A constitutional mandate requires the submission to Ohio's electorate in 1952 of this question: "Shall there be a convention to revise, alter, or amend the constitution." Provision for periodic review dates from the constitution of 1851. It was introduced as a democratic reform based on Thomas Jefferson's oft-quoted dictum that no law should be in effect longer than a generation, roughly twenty years, unless reenacted. Until 1912 submission of the question was optional with the legislature; an amendment at that time made it mandatory.

The last time the voters of Ohio gave an affirmative answer was in 1910, the first step leading to the constitutional convention which convened in 1912. Although historical analogies are suspect when pressed too far, something of profit can be learned from a study of that charter-making body. What created the demand for constitutional change in 1910-12? What was the character of the convention? Was it dominated by extremists of either the right or the left, a fear expressed by those opposing a call today? What were its objectives and how successfully were they realized? What educational value did it have for the people of the state? These are some of the points which a study of Ohio's constitutional convention of 1912 may illuminate.

At the end of the first decade of the twentieth century the majority of Ohioans were eager to revise their fundamental law.\(^1\)  
\(^1\) Art. XVI, sec. 3 of the Ohio Constitution of 1851 as amended in 1912.

\(^2\) The following historical narrative is a compressed version of Chapters XI-XIII of the author's doctoral dissertation, Ohio's Crusade for Reform, 1897-1917 (Harvard University, 1950). Since the thesis manuscript contains footnote references to every important statement and is available upon loan to the student, the author has agreed to the editors' request to conserve space by keeping footnote citations to a minimum and listing the most important sources in this bibliographical note.

The conditions in 1910 and the vote on the question of holding the constitutional convention are discussed by Henry W. Elson, "Making a New Constitution for Ohio,"
The timetable for submitting the call for a convention was advanced one year to 1910 from 1911. Both the Republicans and the Democrats endorsed the question and were permitted by special statute to certify that a straight party vote constituted approval of the constitutional convention. The results were overwhelmingly favorable: 693,263 supported the call and 67,718 opposed. We may well suspect this ten to one margin, since no doubt many who cast a straight-ticket ballot gave only perfunctory attention to the question. Still the militant opposition as reflected in the negative vote was surprisingly small.


A wealth of autobiographies have been published documenting the philosophy and work of the leading Ohio reformers and the influence of Henry George and Henry D. Lloyd upon them: Tom L. Johnson, My Story (New York, 1911); Samuel M. Jones, Letters of Love and Labor (2 vols., Toledo, 1900-1901), and The New Right (New York, 1899); Brand Whitlock, Forty Years of It (New York, 1914); Washington Gladden, Recollections (Boston, 1909); and Frederic C. Howe, The Confessions of a Reformer (New York, 1925).

To reconstruct the campaign to elect delegates to the constitutional convention newspapers were consulted almost exclusively: Cleveland Plain Dealer, Ohio State Journal (Columbus), Toledo Blade, Toledo News-Bee, Youngstown Vindicator, Dayton News, and Cincinnati Enquirer. The one important exception was an article stressing Herbert Bigelow's role: Frank Parker Stockbridge, "Ohio Wide Awake,"

Everybody's, XXVII (1912), 696-707.

The sources for the constitutional convention are extensive. Proceedings and Debates of the Constitutional Convention of Ohio, 1912 (2 vols., Columbus, 1912) contain

The poll was taken at a most favorable psychological time. Conservatives as well as progressives—a new label for radical advocates of change which had just come into popular parlance—determined the moment was at hand to strike for their pet panaceas. Urban capitalists, led by the Ohio State Board of Commerce, wanted to rewrite the taxation article in order to abolish the rule of taxing all property, tangible and intangible, at a uniform rate and to permit classification. The liquor interests sought to eliminate the constitutional injunction against the licensing of saloons in the hope that regulation would head off state-wide prohibition. Most important, though, were the demands of the progressives which had accumulated over the past decade for such varied reforms as municipal home rule, direct primaries, the initiative and referendum, equal suffrage, improvements in the court system and procedures, and legal protection of workers.

This pent-up pressure for progressive changes was part of a ferment at work in many other states of the Union and in the national government as well. In this same year two notable reform governors were elected, Woodrow Wilson in New Jersey and Hiram Johnson in California; and the house of representatives was in revolt against tyrannical conservative control. Although this leftward movement was a response to certain common influences, the component of these forces differed from state to state.

Ohio reformers found inspiration particularly in the teachings of Henry George and Henry Demarest Lloyd. George's vivid portrayal of poverty amidst progress, his message joining Christian brotherhood with equality, as well as his specific panacea for the elimination of want, the single tax, had made converts of a number of Ohioans. Tom L. Johnson, the great Cleveland mayor, is the best known. Others who followed him down the Damascus road were Peter Witt, Frederic C. Howe, Herbert Bigelow, and Brand Whitlock. Lloyd's influence was less pervasive, but his expose of monopolistic practices, notably those of the Standard Oil trust, stimulated the thinking of the Toledo crusader Samuel Milton Jones. Another current which stirred Ohioans generally was the literature of the Muckrakers, whose factual accounts of graft and corruption in
government and industry created disaffection for the existing system. One of their star performers, Lincoln Steffens, was a friend and champion of the Ohio reformers. At the political level there was the influence of other state leaders who gave encouragement by their example in routing the forces of reaction and introducing specific reforms: Hazen W. Pingree in Michigan, Joseph W. Folk in Missouri, W. S. U’Ren in Oregon, and Robert F. La Follette in Wisconsin. More directly influential than these were two national figures, William Jennings Bryan, who commanded the allegiance of a large segment of Ohio Democracy, and Theodore Roosevelt, who began espousing doctrines congenial to the radical wing of the Ohio Republican party.

Important as these larger influences were, they would not have made as deep an imprint on Ohio had it not been for the local leadership of a devoted coterie of reformers headed by Jones in Toledo, Johnson in Cleveland, and Washington Gladden, a Social Gospel preacher, in Columbus. Municipal reformers first, these men entered the state field to free the cities from the leading strings of the legislature. Through their state campaigns they broke the ground and planted the seeds of reform. Though Jones had been dead five years in 1910 and Johnson was mortally ill, their harvest was reaped by a group of young men of great ability who had been attracted to their cause: Brand Whitlock and Negley Cochran in Toledo; Newton Baker, Peter Witt, John Stockwell, Robert Crosser, and Carl D. Friebolin in Cleveland; and Herbert Bigelow in Cincinnati.

In 1911 these young crusaders, joined by other progressives, led a spirited campaign to elect their partisans as delegates to the constitutional convention. The most active was Bigelow, who founded the Progressive Constitution League to support the cause. He and the league concentrated on pledging candidates to the initiative and referendum, since this reform was considered by him and many other single taxers the key to the introduction of the Georgian land-tax. The Joseph Fels Fund, established by the wealthy manufacturer of Napthta soap, a George disciple, aided his campaign financially.

Further assistance came from the Scripps-McRae newspapers, which directed their reporters to circulate through the rural counties and
secure public commitments from candidates to vote for an effective initiative and referendum amendment.

As support for this movement began rolling like a snowball, alarmed conservatives began a counterattack. The director of the Ohio State Board of Commerce dispatched "boilerplate" articles to the rural press attacking the proposal as communistic, assessed business to defray the expense, and organized support for conservative candidates.

Nevertheless, not all of the commercial and industrial class took alarm. The Ohio Manufacturers Association announced they would adopt a neutral stand. Bigelow, furthermore, had already succeeded in creating enthusiasm for the initiative and referendum among the liquor interests. While the legislature, he pointed out, tended to favor the "drys" because of the preponderant strength of the prohibition-minded rural counties in the lower house, a popular referendum would give full weight to the "wet" urban electorate under-represented in the assembly. This piece of political opportunism did not, however, signify a real alliance between the opponents of prohibition and the advocates of the initiative and referendum. Not all "wets" were for direct legislation, nor all "drys" opposed.

Bigelow and the league concentrated their efforts in the country districts, since strong sentiment already existed for their program in the cities. A branch of their organization in Cuyahoga County, representing one hundred and fifty civic and labor organizations, nominated a slate of ten candidates pledged exclusively to this issue. Although three other groups, the Municipal Conference, Socialists, and Democrats, prepared separate tickets, all of their nominees were likewise committed to the principle of the initiative and referendum. Since the Cleveland advocates of this reform believed that with its adoption other ills, such as taxation evils and the lack of municipal freedom, could be cured, their tendency was to concentrate on it alone.

In Columbus a different plan for the selection of candidates led to less emphasis on direct legislation, though an endorsement was not neglected. At a meeting on July 25, 1911, presided over by
Washington Gladden, the representatives of more than a hundred civic, professional, farm, and labor organizations formed the United Constitution Committee of Franklin County. The assembled group listened to an address by Bigelow, voted to allow labor, agriculture, and business each to select one candidate to the constitutional convention, and planned public forums on the commission government for cities, taxation, the initiative and referendum, reform of judicial procedure, and nonpartisan elections. The best organized of all the preconvention movements in the cities, the United Committee held open discussions at regular intervals, nominated candidates representing each of the three major economic classes, and committed them to a platform of direct legislation, municipal home rule, and reform in judicial procedure.

In Cincinnati an organization bearing the same title as the Columbus one was formed to name a slate of candidates and adopt a platform. Representing almost every civic, social, and business organization in the city, it selected a panel of nine, including union-labor, business, and professional men, and Herbert Bigelow, pledging them to the initiative and referendum, municipal home rule, licensing of saloons, and classification in taxation. The Personal Liberty League, an organization of "wets," also endorsed a ticket of candidates, four of whom had also been sponsored by the United Constitution Committee.

Not in every city, however, was there the same well-developed support and interest in the selection of delegates. Candidates in Toledo and Youngstown had to depend mainly on newspaper backing. In Dayton the three successful candidates received no press endorsement whatsoever, though the Dayton Daily News editorially praised direct legislation, to which they were committed.

When the nominations were completed, the Toledo News-Bee computed that of the four hundred and nineteen candidates, two hundred and eighty-six were declared progressives, one hundred and twenty were known conservatives, and thirteen had not expressed their opinions. Despite this substantial majority there was still danger in the situation, the editor believed, for the reactionaries under the leadership of the Ohio State Board of Commerce were
centering their efforts on the smallest number of candidates in the hope of sliding in their men through a split in the progressive vote.³

Such fears proved unwarranted, since the election returns in November 1911 brought victory to the friends of change. The newspapers, by dramatizing the epochal nature of the occasion, had generated a strong interest among the electorate. Three counties polled a larger vote for constitutional delegates than they did the year before for governor, and the count was almost as large in several others, though in the state as a whole it was smaller. Bigelow, who had contributed more than any other person to the progressive triumph, was elected as a delegate, and sixty others were pledged to his kind of an initiative-and-referendum amendment. In addition, twenty-six more had spoken in favor of the principle of this reform. It was estimated that only twenty-five percent of the one hundred and nineteen members elected were conservatives, nearly all from the rural districts. Since the attitude toward direct legislation was the popular norm for judging the political temper of a state, Ohio, it was contended, had gone radical.⁴ Left-wing progressives envisioned the success of their extreme doctrines; conservatives feared the worst.

On the morning of January 9, 1912, the fourth Ohio constitutional convention assembled in the hall of representatives at the capitol, dedicated to the task of framing a new charter which would reflect "the improved and progressive conditions" of a twentieth-century world.⁵ The oldest member, eighty-two-year-old Judge Dennis Dwyer of Dayton, was chosen temporary chairman, the roll was called, and the delegates sworn in by the chief justice. In the opinion of a veteran newspaper correspondent, it was "the most inspiring body" that he had observed in his forty years' experience with Ohio legislative assemblies.⁶

Included among them were strong, serious men of ability and experience, representing most of the major occupations. Lawyers

³ Toledo News-Bee, October 11, 1911.
4 Editorial in the Cleveland Plain Dealer, November 10, 1911.
6 Statement of H. R. Mengert, correspondent for the Cincinnati Enquirer, quoted by Cox, Journey Through My Years, 123.
predominated with forty-six members, seven of whom played an
outstanding part. Farmers were the next largest occupational group
with twenty-five. Adopting generally a middle-of-the-road position,
they acted as a balance wheel. Bankers and businessmen numbered
fourteen. Ten delegates were drawn from the ranks of labor, four
of whom were prominent throughout the proceedings. The pro-
fessions outside of law were well represented: six educators, two
editors, four ministers, and four physicians. Particularly influential
in this group were Presidents Simeon D. Fess of Antioch College
and George H. Colton of Hiram, Professors George W. Knight of
Ohio State University and Henry W. Elson of Ohio University, and
Herbert Bigelow. The nine remaining members represented mis-
cellaneous occupations.7

By national affiliations the Democrats predominated with sixty-
five, followed by forty-eight Republicans, three Independents, and
three Socialists, but party alignments were obliterated on roll calls.
The real division was between conservatives and progressives, be-
tween "those," in the words of Macaulay, "who cling to the
past, distrusting change; and those who instinctively challenge
precedent."8 Conservatives felt their numerical disadvantage. One
wrote in retrospect, "An enthusiastic reformer with a brand new
banner of many colors always got a hearing, and a loyal veteran
with the 'old flag' did well to keep it still afloat."9 Another delegate
more accurately described the convention "as a body of progressives
possessing some conservative tendencies."10

The assembly gave immediate proof of this temper in the selection
of officers. The radical Bigelow was elected president after a stiff
fight; the moderate Simeon D. Fess, a born compromiser, was chosen
vice president; and the post of secretary went to Charles B. Gal-
breath, a Republican and former state librarian. In the organization
of the assembly the progressives compromised with the conservatives,

7 The name, address, and occupation of each delegate is listed in the Journal,
921-922.

8 Quoted by Herbert Bigelow in remarks on the constitutional convention, printed
in Mercer, Ohio Legislative History, I, 410.

9 Remarks on the constitutional convention by E. L. Lampson, printed in ibid.,
I, 420.

extending the number and scope of committees to meet the latter's views and fairly sharing committee assignments. Bigelow, whom the

convention reluctantly permitted to discharge this delicate duty, acquitted himself well. For example, he placed on the initiative-and-referendum committee some of its most militant opponents as well as friends, and he made a fair division of the chairmanships of the most important ones, the conservatives and moderates receiving three to the progressives' seven.

During the first two months the delegates spent long hours listening to the speeches of visiting dignitaries. Since it was an election year, potential presidential candidates were eager to talk. So long was the list of speakers that one wag proposed that the official title of the convention be changed to the "oratorical assembly."11 The conservative to reactionary point of view was presented by an ex-senator from Ohio, Joseph B. Foraker, an Old Guard Republican, and by Governor Judson Harmon, who in voicing his conscientious scruples against the initiative and referendum virtually read himself out of the Democratic presidential race. The most eloquent speakers for the progressive cause were Hiram Johnson, William Jennings Bryan, and Theodore Roosevelt. It was a fateful day for the ex-president. To a group of his partisans he announced that "on Monday next--to use his own language, he . . . [would] 'throw his hat into the ring and continue the bout until he is either declared the winner or takes the count.'"12 Yet by reiterating in his address his proposal for the popular review of judicial decisions, an heretical opinion in the eyes of conservative Republicans, he had disastrously jeopardized his chance of receiving the party's nomination.

The appearance of these men cast the national spotlight on the convention, but they were not the only reason for the strong public interest in the proceedings. Both the county weeklies and metropolitan dailies of Ohio extensively reported the debates; Saturday night meetings became popular in some of the towns, people of all


classes gathering to discuss the issues argued before the convention during the preceding week. Whatever else it accomplished, the constitutional assembly was of great educational value. Not only in the newspapers at home but in the national weeklies and scholarly journals the work of the convention was reported with absorbing interest. Special articles were penned by four delegates. Practical legislators and reformers were eager to observe how Ohio dealt with the leading progressive issues of the day.

Press reports and the pages of the official transcript disclose that the work of the convention was conducted on a high plane. Committees were diligent in collecting and sifting evidence; floor managers were well informed on the history of their particular proposals, their adoption by other states, and argued cogently the principles involved; the convention debates were generally of superior quality. Although emotional arguments inevitably crept in, rancor seldom marred the proceedings. The most highly charged issue, the licensing of saloons, was disposed of first. Later, however, the specter of the liquor question rose again to becloud the debate on woman suffrage and municipal home rule. Still the bulk of the amendments were considered on their merits. The character of the convention proceedings, the spirit of compromise which prevailed, can best be illustrated by a few examples.

Drafting an initiative-and-referendum amendment consumed the longest time of any proposal, and next to the liquor issue, aroused the greatest intensity. In the expectation of compromise the progressives advanced their most radical proposal first. Introduced by

Robert Crosser, a leading advocate, this initial draft specified a fixed number of signatures on petitions with no requirement for geographical distribution over the state, and provided for the direct as well as the indirect initiative. Opponents, convinced that they lacked the votes to defeat an initiative and referendum amendment outright, sought to surround these processes with "safeguards" to make them as innocuous as possible. This appeal for protective

13 For titles, see footnote 2.

14 The initiative and referendum were no novelties, having been adopted by eleven states to 1912.
devices was also attractive to the moderates. Before the measure reached the floor, the progressives had begun to yield ground. A compromise was agreed upon providing for a percentage system of signatures and specifying that the names had to be obtained from half of the counties of the state equal in number to half of the percentage requirements.

The debate occupied most of the remainder of the month. Friends of the reform argued that the people of Ohio had lost faith in representative government because of the corruption and irresponsibility of the legislature and were determined to have a larger direct share in policy determination by means of the initiative and referendum. Opponents, in addition to making frontal attacks, raised the bogey of the single tax, seeking to discredit the proposal by linking it with this radical doctrine. This was easy to do because of the publicized activities of the Fels Fund in financing campaigns for the initiative as a device to introduce the single tax. One of the conservatives proposed to prohibit its use to initiate either a law or a constitutional amendment imposing Henry George's reform on Ohio. The presentation of this proposition created a near crisis when Bigelow tried to stave it off by ruling that a motion had carried to recess the convention despite the clamor for "vote," "division," on the question. As the president left the chair, shouts for "Vice President Fess" brought that officer to the rostrum; Bigelow's ruling on the recess motion was overruled; and the hostile amendment was submitted for discussion. Although Bigelow apologized the next day, the episode continued to rankle with his opponents. 15

As the debate dragged on, it became apparent that general sentiment was not sympathetic to the low percentages proposed or to the direct initiative. On March 26 Bigelow appointed a special committee to redraft the proposal in order to meet many of the objections raised in debate. The following day this revision was presented and ably explained by John R. Cassidy of Bellefontaine.

In his major oratorical effort at the convention Bigelow supported the work of the committee. His speech had the quality of a sermon. Garnishing his arguments with vivid, emotional language, parables,

15 Proceedings and Debates, I, 807-808, 810.
and Biblical quotations, he insisted that the initiative and referendum was necessary, first for the sake of the representative, to protect him from temptation; and, secondly, it was needed for the good of the people, their education in democracy. "Oh! my friends," he concluded, "we are striking down tyranny. We are forging the greatest tools democracy ever had. We are building grander institutions for freedom and for humanity than the world has ever known. We are engaged not only in an important civic work. Our task is a profoundly religious one."  

This burst of oratory carried the initiative and referendum across the line, the convention voting 97 to 15 to accept the Cassidy amendment. Before the final vote further changes were made. Though Bigelow rejoiced at the culmination of a fifteen-year fight, Crosser was disgruntled by the results, for the radicals had to give ground on every controversial point: the percentage figures were higher than they had proposed, the direct initiative for laws was eliminated, and the use of the device was prohibited for proposing laws enacting classification of property or the single tax.  

Bigelow defended this last provision to his friends, assuring them that it would not interfere with the adoption of land-tax reform whenever public opinion was ready, since the path had been left clear for changes by constitutional amendment.  

Another issue of a similarly controversial nature was judicial reform. Members of the state bar, progressives, and labor groups had long been demanding that the court structure and certain procedures be revamped, though not always in the same fashion nor for the same reasons. Judge Hiram Peck took charge of the major proposal to reconstruct the state courts, a happy choice from the progressives' standpoint, for he possessed an intimate knowledge of the faults and virtues of the existing system and favored radical change.  

The Peck amendment proposed to replace the "antiquated and  

16 Ibid., I, 942.  
17 For the text of the amendment on final passage, see *ibid.*, II, 1941-1943. The percentages were: on the indirect initiation of laws, three percent to obtain consideration by the legislature and another three percent to present the bill to the people should the general assembly amend it or fail to act, ten percent for the direct initiation of constitutional amendments, and six percent for the referendum of laws.
Ohio's Constitutional Convention of 1912

cumbersome" Ohio judicial organization with a new setup which would shorten judicial proceedings in most cases to one trial and one review, eliminating the expense of long delays and two appeals, and the overcrowding of the supreme court docket.

While most delegates conceded the necessity for this reform, conservatives spiritedly protested a second part of the Peck proposal. This would have required a unanimous vote of the supreme court to declare an act of the legislature unconstitutional except in affirming a decision of the court of appeals holding a law void, in which case a majority was sufficient. It was attacked by Judge William Worthington, a fellow delegate from Cincinnati, as are

volutionary reversal of an historic American judicial tradition; others who clung to the old ways shared his resentment.18 Yet the feeling among the majority was strong that some curb should be placed on the power of the courts to interfere with the legislature.19

Although one extremist would have gone further than Peck-abolishing judicial review altogether-others regarded the unanimity requirement as too exacting.20 After a week of debate an amendment was offered to require the concurrence of all but one judge.

In this form the proposal passed. A third reform which was warmly contested was municipal home rule. As was the case with the initiative-and-referendum proposal, much of the preliminary work of formulating the amendment was done before it reached the floor of the convention. Cleveland progressives took the lead in preparing a draft, which was first approved by a convention of representatives from one hundred and eight-three Ohio municipalities who met in Columbus January 23 to 25 before it was presented to the constitutional convention. There it was referred to the municipal-government committee. The committee chairman, George W. Harris of Cincinnati, was hostile to the Cleveland draft. Lobbyists of the public-service corporations tried to

Ohio municipalities who met in Columbus January 23 to 25 before it was presented to the constitutional convention. There it was referred to the municipal-government committee. The committee chairman, George W. Harris of Cincinnati, was hostile to the Cleveland draft. Lobbyists of the public-service corporations tried to


19 Speeches in favor of curbing the power of the courts to interfere with the legislature were made by D. F. Anderson, J. A. Caldwell, J. M. Earnhart, George A. Knight, S. A. Hoskins, and Simeon Fess. *Ibid.*, II, 1088-1130.
This was favored by Harry Thomas, although he also supported the Peck proposal. *Ibid.*, II, 1147, 1163.

Ohio State Archaeological and Historical Quarterly

impair the ability of cities to finance municipal utilities. Newton Baker, who was frequently called to Columbus, did his most effective work in the hearings before this committee in preserving as much of the original plan as possible. Through his knowledge of the subject and his tact in presenting his arguments he won confidence for his ideas. Still he had to yield on freedom in financial affairs, conceding the authority of the general assembly to limit the power of municipalities to tax and incur debts.

Late in April the convention began a two-day debate on the amendment. Professor George Knight, a member of the committee, expressed the three aims of the proposal: to allow a diversity of charters and thus enable Ohio cities to have the form of government they desired; to give municipalities all powers not specifically denied them, reversing the existing condition whereby they possessed only such authority as the legislature granted them; and to permit cities to construct, own, and operate all public utilities serving the municipality.21 Opposition stemmed from four sources. Rural members looked askance at the measure as a plot by the cities to free themselves from all state regulation.22 “Drys,” on the one hand, were suspicious because it tended to break down state liquor control. “Wets,” on the other, were annoyed because it did not give cities complete freedom in the matter.23 But the chief assault came from spokesmen for the public-service corporations who argued that the amendment threatened to destroy their interests by failing to restrain unfair competition by municipally owned utilities. Their argument carried some weight until they overplayed their hand by proposing an amendment which would practically have nullified the municipal ownership provisions. This the convention rejected by a large majority and refused to reconsider. The home-rule proposal passed with an insignificant opposition vote.

The most radical and one of the most controversial labor amendments proposed was one to permit the general assembly to fix mini-

21 Ibid., II, 1433.
22 See speech and proposed revision presented by James Halfhill, a conservative lawyer from Lima, who frequently expressed the rural viewpoint. *Ibid.*, II, 1463-1475.
mum wages as well as set maximum hours and to provide for the
health, safety, and general welfare of all employees. Thomas S.
Farrell, listed as a Cleveland waiter, who introduced the measure,
declared he had once opposed such legislation but had been con-
verted to the legislative approach by the failure of trade-union
methods to establish minimums and by the writings of Sidney and
Beatrice Webb, whom he quoted. The most forceful defense came
from the moderate conservative Judge Dennis Dwyer, who stated
that this was a proper exercise of the state's police power and was
as socially desirable as fixing maximum interest rates. When ques-
tioned as to the necessity for the amendment, he insisted on a posi-
tive grant of power to forestall an unfavorable court decision. Although a conservative manufacturer argued that a minimum wage
would be ruinous to Ohio industry and the radical George W. Harris
branded it "economic insanity," the proposal passed by an over-
whelming majority.

Altogether the convention approved forty-two amendments. The
decision to submit separate amendments instead of a general re-
vision presented as a unit was reached near the outset. The telling
arguments were two: the gloomy precedent of 1874 when the Ohio
electorate voted down a newly revamped constitution, and the popu-
lar sentiment that the document of 1851 needed only tinkering not
radical revision. The list included many of the progressives' prin-
cipal demands. Some were of a legislative nature but were given
constitutional status because the general assembly had refused to
act or the supreme court had handed down an adverse opinion or
threatened to do so.

One category embraced reforms designed to strengthen and extend
democratic controls: the direct-primary system of nominating elec-

— Ibid., II, 1328-1332.
— Ibid., II, 1332-1336.
— Ibid., II, 1332-1338.
— For example, the legislature had refused to establish a state-wide direct-primary
system or state civil service. The Ohio Supreme Court had held unconstitutional the use
of voting machines, mechanics' and builders' lien laws, and the eight-hour day on
public works. Labor wanted a mandatory workmen's compensation provision for fear
the courts would find such a statute unconstitutional without an express grant of
power in the fundamental law.
tive officers, voting machines, woman suffrage, simplification of the regular amending procedure, as well as the initiative and referendum and municipal home rule. A civil-service system was made mandatory in order to increase the efficiency of administration. In addition to the judicial reforms previously mentioned other substantive and procedural changes were adopted. One amendment proposed to alter the jury system in civil cases by authorizing a three-fourths instead of a unanimous verdict of the jurors; another directed the legislature to prescribe the size of the grand jury, the number necessary to concur in an indictment, and modified criminal procedure in other respects; a third empowered the general assembly to regulate the use of expert witnesses; a fourth proposed to abolish capital punishment; and a fifth modified equity procedures by curbing the use of the writ of injunction in labor disputes and providing for a jury trial for contempt committed elsewhere than before the court.

In a fourth category were proposals to regulate business, such as the strengthening of legislative control over the entire banking system, the sale of securities, and the regulation of insurance rates; the imposing of double liability on bank stockholders; and the prohibiting of outdoor advertising. Classification of property for tax purposes, which urban businessmen and progressives favored, was defeated, but the legislature was given a specific grant to levy income, inheritance, excise, and franchise taxes, as well as to assess the production of oil, coal, gas, and other mineral deposits.

Labor received a constitutional guarantee of some of its most insistent demands: compulsory workmen's compensation, mechanics' and builders' lien laws, the eight-hour day on public works, and the abolition of prison contract labor. Finally, three general-welfare amendments were approved. An education proposal vested in the general assembly power over the schools while permitting each urban school district limited home rule. Another recommended a state bond issue to finance good roads. The third, a comprehensive conservation measure, conferred authority on the legislature to encourage reforestation, protect lakes and streams, control water power, and regulate the mining, weighing, and marketing of coal,
oil, gas, and other minerals.  

Impressive as these gains were, it was not the extremists but the moderate progressives who had triumphed. Not only had individual amendments been watered down to gain approval but certain radical proposals had been defeated. Among the casualties in the convention were the recall of officials, the short ballot, the elimination of judicial review, and a specific guarantee of the right of labor to organize and strike.

In the campaign for ratification friends of the amendments possessed certain advantages. The convention approved the distribution to every voter of the state of a pamphlet listing the short title and full text of each amendment, followed by a brief explanation of its purport. With certain exceptions the delegates favored the work they had done and spoke on behalf of the proposals. Bigelow formed the New Constitution League to educate the public on the initiative and referendum as well as to urge the adoption of all the amendments. The convention’s handiwork received the blanket endorsement of the state Democratic convention and of the Roosevelt Progressives. Because of the generous treatment granted working-men, union labor and Socialists were enthusiastic advocates. The character of the men who stumped the state endorsing the amendments inspired confidence: James M. Cox, the Democratic nominee for governor; Mayors Baker, Whitlock, and Henry Hunt of Cincinnati; and Herbert Bigelow, then at the height of his popularity. Important work for the cause was done locally by several of the Roosevelt Progressives: John Fackler of Cleveland, Judge R. M. Wanamaker of Akron, and Washington Gladden in Columbus. Strong press support existed in Cleveland, Dayton, and Toledo, though only the Scripps-McRae papers were favorable to the proposals in Columbus and Cincinnati.

Overt opposition did not arise until late in the campaign. Appearing under an anonymous guise, it was led by Allen Ripley Foote, president of the Ohio State Board of Commerce, and supported by the public utilities. The opposition’s tactics were not to

28 This is not a complete list of all the amendments proposed. Minor, non-controversial proposals have been omitted.
employ speakers and hold public forums but first to deluge the rural press with "boilerplate" articles crassly attacking the work of the convention. When the editors balked at publishing this material because their readers protested against its distortion and outright falsification, these opponents turned as a final resort to pamphlets and dodgers, tons of which were circulated.

As the campaign came to a close, the Ohio State Board of Commerce spread the word, "When in doubt, vote no." This slogan was turned into a boomerang when friends of constitutional change urged everyone when in doubt to vote yes. The question then became, wrote a Cleveland Leader correspondent, whether those in doubt should follow the advice of Allen R. Foote, the voice of the special interests, or that of such men as Washington Gladden and President William O. Thompson of Ohio State University, who pointed out that the amendments were the product of five months of diligent work by a nonpartisan body and merited the confidence of the voters.

The day after Labor Day, September 3, was selected for the election to permit labor orators to make a last minute appeal to workingmen. Despite the warm, sunny weather, favorable to a record ballot, the voting was light as had been predicted. The voters were more absorbed in the three-cornered presidential race than in changes to their fundamental law. The woman-suffrage amendment polled the highest, 586,295, or 63.4 percent of the vote for governor in 1910; the liquor-license proposal the lowest, 462,186, or 50 percent.

Although there was no marked difference in the size of the poll between urban and rural areas, geography was significant in the distribution of the vote for and against the amendments. In the twelve principal urban counties the city population favored almost every one and, in the aggregate, approved of all except woman suffrage and voting machines. Columbiana, Lucas, and Summit

29 Allen R. Foote to the members of the Ohio State Board of Commerce, August 20, 1912. Uncataloged material on the Ohio Constitution of 1912, Western Reserve Historical Society Library. See also the Cleveland Leader, September 1, 1912.

30 Ibid., September 1, 1912. See also open letter signed by Gladden and Thompson containing the motto, "When in doubt, vote yes," published in the Ohio State Journal,
actually supported every amendment. The northern cities were more consistently and decisively committed to change than the southern ones, and spread their influence to adjacent counties where the rural population voted generally as did Cleveland, Akron, Youngstown, Canton, and Toledo. In striking contrast is the poll in rural counties farthest away from the influence of the northern progressive cities. Seven voted no on every amendment, nine others opposed all except the licensing of saloons. Had it not been for the heavy favorable vote in the twelve urban counties, nineteen of the amendments which passed would have failed.

Of the forty-two submitted, the electorate rejected eight. Among them were woman suffrage, the abolition of capital punishment, modification of injunction procedures, voting machines, and elimination of the word "white" from the suffrage clause to make it conform to the fifteenth amendment of the federal constitution.31 A spokesman of the conservatives, Daniel J. Ryan, expressed the outrage felt by his side at the outcome. He condemned the direct-legislation and labor-welfare measures as "vicious and revolutionary," gloomily prophesying that they were "part of a plan adroitly consummated ... to strike a fatal blow at the stable property and business interests of Ohio." Furthermore, he alleged that these "socialistic" amendments had been railroaded through and that the vote did not reflect the sensible, mature judgment of a naturally conservative state.32 Despite such allegations, Ohio's desire to be progressive was not the result of any sinister plot. Through the able discussions in the press and public forums all of the electorate had had an opportunity to be informed, and in the opinion of many observers were well briefed in those amendments which conservatives found most objectionable.33 Moreover, the radical workingmen's vote had no disproportionate effect on the outcome, as conservatives contended.

31 The other three amendments defeated were concerned with the eligibility of women for certain offices, the regulation of outdoor advertising, and a bond issue for good roads.
33 This was the opinion of leading newspaper correspondents and also of Charles Sawyer of Cincinnati in his article, "The Ohio Constitution. A Reply and a Rejoinder," 275-279.
Several papers commented on the light poll in the labor and Socialist wards in Columbus, Cincinnati, Dayton, Springfield, and Toledo. The leftward swing of the pendulum was a product of the times, a product of the same forces which had produced the victory of the progressive Wilsonian wing of the Democratic party and the splintering of the Republicans when the Roosevelt Progressives broke off rather than submit to conservative domination. The psychological climate was right for reform.

What conclusions can be drawn from Ohio's experience in constitution-making in 1912 which might profitably serve us on the eve of the present call. It points up some of the advantages of the convention method. The constitutional assembly of 1912 was composed of men representative of a variety of occupations and of a caliber well above that of the average legislative body. It reflected the opinion of the state on the major issues of the day in fair proportion. It was not dominated by selfish pressure groups of either the extreme left or the extreme right. Moderate progressives, imbued with the spirit of compromise and committed to the public interest, controlled. Committee hearings and debates permitted the presentation of varying points of view on each issue and full discussion. The proceedings, which were well publicized in the daily press, in a series of magazine articles, as well as in the ratification campaign, stimulated thinking among the electorate and contributed to their political education. Finally, each citizen was assured the opportunity, at least, of understanding the pros and cons of the changes presented.

Another point which this experience underscores is the necessity of agreement on objectives. If a convention call is to succeed, it is not sufficient to urge people to vote for a vague, general revision. They respond best when convinced of the need for specific change. Furthermore, the nomination of delegates should be nonpartisan in spirit as well as in form, and the campaign to elect them should be centered on issues rather than personalities.

Are there objectives today comparable in importance to those which aroused Ohio to action in 1910-12? Partisans of a constitutional call have already presented some fundamental problems
worthy of consideration. There is the serious need to increase the efficiency of the executive branch by reducing the number of elective officers and concentrating greater responsibility in the governor. Court procedures again need simplifying and strengthening. Many feel that the present system of selecting judges could be improved by the adoption of the California or Missouri plan. Reapportionment of the seats in the general assembly and the larger issue of bicameralism versus unicameralism are other critical problems. A fourth major question is municipal home rule. What is desired is a redrafting of the home-rule amendment to restore the original spirit and intent of the framers and to permit cities to exercise more control over their own fiscal affairs.  

Were a convention to be called to consider these basic demands, it could also profitably extend its attentions to a general overhaul of the constitution, to changes of a housekeeping nature which the men of 1912 ignored. The present document, written one hundred years ago, could be reduced in length by deleting provisions that are obsolete or of a statutory nature, clarified in wording, and rearranged in a logically consistent pattern. The purpose would be to increase its flexibility and to eliminate costly litigation to which these inadequacies give rise.  

It is an axiom of democracy that good government is best conserved by keeping political institutions abreast of new conditions in the economy and society. With democratic rule under attack the world over it behooves us to show by example that our faith in free inquiry—in free discussion of our methods and techniques—is undimmed, and that democratic government can be strengthened to meet the new demands made upon it. Let Ohio once more bespeak its democratic faith as it did in 1912 and join the vanguard of progressive states.

34 These were some of the important issues discussed at a meeting held in Columbus on April 28, 1951, sponsored by the Citizens Committee on the Ohio Constitution and the League of Women Voters. For a brief report of the meeting, see the Cleveland Plain Dealer, April 29, 1951. These points are also emphasized in the Report of the Committee on Revision of the Ohio State Constitution, Social Science Section, Ohio College Association, adopted April 9, 1948. This is a very useful summary of the need for constitutional changes. The most forceful arguments for unicameralism have been presented by William H. Hessler, Ohio Needs a New Legislature, a pamphlet reprinting five articles which first appeared in the Cincinnati Enquirer, June 30–July 4, 1947.