment of Article XIV of the Illinois constitution. If we could only reform this exceptionally restrictive article Illinois would then be in a position where it could and should repeal the Mayor bills. This assumes that by the reform we will secure a provision similar to that of the vast majority of our states, whereby a constitutional amendment is adopted by a majority vote of those voting upon the question. Since 1894 New York has adopted about sixty-five amendments under such a provision and now has a modern constitution. However, a progressive spirit prevails in New York and a constitutional convention is now in session there.

It has been suggested by Representative Easterday of the Illinois General Assembly that the General Assembly adopt a resolution submitting to the voters the question of calling a consti-

tutional convention with the limitation that the convention should revise only Articles IX, X, and XI and no others. The legal effectiveness of the restriction and the political desirability of such a scheme raise large questions that cannot be discussed in this article.

If an unrestricted constitutional convention can be secured in Illinois there need be no worry about the method of voting upon the proposals of the convention. Under the *present* Article XIV a vote upon the proposals will be at a special election and the will of the majority of those who have an interest in the proposals and vote upon them will prevail. It is assumed that experience in this country and particularly the experience of Illinois in 1922 has now educated all sensible folks to know that it will be almost certainly futile to submit a revised constitution as one question for its acceptance and rejection as a whole.