



League of Women Voters of Minnesota Records

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Minnesota League of Women Voters
832 Lumber Exchange Building
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League of Women Voters of Minnesota
84 South Tenth Street, Room 417
Minneapolis 2, Minnesota

SYLLABUS FOR DETAILED STUDY OF MINNESOTA GOVERNMENT
1947-1948

1. POPULATION, RESOURCES

References:

Kise and Sjoselius, "Minnesota, the State and Its Government", Chapter
Reports of the Minnesota Resources Commission
Reports of the Minnesota Conservation Commission

2. CONSTITUTION

Amendment and revision procedure
Obsolete provisions
Inflexible provisions

References:

Kise and Sjoselius, "Minnesota, the State and Its Government", Chapter 1
Minn. Institute of Governmental Research Bulletin No. 20
Legislative Interim Committee, appointed 1947
Anderson and Lobb, "A History of the Minnesota Constitution"

3. LEGISLATURE

Organization
Need for redistricting
Revision of Committee procedure

References:

Kise and Sjoselius, "Minnesota, the State and Its Government", Chapter 2
Minn. Institute of Governmental Research Bulletin No. 20

4. EXECUTIVE DEPARTMENTS (ESPECIALLY THE REORGANIZATION ACT OF 1939)

References:

Kise and Sjoselius, "Minnesota, the State and Its Government", Chapter 3
Minn. Institute of Governmental Research Bulletin No. 20
Hinderaker, "Administrative Districts and Field Offices of the Minn.
State Government".

5. LAW ENFORCEMENT

Structure
Proposals for revising state court system

References:

Kise and Sjoselius, "Minnesota, the State and Its Government", Chapter 4
Anderson, Chapter 14

6.

6. PROTECTION OF LIFE AND PROPERTY

References:

Kise and Sjoselius, "Minnesota, the State and Its Government", Chapter 6
Anderson, "Local Government and Finance in Minnesota"
Report of Department of Conservation

7. STATE SOCIAL WELFARE SERVICES

References:

Kise and Sjoselius, "Minnesota, the State and Its Government",
Chapter 7
Hinderaker, "Administrative Districts and Field Offices of the Minnesota State Government"
Anderson, "Local Government and Finance in Minnesota"
Minnesota Institute of Governmental Research Bulletin No. 19
Reports of the Department, including monthly bulletins

8. INDUSTRY AND LABOR (ESPECIALLY WOMEN AND CHILDREN IN INDUSTRY)

References:

Kise and Sjoselius, "Minnesota, The State and Its Government",
Chapter 8
Hinderaker, "Administrative Districts and Field Offices of the Minnesota State Government"
Reports of the Industrial Commission

9. LOCAL GOVERNMENT

General survey of local units

Emphasize unit in which you are most interested

References:

General

Anderson, "Local Government and Finance in Minnesota"
Kise and Sjoselius, "Minnesota, The State and Its Government",
Chapter 5
Anderson, "The Units of Government in the United States"

FINANCING THE STATE AND LOCAL UNITS

1. STATE NON-TAX REVENUES

Borrowed money
Interest on investments, trust funds, ore leases
Rent, licenses
Fines, fees
Departmental earnings
Aid from the federal government
Welfare, Education, Health, Highways
Sale of timber, etc.

References:

Auditor's Reports
Public Examiner Reports
Minnesota Institute of Governmental Research Bulletins 17-20

2. STATE AND LOCAL TAXES

For each tax, study the following:

Where and how levied (administration)
Who pays it?
How large proceeds are
 (a) in dollars
 (b) as per cent of total revenue
Where proceeds go (distribution)
 To state
 General fund
 Allocated to special purpose
 To local units
 How distributed?
 Population?
 Percentage of amount paid in

3. PROPERTY TAXES

State levy
Amount
Purposes

Local
County
City or Village
Township
Schools

Problems

Assessed Valuation
Functions of County Supervisor
Department of Taxation (Equalization)
Reassessment
Forest Lands
Utilities

References:

Blakey, "Taxation in Minnesota"
Minn. Institute of Governmental Research Bulletin No. 21

References (cont)

Department of Taxation Biennial Reports
Anderson, "Local Government and Finance in Minnesota", Chapter 7

4. INCOME TAXES

Individuals
Corporations (excluding Railroads, Mining Companies)

5. INHERITANCE AND GIFT TAXES

6. GROSS EARNINGS TAXES

Railroad
Telephone
Telegraph
Sleeping Cars
Freight lines
Express

References:

Blakey, "Taxation in Minnesota"

7. MOTOR VEHICLE TAXES

Drivers Fees
Licenses

8. MOTOR FUEL TAXES

Excise - Refunds
Inspection fee

References:

Blakey, "Taxation in Minnesota"
Minnesota Institute of Governmental Research Bulletin No. 21
Report of Motor Vehicle Division, Secretary of State
Report of Department of Highways
"Highway Facts" 1941
Biennial Report, Department of Taxation
Report of Division of Petroleum

9. TAXES ON CONSUMPTION

Alcoholic Beverages
Licenses (State - Local)
Excise
Profits of Municipal Liquor Stores
Cigarettes

10. TAXES ON OTHER BUSINESS

Insurance
Premium tax
Fire Marshall tax
Dealers in grain
Banks
Mining
Occupation - Royalty

References:

Blakey, "Taxation in Minnesota"
Blakey and Johnson, "Problems of Iron Ore Valuation" in Minnesota

References (cont.)

Municipalities, May 1941
Report of Interim Commission on Iron Ore Taxation (1941)

STATE GRANTS IN AID TO LOCAL UNITS OF GOVERNMENT

1. GENERAL PRINCIPLES, FEDERAL AID TO THE STATE
2. DISTRIBUTION BY JURISDICTION

County
School Districts
Township
City or Village

References:

V. O. Key, "Administration of Federal Grants to States"
H. J. Bittermann, "State and Federal Grants in Aid"
Minnesota Institute of Governmental Research Bulletins 18, 19, 20.

3. DISTRIBUTION BY PURPOSE

Welfare
Highways
Education
Health
Miscellaneous

References:

Same as above

Minnesota League of Women Voters
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SUGGESTED QUESTIONS FOR LEAGUE STUDY
1947 - 1948

1. The State Constitution

Amendment and revision procedure
Sections that are obsolete
Sections that are inflexible
Sections that tie the legislature

2. The Legislature

Numbers in comparison with those of other states
Committee membership
Committee procedure
Need for redistribution of members

3. State and Local Finance

A. Chief Sources of State Revenue

Where and how levied (administration)
Who pays?
How large are the proceeds
in dollars?
as per cent of total tax revenue?
Where do the proceeds go -
to State General Fund or special purpose?
to Local units?

B. Local

- (a) How is your County financed?
 - Taxes?
 - State Aids?
 - Has new supervisor of assessment been appointed?
 - Who was selected?
 - His qualifications?
 - Salary?
- (b) Your city or village budget
 - Chief expenditures
 - Chief revenues
 - Amount of Aid from State
- (c) School Districts
 - Improvements under new School Aid plan
 - County committee for studying reorganization

Minnesota League of Women Voters
832 Lumber Exchange Building
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LIST OF REFERENCES

***MINNESOTA STATE GOVERNMENT - STRUCTURAL ORGANIZATION CHART**

Prepared by Division of Administrative Management. Department of Administration Sept. 1, 1944. Available in two sizes - small (8 x 11) - large (48" x 60")

May be obtained without charge by writing to Mr. E. I. Berg, Commissioner of Administration, State Capitol, St. Paul, Minn.

WILLIAM ANDERSON, "The Units of Government in the United States", Chicago, Public Administration Service, Publication No. 83 (1942). \$1.00

WILLIAM ANDERSON AND A. J. LOBB, "A History of the Minnesota Constitution", University of Minnesota (1921). \$1.75

HAROLD F. KUMM, "Constitution of Minnesota Annotated", University of Minnesota Press. \$2.25

*IVAN HINDERAKER, "Administrative Districts and Field Offices of the Minnesota State Government", University of Minnesota Press (1943). \$3.00

*ROY G. BLAKEY, "Taxation in Minnesota", University of Minnesota Press (1934)

*MINNESOTA INSTITUTE OF GOVERNMENTAL RESEARCH BULLETIN 18, 19, 20, 21.

*WILLIAM ANDERSON, "Local Government and Finance in Minnesota", University of Minnesota Press (1935)

OSCAR JESNESS AND RENOLDS I. NOWELL, "Program for Land Use in Northern Minnesota", University of Minnesota Press (1935) - available on loan from State Library

*JOSEPH KISE AND GEORGE B. SJOSELIUS, "Minnesota, The State and Its Government", Melberg Press, Moorhead, Minn. (1944). \$1.50

REPORT OF MINNESOTA INTERIM COMMITTEE ON IRON ORE TAXATION (1941).

REPORTS OF STATE ADMINISTRATIVE AGENCIES (mostly biennial):

Auditor

*Department of Taxation

Motor Vehicle Division of the Office of Secretary of State

Liquor Control Commissioner

Unemployment Insurance Division

*Department of Education

*Department of Conservation

*Minnesota Resources Commission

Department of Highways

Division of Social Welfare (Monthly Bulletin)

*Department of Health

Department of Agriculture, Dairy and Foods

Aeronautics Commission

Motor Fuel Division of Department of Taxation (Annual)

*Revenues of State local units, Public Examiner (Annual)

Public Examiner

CHAPTER 614 - S. F. No. 868

AN ACT creating an interim commission to make a study of the constitution of the State of Minnesota; propose amendments thereto; requiring the commission to make a report of its recommended amendment to and revisions of the constitution to the next regular session of the Legislature; and appropriating money therefor.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. A commission of 21 members is created consisting of 8 members of the House of Representatives appointed by the Speaker of the House, 8 members of the Senate appointed by the Committee on Committees of the Senate, 1 member from the Supreme Court appointed by the Chief Justice of the Court, 1 member from the executive branch of government appointed by the Governor and 3 members appointed by the Governor from the citizens of the state. The appointments shall be made forthwith upon the passage of this act and the commission shall be known as the Constitutional Commission. The members of the commission shall elect 1 member as chairman thereof.

Section 2. The Commission shall study and consider the constitution in relation to political, economic, and social changes and developments which have occurred and which may occur, and shall recommend in a report to the next general session of the legislature amendments, if any, determined to be in the public interest necessary or proper to meet present and probable future governmental requirements. The report shall be filed with the Secretary of State and a copy mailed to each member of the legislature, to the Governor, and to the Clerk of the Supreme Court not later than October 1, 1948. If amendment of the constitution is recommended the report in addition to any other matter shall contain the proposed amendment or amendments in a form suitable for submission to the people.

Section 3. The commission may appoint committees to deal with particular problems or phases of its study made up of citizens of the state, but there will be at least one member of the commission on each committee. The commission

and its committees may hold hearings at such times and places as may be convenient for the purpose of taking evidence and testimony to effectuate the purposes of this act, and for such purposes the commission and its committees may issue subpoenas. In the case of contumacy or refusal to obey a subpoena issued under the authority hereof, the district court of the county where such refusal or contumacy occurred may upon complaint of the commission by its chairman punish as for contempt the person guilty thereof. Witnesses shall be paid the fees and mileage required to be paid to witnesses in civil actions in district court, but fees need not be paid in advance unless so ordered by the commission or by the committee issuing the subpoena.

Sec. 4. Members of the commission and its committees will serve without pay but shall be allowed and paid their actual traveling and other expenses necessarily incurred in the performance of their duties. The commission may employ expert clerical and professional aid and assistance; and may purchase stationery and other supplies; and do all things reasonably necessary and convenient in carrying out the purposes of this act.

Sec. 5. There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated \$12,000, or so much thereof as may be necessary to pay expenses incurred by the commission. For the payment of such expenses the commission shall draw its warrants upon the state treasurer, which warrants shall be signed by the chairman and at least two other members of the commission, and the state auditor shall then approve and the state treasurer pay such warrants as and when presented. A general summary or a statement of expenses incurred by the commission and paid shall be included with the commission's report.

COMMISSION REPORT NO. 1

The Amending Process in Minnesota

A Preliminary Report
to the
Constitutional Commission

October, 1947

League of Women Voters of Minnesota
84 South Tenth Street, Room 417
Minneapolis 2, Minnesota

FILE COPY

From 1858 to 1898, Minnesota had, of all the states, the simplest process for amending its constitution, namely, proposal by "a majority of both houses of the legislature" and ratification by a majority of the voters voting upon the proposal. In 1898 the amending process was made much more difficult. No change was made in the method of proposing amendments, but amendments were to be submitted only at general elections and "a majority of all the electors voting at said election" was required to ratify them.

The significance of this change is brought out by the following tabulation found in Anderson and Lobb, A History of the Constitution of Minnesota (1921) p. 148

	Number of Amendments Proposed	Number Adopted	Number Rejected	Percentage Adopted	Percentage Rejected
1858-98	66	48	18	73	27
1900-20	48	11	37	23	77

The operation of the amending process is brought down to date in the tables attached to this report. The following observations may be made:

1. A somewhat greater percentage of proposed amendments were ratified during the period from 1921 to 1946 than from 1898 to 1920. However, several of the amendments which were adopted met the required majority of the total ballots cast and counted at the election only after they had been submitted several times. For example, the amendment to modify the requirement for the publication of proposed municipal charter amendments was submitted four times and the one to permit the exchange of lands with the Federal Government five times.
2. 13 of the 18 amendments which were proposed between 1921 and 1946 but

which failed of ratification received 60 per cent or more of the votes cast on the proposal, and all but two received a majority of such votes.

3. On the average, only 67 per cent of the voters participating in a general election vote either for or against proposed constitutional amendments. It might be said, therefore, that an amendment to the Minnesota Constitution goes to the people at a general election with a 33 per cent vote handicap and that only 18 per cent of those actually voting upon the measure are sufficient to defeat it.

A more complete report upon the amending process will be submitted at a later date. To aid the members of the Commission and others interested in the study of this subject, the table of proposed amendments which appears as Appendix 3 in Anderson and Lobb's History (pp. 278-285) also has been brought down to date and accompanies this report.

Table 1

★

AMENDMENTS PROPOSED TO MINNESOTA CONSTITUTION

Period	Proposed	Adopted	Rejected	%Adopted	%Rejected
1858-1898 (inc.)	66	48	18	72.73	27.27
⁹⁹ 1898-1946 (inc.)	80	25	55	31.25	68.75
1921-1946 (inc.)	32	14	18	43.75	56.25

Table 2

Period	Proposed	Adopted	Rejected	Sessions ¹	Years	Rate Proposed Per Session Year		^{Adopted} Rate Proposed Per Session Year		Rate Rejected Per Session Year	
1858-1898 (inc.)	66	48	18	30	41	2 1/5	1 3/5	1 3/5	1 1/5	3/5	9/20
1899-1946 (inc.)	80	25	55	24	48	3 1/3	1 7/10	1	1/2	2 3/10	1 1/8
1921-1946 (inc.)	32	14	18	13	26	2 1/2	1 1/4	1 1/13	7/13	1 2/5	7/10

1. Annual sessions were the rule until 1877.

2. In the extra sessions, 1933, 1935-36, 1936, 1937, 1944, 1945, no amendments were proposed.

TABLE 3
PROPOSALS REJECTED 1921-1947

Year	Ch.	Title	Vote on Measure at Election		Majority (+) Minority (-)	Total Vote on Measure	Total Bal- lots Cast & Counted	% of Vote on Measure		% of Total vote Cast & Counted		% of Total Cast on Measure
			Yes	No				Yes	No	Yes	No	
1923	449	H. F.209	253,732	257,492	-3,760	511,224	869,151	-49.63	50.37	29.19	29.62	58.81
	448	H. F.933	246,414	200,391	+46,023	446,805	869,151	-55.15	44.85	28.35	23.05	51.4
	450	S.F.1107	428,407	143,977	+284,430	572,384	869,151	74.85	24.15	49.29	16.56	65.85
1925	428	H. F.784	331,964	148,784	+183,180	480,748	722,781	69.05	30.94	45.93	20.58	66.51
	429	S. F.656	323,322	140,422	+182,900	463,744	722,781	69.72	30.28	44.73	19.43	64.16
1927	444	S. F. 4	506,065	223,725	+282,340	729,790	1,070,274	69.34	30.66	47.28	20.90	68.18
1929	431	S. F.867	378,716	174,231	+204,485	522,947	828,401	58.49	31.51	45.72	21.03	66.75
1931	420	H.F.1213	420,052	409,924	+10,128	829,976	1,054,203	-50.61	49.39	39.85	38.88	78.73
	417	S. F.342	433,913	258,257	+175,656	692,170	1,054,203	62.69	37.31	41.16	24.50	65.66
	419	S. F.293	468,101	261,856	+206,245	729,957	1,054,203	64.13	35.87	44.40	24.84	69.24
1933	439	H.F.1977	509,074	279,877	+229,197	788,951	1,064,332	64.52	35.47	47.83	26.30	74.13
	444	H.F.1008	472,374	247,166	+225,208	719,540	1,064,332	65.65	34.35	44.38	23.22	67.60
	443	H. F. 91	468,617	216,760	+251,857	685,377	1,064,332	68.37	31.63	44.03	20.37	64.39
	441	H. F.805	496,017	215,623	+280,394	711,640	1,064,332	69.70	30.30	46.60	20.26	66.86
1935	393	H. F.126	448,917	397,106	+51,811	846,023	1,164,268	-53.06	46.94	38.56	34.11	72.67
	394	H. F.444	355,588	543,847	-188,259	899,435	1,164,268	-39.53	60.47	30.54	46.71	77.25
1937	493	S. F.328	488,370	260,152	+228,218	748,522	1,144,926	65.24	34.76	42.66	22.72	65.38
1939	447	S. F.280	635,815	287,286	+348,529	923,101	1,301,573	68.88	31.12	48.85	22.07	70.92
*Averages ¹								65.00	35.00	43.5	23.5	67.4

1. Averages are for the 16 proposals which received a majority of the vote on the proposal but not a majority of all votes cast at the election.

TABLE 4

PROPOSALS ADOPTED 1921-1947

Session	Ch.	Bill	No.	Vote on Proposal		Majority(+) Minority(-)	Total Vote On Proposal	Total Ballots Cast & Counted	% of Vote on the Measure		% of "Total Ballots Cast" Against the Measure		% of "Total Ballots Cast" both For and Against the Measure
				Yes	No				Yes	No	Yes	No	
1921	528	H.F.	34	534,310	73,917	+460,393	608,227	714,630	87.84	12.15	74.76	10.34	85.11
	529	H.F.	761	474,697	91,011	+283,686	565,708	714,630	83.91	16.08	66.42	12.73	79.16
1923	447	H.F.	506	520,769	197,455	+323,314	718,224	869,151	72.5	27.5	59.91	22.71	82.63
	451	S.F.	1001	460,956	143,518	+317,447	604,483	869,151	76.25	23.74	53.03	16.51	69.54
1925	427	H.F.	235	383,003	127,592	+255,411	510,595	722,781	75	25	52.99	17.65	70.64
1927	445	H.F.	32	542,796	346,109	+196,687	888,905	1,070,274	61	39	50.71	32.33	83.05
1929	429	S.F.	3	486,818	135,345	+351,473	622,163	828,401	78	22	58.76	16.33	75.1
	430	H.F.	23	428,013	130,833	+297,180	558,846	828,401	76.58	23.41	51.66	15.79	67.46
1931	418	S.F.	352	537,292	227,634	+309,658	764,926	1,054,203	70.24	29.75	50.96	21.59	72.55
1933	442	S.F.	401	630,125	181,126	+448,999	811,251	1,064,332	77.67	22.32	59.2	22.32	76.22
1937	492	H.F.	68	609,046	259,007	+350,039	868,053	1,144,926	70.16	29.83	53.19	22.62	75.81
1941	555	H.F.	470	459,868	144,842	+315,026	604,710	818,182	76.04	23.96	56.2	17.7	73.90
	171	H.F.	860	415,012	190,563	+224,449	605,575	818,182	68.53	31.46	50.72	23.29	74.01
1943	666	H.F.	517	737,091	264,149	+472,942	1,001,240	1,195,397	73.61	26.38	61.66	22.09	83.75
Averages									75	25	57	19	76

14
16
30 - 32

"Some men look at constitutions with sanctimonious reverence and deem them . . . too sacred to be touched. They ascribe to the preceding age a wisdom more than human and suppose what they did to be beyond amendment. I know that age well. I belonged to it and labored with it. . . . It was very like the present but without the experience of the present. I am certainly not an advocate of frequent and untried changes in laws and constitutions. But I know that laws and constitutions go hand in hand with the progress of the human mind."—THOMAS JEFFERSON.

HISTORICAL

One hundred years ago next August (1948) the citizens of Minnesota, instead of complaining that they had "too much government" were virtually without laws and government. Iowa was admitted to statehood in 1846, Wisconsin in 1848. Before that time the unorganized territory of Minnesota had been subject to the laws which governed those territories. Admission to the Union provided the new states with new laws but Congress omitted to pass laws for the organization of the left-over territory which embraced Minnesota.

The people were filled with a sense of danger and neglect. Some leading citizens (many of whom nurtured personal or political ambitions, too) called a convention at Stillwater to discuss remedial plans. The sixty delegates present signed a memorial to President Polk in which they pointed out, among other things,

1. that they and their fellow citizens were left without a definite government and without officers to administer and execute the law;
2. that they had no security for their lives or property;
3. that all proceedings of criminal cases and all processes for the collection of debt were suspended;
4. that operations of business were embarrassed.

They argued that so lawless a state "is fraught with evils and danger" and asked that Congress provide laws for the organization of the territory. Henry H. Sibley was elected a delegate to represent the people of Minnesota in Washington.

A bill for that purpose had been introduced in Congress as early as 1846 but the law (The Organic Act) was not passed until 1849.

That same year Judge Cooper wrote a proclamation, signed by Governor Ramsey, declaring the territorial government in existence. Minnesota remained an organized territory of the United States for nine years, subject to the Federal Constitution, The Organic Act, and the overruling powers of Congress. (It is significant, however, that Congress seldom interfered with the plans of local officials.) The State of Minnesota was admitted to the Union May 11, 1858.—(*History of Constitution of Minnesota*, Anderson & Lobb, Chapters 1-11; *Folwell's History of Minnesota*; 11 Minn. Law Review 189-216.)

THE CONSTITUTIONAL CONVENTION

The only Constitutional Convention ever held in Minnesota convened in St. Paul on July 13, 1857. It was characterized by bitter controversies between sectional and economic interests and political parties. Among the foremost questions of debate were: State boundary lines (at that time parts of the present states of North and South Dakota were included in the Minnesota territory); should there be an east-west or a north-south division of the territory; the location of railroads; the location of the state capitol; and was it to be a slave or a free state.

When the delegates convened Republicans and Democrats split into two factions each claiming to be "the legal Constitutional Convention" and each drafted its own proposed constitution. Weeks of heated debate ensued without appreciable progress. Recognizing the futility of such procedure, a committee made up of members of both parties was eventually appointed and instructed to harmonize their differences and agree upon a single constitution to submit to the voters.

Although the compromise was not wholly satisfactory to either faction it was accepted by both, with both sides eagerly supporting an easy amending process.

THE CONSTITUTION

"The best constitution is the one which best suits the genius and traditions of the people who live under it."—MONTESQUIEU.

Our 19th century constitution is inadequate for 20th century needs. It was designed to meet frontier requirements and does not measure up to the necessities of today.

(OVER)

AMENDING PROCESS; RESULTS

The legislature by simple majority vote in each house could propose an amendment. It would go into effect the same year if approved by a majority of the voters at a regular annual election.

This simple method of amending was retained for 41 years. During that time the legislature proposed and the citizens voted on a total of 66 amendments, 48 or 73% of which were approved, 27% rejected.

In 1898 the provision to amend was changed. It now required a majority of all votes cast at the election. From 1898 to 1928, 58 amendments were submitted to the voters, 16 or 28% of which were approved, 72% rejected.

(Many people who vote for officials do not vote on the amendments. Such a vote is counted opposed to the amendment. This largely explains the failure to secure enough votes to ratify needed amendments under our present law.)

DO WE NEED A NEW CONSTITUTION?

Here are several reasons why we do:

A new constitution would give an opportunity for greater efficiency and economy in government. Our much amended present one contains many obsolete provisions and some which are no longer observed in practice! e. g. some pertain to suffrage qualifications or disqualifications of women and Indians. (Women now have the franchise and Indians are now citizens of the United States.) Some other obsolete provisions relate to the reading of bills in the legislature, state census, redistricting, and the election of State Senators.

We need to consider the provisions regarding

1. The size of the legislature. (Minnesota has the largest Senate of any state in the United States.)
2. Legislative sessions. Does the 90-day session give sufficient time for careful and thorough consideration of needed legislation? Should we consider the split-session presently used in West Virginia and California, or the unlimited sessions used in Massachusetts and New York?

3. Executive and Administrative machinery. How can it be further reorganized in the interests of economy and efficiency?
4. The Judiciary. These provisions are open to major criticism.
5. State Finance practices. The present complicated, rigid and unscientific practices should be replaced by provisions suited to present-day needs. State Aid or tax-sharing programs should give greater weight to factors of population, revised assessment plans, tax collections, and municipal revenue needs. ("Tax-Hungry Cities," *Minnesota Municipalities*, June, 1946, pages 207-211.)
6. The relationship of local government units to each other and to the state. In some instances there are provisions which are in direct conflict with each other, and judicial decisions are required to determine what the provisions mean and which shall prevail.—(Vol. 11 *Minn. Law Review* 189-216.)

Several states have recently adopted new constitutions. Still others are considering revisions or new constitutions. The only time the people of Minnesota have had an opportunity to vote on a constitution was at the Constitutional Convention nearly 90 years ago. It is obvious that the time has come to try again.

HOW TO REVISE OUR CONSTITUTION

We could secure desired changes by

1. Adoption of an entirely new constitution, or
2. Individual amendments in sufficient numbers to remedy the ills.

The first would appear to be preferable. It could be done in shorter time and would provide modern governmental machinery.

Governor Youngdahl has appointed a Committee headed by Professor Lloyd M. Short of the University of Minnesota called the "Constitutional Commission."

For further study, ask your local league president or the State League Office for bibliography.

League of Women Voters of Minnesota

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(Sept. 16, 1947)

November 13, 1947

ADVANTAGES AND DISADVANTAGES OF A HOME RULE CHARTER

Advantages

The advantages of municipal home rule have been briefly stated by Professor William Anderson in his book City Charter Making in Minnesota, as follows:

1. "Every home rule city may have the form of government and the range of local powers and functions which the people of the city desire it to have.
2. The charter may be drawn up locally, in the open, and by residents of the city, and must be adopted by the electors themselves.
3. Whenever changes in the local government are really needed or desired they can be had by local action immediately instead of a year or more later when the legislature meets.
4. The legislature is relieved of much time-consuming and expensive labor in devising laws for local communities. The result will be a better legislature and better general laws, to the great benefit of the entire state.
5. The entire home rule process is distinctly educational to all the voters of the city. Some are called to work on charter commissions; the others must learn at least a little about charters and amendments because they must vote upon proposed changes. Trained thus in local affairs, the people become better fitted to cope with state and national problems."

The village form of government is rather simple, but a city charter may be just as simple. A village is continually subject to the acts of the legislature, and to change any of its present powers it must apply to the legislature, for the enactment of a statute. While a city under a home rule charter is subject to the general action of the state legislature, nevertheless, it is given the power to amend its charter from time to time to fit its own needs. State laws may prescribe certain obligations for municipalities, but if there are home rule charter provisions on the subject, the courts will allow considerable local variation in procedure and methods of performance. If the state law is silent on a subject, the local citizens may assume powers for their municipality by including them in their charter. Limitations, likewise, may be included which are more stringent than those in general state laws; for example, tax and debt limits. Most of the home rule authority reserved to local citizens through the home rule charter, however, has to do with machinery and form of government. Of the 79 home rule charter cities in Minnesota, 53 have provided for the mayor-council form, 9 for the commission form, and 7 for the council-manager form. There are many local variations having to do with elected and appointed officials, and independent boards and commissions.

There is no necessary relationship between the cost of city charter and village government. The cost of government under a city charter need not be greater than under the village form. Under a home rule charter a great many cities

do not pay their councilmen and mayors at all, or pay them only a very small sum about equal to the amount they receive under present village laws. The charter need not set up a wide variety of departments, but may allow the council to establish administrative departments at their own discretion. Some home rule charters have fixed their tax limits at a lower amount than the two per cent or twenty mill limit for villages; others have exceeded that amount. Thus there is no definite standard by which to judge the costs of the respective forms.

Disadvantages

There are some disadvantages claimed for home rule charters. These include the following:

(1) Difficulty of adopting and amending charters. A charter must be drafted locally and amendments must be locally prepared and submitted to the voters. The majorities required - four-sevenths for a new or revised charter and three-fifths for amendments - are often very difficult to obtain, particularly if any issue is made over ratification. In the case of an amendment to the village laws, a general need may develop which makes amendment by the legislature relatively simple. No public educational campaign is necessary. Sometimes because of the relative ease of securing legislation, home rule charter cities have sought what are virtually amendments of home rule charters by special legislative act.

(2) Loss of advantage of uniformity. While a home rule charter permits the adoption of a local constitution tailor-made to the needs of the individual community, this very fact makes the experience of other municipalities concerning the application of a charter or village law of little direct help to the home rule charter city. The supreme court or the attorney general can give a ruling concerning a village which will be equally applicable to all the other villages in the state but ruling affecting a home rule charter will be of concern only to those other cities which have similar charter provisions.

(3) Danger of poor local drafting. Some home rule charter cities have had many practical difficulties occasioned by the fact that the persons who drafted the charter were amateurs who knew little about charter drafting or did not have the time to do a competent job. This difficulty can be minimized by the use of model charters and reliance upon competent professional advice. The League has made it a practice to prepare comprehensive comments upon any proposed charter draft at the request of the charter commission. It is pointed out also by advocates of the home rule charter system that many statutes are as poorly drafted as charters and over these an individual municipality has less control than it does over its own home rule charter provisions.

(4) More general availability of statutes than charters. Any one looking for the applicable law relating to a home rule charter city must consult not only the statutes but the particular home rule charter. The statutes are available in every law office but only a few collections of home rule charters exist, and where search is to be made in some other municipality access to the home rule charter may be quite difficult.

(5) Cost of preparation of a home rule charter. In most communities this is a negligible item. The law limits the cost of preparing a charter in the first instance to \$1500 and most charter commissions have operated on less than this amount. The smaller the community the larger relatively this burden will be.

Some Specific Comparisons of Powers of Home Rule Charter Cities and Villages

The following is a list of a few of the possible differences between the powers of villages and those that may be provided by home rule charter. In some

instances these differences may be considered to be to the advantage of villages, in others to the advantage of the city. The list is illustrative of some of the points made in the earlier portions of this memorandum and is not meant to be exhaustive.

(1) Governmental Structure. In general, a city may provide almost any type of governmental structure it chooses. The structure of city government is not prescribed by statute in any great degree. Consequently, in a city the composition of the council, its procedure and its relation to the rest of the city government, may be entirely regulated by charter. In villages a council must consist of five members elected at large and including the mayor and clerk. It must be head of the administration of the village and it cannot delegate its power. A city may provide for a council-mayor plan, a commission plan or a council-manager plan, and it may give as much or as little power to the mayor as it chooses. The village clerk, village treasurer and village assessor under existing law must be elected for two-year terms. A home rule charter may provide for appointing all these officers and may fix their term at any length. (Under the village code proposed by the League to the 1945 legislature and planned for resubmission in 1949, villages over 1000 would be given options to establish council-manager or commission plans and all villages would be permitted to provide for an appointive clerk, treasurer and assessor.)

(2) Broad Grant of Powers. In general, a city may provide (not inconsistent with statute) any municipal powers which the legislature could have delegated to the city and in practice a number of city charters have attempted to do so. Villages have the powers that are granted by statute.

(3) Taxes. A village has no power to levy taxes other than taxes on property. Presumably, a city may be granted this power by charter. A village may not levy taxes in general in excess of 20 mills. Such a limit may be raised, lowered or completely abrogated by home rule charter for a city.

(4) Finance. No budget system in a strict sense is required in villages. Such a system may be required by charter but need not be. Provisions for the payment of claims in villages contemplate action by the council on virtually every claim in advance of approval. This subject may be regulated by charter. The purpose for which expenditures may be made may be broadened or limited by charter beyond those permitted in villages. For example, appropriations to private agencies performing work of a public character may be permitted by charter but are probably not permitted in villages. Villages are limited in their issuance of warrants in anticipation of the collection of taxes. This authority may be broadened or curtailed by charter or a system of tax anticipation certificates substituted. The statutory debt limit of 10 per cent applicable to villages may be lowered but not raised by home rule charter. (Under the proposed village code, a budget system would be required in commission or council-manager villages and the issuance of tax anticipation certificates would be permitted.)

(5) Franchises. The village council may negotiate franchises to utility companies in villages for almost any term. Similar provisions may be inserted in home rule charters but the authority may be circumscribed if desired and the charter may require popular approval for franchises. The payment of a franchise fee or tax may be provided by agreement in villages but cannot be compelled. A charter may require payment of such a fee or tax.

(6) Municipal Utilities. Villages may establish electric and water utilities only after a vote of the people regardless of the method of financing used. A charter may provide for acquisition without a vote or may require a different majority from the five-eighths majority prescribed in villages. It is only at the end of every five-year period from the date of the franchise that villages have clear statutory authority to acquire privately owned plants without

the consent of the owner. The right of condemnation at any time may be given by charter. Utility bills may not be made a lien on property in villages; presumably they may be in cities under adequate charter authority. Villages may use surplus funds for the support of general funds; in cities this depends entirely upon the charter.

(7) Ordinance Procedure. Villages may pass an ordinance on a single reading at the same meeting at which the ordinance is introduced and they must publish the ordinance in full in the local newspaper except where adopted by reference under the state law. Cities may, but need not, require several readings and the lapse of time between readings. Charters may or may not provide for publication and they may impose other restrictions on the ordinance process. A city may provide for publication of a new ordinance code in pamphlet form in lieu of newspaper publication, but under present law newspaper publication in such cases may not be dispensed with in villages. Villages may not submit ordinances to the people under the initiative and referendum process. Cities may provide for initiative and referendum by charter. (The proposed village code would permit pamphlet publication of new codes without prior newspaper publication.)

(8) Personnel. A village council may not remove one of its members. In cities this power may be provided by charter. In villages, except for police and fire civil service, appointments and removals of appointive personnel are generally at the discretion of the council. In cities, restrictions, such as a formal civil service system, may be included in the charter. The council has no power to fix salaries of council members in villages and its authority may be somewhat restricted in the case of certain other appointive officers. Cities may include in their charter fixed or flexible provisions for council salaries and may authorize the council to fix other salaries at its discretion. The premiums on bonds for fee officers in villages may not be paid by the village. A home rule charter may provide for the payment of premiums on any or all bonds from municipal funds. (The proposed village code would permit the fixing of administrative salaries without restriction.)

(9) Contracts. Except for a few restrictions in connection with the execution of contracts relating to public works, there are no statutory restrictions on powers of cities with respect to the procedure by which contracts are to be entered into. Consequently, the requirements for bids may be phrased by charter to suit the individual municipality. In villages, bids must be advertised for in the cases covered by statute - i.e., in general, where more than \$100 is involved. Restrictions on official interest in contracts may be increased by charter action. (The village code would increase the amount which may be purchased without bids to \$500.)

(10) Tort Liability. Villages are subject to the tort liability imposed by statute and court decisions. Cities may apparently extend or curtail this liability for torts. Ordinary rules regarding contract liability probably may not be changed by charter.

(11) Special Assessments. Villages may make local improvements and levy special assessments according to the statutes. In cities, this power may be granted on a more or less extensive basis than in villages and subject to fewer or more restrictions, the only limitations being that assessments may not exceed the benefits and that the property owner is entitled to notice and hearing. The purposes for which special assessments may be levied may be broadened in cities to include any type of local improvement. Councils in villages under existing law do not have the power to construct sidewalks without a waiting period during which property owners may construct them themselves. A provision for such a waiting

period is not necessary in cities unless so provided by charter. (The proposed village code would add a new broader special assessment law which might eventually be made exclusive. This would abolish the waiting period provisions now applying to sidewalks.)

(12) Real Estate. Villages may acquire real estate needed for public purposes and dispose of it by council action when no longer needed for public purpose. Bids and approval of the voters is not required but restrictions of this type may be imposed in cities by charter if found desirable.

(13) Parks. There are restrictions by area (40 acres) and in money (\$4,000) upon villages in the purchase of land for park purposes and a similar restriction of \$2,000 in the case of annual appropriations for park improvement and maintenance. Such a restriction may be removed by home rule charter. (The proposed village code would eliminate present restrictions.)

(14) Insurance. According to the Attorney General, villages have no authority to carry insurance indemnifying the village against damages which it is not required to pay. Probably in cities such authority may be granted. (The proposed village code would permit such insurance.)

(15) Elections. While many phases of election procedure are regulated by statute, there are many others open to municipal regulation by charter. The date of the municipal election, fixed in villages for the first Tuesday after the first Monday in December, may be set at any date desired in cities by charter. The number of officials and composition of election boards may be regulated locally by charter. A board of five is required in villages. Terms of office may be regulated by charter. Recall elections may be provided by charter. There is no recall system in villages. Proportional representation may be used as a method of election and a different nomination procedure from that set up for villages may be provided by home rule charter.

(16) Separation from Town. A village may, if not already separated, preserve for itself its status as part of the town for assessment and election purposes. A city may not do so but must be completely independent of the town. (The village code would abolish this option for villages created in the future.)

(17) Accounting. Under the law, villages may employ a certified public accountant to make an audit or they may use the public examiner for this purpose. By charter, cities may compel an audit each year or periodically and may provide for such an audit by any person they designate. Cities are also subject to the law providing for examinations by the public examiner upon the initiative of the council or petition of interested freeholders. Publication of the annual financial statement in villages is prescribed by law. In cities, whatever annual reports and whatever publication of the reports is desired may be included in charter requirements.

(18) Advertising. The only provision for the use of municipal funds for advertising in villages is under the law authorizing a levy for this purpose after a popular vote with a maximum of \$1,000. Cities may make whatever provisions they wish in the charter except that the funds may be spent only for a public purpose.

RIM: 5-24-40

Revised DOB: 10-20-44

Revised OCP: 11-13-47

Orville C. Peterson
Attorney

From Star-Journal December 22, 1947 --

With its research staff chosen, the constitutional revision commission was all set today to speed up the big job of rewriting the state's 90-year-old fundamental law.

Thomas L. Culhane, 4311 W. Broadway, Robbinsdale, was established in an office in the capitol from which he will direct the research work.

Dr. Lloyd Short, U. of M., chairman of the revision committee, has chosen three University graduate students as members of the research staff to work with Culhane.

Culhane, a St. Thomas college graduate, was with the state civil service department. Before being chosen for his present post he was supervisor of the county welfare merit system in the state division of social welfare.

Dr. Short said that every avenue would be explored to get complete information about changes needed in the state constitution - never rewritten since adoption in 1857 just before statehood. (It has been amended at least two dozen times).

In addition to the commission's own research staff, the members will have assistance from the newly established legislative research committee staff headed by L. C. Dorweiler.

Allelective state officers and appointive head of departments have been called upon for their suggestions for constitution changes.

Already the wheels have been started rolling with open hearings by different committees of the commission, two of them being scheduled for today. Two others were held Saturday.

State Treasurer Julius A. Schmahl tossed in an attention-arresting suggestion to the commission last week.

He urged that terms of the governor and lieutenant-governor and three other constitutional officers, be extended from two to four years. This would include the secretary of state, attorney-general and treasurer. The state auditor's term was underwritten at four years in the original constitution.

Several states elect their governors for four years, but there is some question as to how touchy Minnesota voters might be on a proposal to take away from them the privilege of making a change each two years.

Rarely have they exercised that privilege by turning out a governor, but when they want to do it they want to have the machinery available.

State Law

State Law Researchers Set for Task

By M. W. HALLORAN
Minneapolis Star Political Writer

With its research staff chosen, the constitutional revision commission was all set today to speed up the big job of rewriting the state's 90-year-old fundamental law.

upls mbr 1-11-48

Committee Explores Four-Year Governor, Shorter State Ballot

By WALLACE MITCHELL
Minneapolis Tribune Staff Writer

America's early tradition of putting the state government's reins in the hands of one popularly-elected chief executive is being dusted off and studied by Minnesota's constitutional revision commission.

It's a "new" idea today. When the colonies began setting up their local governments, they



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CONSTITUTIONALLY ESTABLISHED ELECTIVE OFFICERS

To provide a comprehensive basis for comparison, the officers established by all state constitutions have been made the subject of this study. Salaries paid by various states for each post have been included in the study whether provided for by statute or fixed in the constitution itself.

I. General Pattern of Constitutions

A.) Offices Mentioned:

The number and description of offices mentioned vary greatly from state to state. Some states attempt to divide the offices into "executive" and "administrative", others vest the executive power in the governor and give him control over the state "civil departments". Individual differences when tabulated, however, show a norm in the construction of the executive article. The offices of governor, lieutenant governor, secretary of state, treasurer, auditor and attorney general--although the exact title may vary slightly--appear in almost every constitution. About half of the states mention in their executive article a superintendent of public instruction.

B.) General Considerations:

Before detailed comment is made on the respective positions it should be pointed out that if an office does not appear in this study, it does not necessarily follow that the office does not exist, but rather that it is covered through statute and not constitutionally. Further, materials detailed here for study are subject

to constant change through legislative action or constitutional amendment

C.) Other Considerations:

A further factor causing change in this constitutional area has been the trend toward centralization of authority in the office of the governor. This is indicated by the greater controls being given to that officer over other posts and the tendency to make more officers appointive by the governor giving him a better chance to establish and carry out a program.

II. Provisions for Salaries

A.) Constitutionally Fixed Salaries Versus Statutory Provision:

In states fixing the salaries of their executive officers constitutionally, certain difficulties have arisen. The problem involved here centers around the equalization of salaries frozen in the constitution and the more flexible rates set by statute. A good example of this situation can be found in Maryland where the governor, secretary of state and treasurer--whose salaries are set in the constitution--are paid considerably less than the attorney general and the auditor, both statutory offices. In this instance, the governor of Maryland receives \$3,000 less than the auditor and \$1,500 less than the attorney general. The problem of the changing value of the dollar also tends to make obsolete salary provisions in state constitutions.

B.) Attempts to Equalize Differences:

Michigan has met the problem of equalizing salaries for its top officers by creating an "administrative board" and making salary determination one of its duties.

In other states the situation has been remedied by establishing similar boards and commissions to act on salaries.

III. Offices Established By State Constitutions

A.) Governor

The provisions respecting the Governor are the most consistent in the constitutions. In all cases, the office is elective. Twenty-one states have a two year term, the twenty-seven remaining all have the four year term. There is no readily apparent trend regarding the adoption of a longer or shorter term for the Governor, but it may be significant that in all four of the most recently revised constitutions, Georgia, Missouri, New Jersey and New York, the longer term of four years is prescribed. As a sidelight, it may be noted that on a geographical basis the two year term predominates in the Midwest and New England, and the four year term is found in the South, the Mountain states and the West Coast.

The Governor's salary is determined in seven cases by a figure set in the Constitution, forty have a statutory figure, and in Michigan as noted elsewhere both the Constitution and a statute are used to determine the salaries of all the executive officers. The general tendency is to set the salary by statute.

When we come to the amount of the salary we enter a controversial field even in the matter of attempting to set forth the salary which is most representative. Such things as the duties of the officer, size and wealth of the state and the manner in which the salary is determined all operate to confuse attempts at generalization. For the Governor the range of salary is from \$4500 for Maryland to \$25,000 for New York. The arithmetic average salary is about \$9,700, but it must be remembered that this figure is subject to the influence of extremely high and low salaries. In an arrangement by size from low

to high the middle figure is \$9,500. The figure which occurs the most is the range from \$10,000 to \$10,999. Again it should be borne in mind that the salaries of the officials change frequently since they are statutory figures in the main.

B.) Lieutenant Governor

The data on the office of Lieutenant Governor are the most variable in the Constitution. In eleven states the office does not exist. The thirty-seven states which have the office provide that it is elective. The term of office is in all cases identical with that of the Governor. The two year term is provided in seventeen states and a four year term in the remaining twenty.

In four cases a certain salary is specified by the constitution. In twenty-one instances the salary is set by statute, and in twelve cases a combination of a constitutional provision and a statutory one is used. The latter type usually provides in the constitution that the salary shall be the same as or twice the amount of a state legislator or the Speaker of the House. This legislative officer's salary in turn may be set by statute or constitution. There are many variations of the above used in the states.

To show a representative salary in this case is not possible, since there are so many different kinds of salaries and since the duties and responsibilities vary so much among the states.

C.) Secretary of State

The manner of selection of the officer in this category is appointment by the governor in seven states, election by the legislature in three cases, and by popular election in the remaining thirty-eight.

In twenty-one states the term is two years, in twenty-four states it is four years. Two cases provide that the Secretary serves at the convenience of the governor, and in one it is during the term of office of the appointing governor. The term corresponds to that of the governor in most states, except that the governor serves four years and the Secretary two in Indiana, and in Tennessee it is the reverse with the Secretary serving four years to the governor's two.

The salary is determined in forty-two states by statute, in five by a sum named in the Constitution, and in Michigan both are used. All three measures of the average are rather close in this instance. The arithmetic average is \$6,029. The middle figure in an arrangement from low to high is \$6,080. and the value from \$6,000 to \$7,000 occurs most frequently twelve-times. The differences in the duties and responsibilities are in some states a source of variation in the salary from the average, the office being more secretarial in character than executorial.

D.) Treasurer:

Virginia is the exception to the rule of selection of this officer by providing that the governor shall appoint the Treasurer subject to the confirmation of the General Assembly. Forty-five other states provide for the election of this officer, four of these being election by the legislature. New Jersey in its newly ratified Constitution does not provide for the office, and in New York the functions ordinarily carried out by the Treasurer are incorporated into the Department of Finance and Taxation, headed by an appointive officer.

There is no preference in the length of the term since twenty-four provide for a two year term and twenty-one use a four year

term, New York and New Jersey being out of the discussion. In almost all states the length of the term coincides with that of the governor. New York and New Jersey again left out, Delaware, Illinois and Indiana all provide for a two year term for the Treasurer in contrast to a four year term for the governor.

Statutory basis for the salary predominates. It is found in forty-one states, while a sum is named in only four constitutions, Michigan again using both methods, and New York and New Jersey again left out of the tabulation.

\$5,580 is the arithmetic average salary, with \$5,750 being the mid-value in an arrangement of all salaries from high to low. No single salary range predominates, with a figure of \$4,000 to \$5,000 occurring eleven times, \$5,000 to \$6,000 occurring eight times, and \$6,000 to \$7,000 occurring twelve times.

E.) Auditor

This office does not exist in the states of Oregon, Rhode Island and Wisconsin. The Secretary of State has these functions in Oregon and Wisconsin. Maine and New Hampshire do not mention this office in their Constitutions. All the others elect their Auditor, except that New Jersey, Tennessee and Virginia elect the officer by the legislature.

The term of office corresponds closely with that of the respective governors, with the following exceptions. In Minnesota, Indiana and Ohio the governor serves two years while the Auditor serves four. In Delaware the situation is reversed with the governor serving four years and the Auditor serving two. New Jersey has the somewhat unusual provision of a five year term. The four year term seems a

slight favorite since it occurs twenty-five times to seventeen instances of a two year term.

Most of the salary provisions are statutory, thirty-nine; three set a figure in the Constitution and Michigan uses both.

The three averages for the Auditor's salary coincide closely. The arithmetic average is \$6,110, the mid-value in a high to low distribution is \$6,090, and the values from \$6,000 to \$6,999 are the most frequent, occurring eleven times. A comparison would seem to indicate that the Auditor is generally paid more than the Treasurer.

F.) Attorney General:

Indiana, Oregon, Vermont and Wyoming do not provide for this office in their Constitutions. The State of Connecticut makes no mention of the Attorney General's office except in Article XXX, adopted in 1901, which merely mentions him by name in an article dealing largely with the manner of election of the various state officers.

Thirty-nine states popularly elect the officer. The Maine legislature elects the officer, he is appointed in Tennessee by the Supreme Court, by the governor with the approval of two-thirds of the Senate in Pennsylvania, by the governor with Senate consent in New Jersey, and by the governor and Council in New Hampshire.

The term of office is the same as that of the governor in all but four of the states. In Connecticut the governor's term is two years while the Attorney General serves four. In New Hampshire he serves five, whereas the governor serves two. In Pennsylvania he serves at the pleasure of the governor, and in Tennessee serves a total of eight years. The two year term occurs seventeen times, the four year term a total of twenty-four; one five year; one eight year and one

one term at the pleasure of the governor account for the rest.

Forty states set the salary by statute, three by a sum in the Constitution, and one uses both. The arithmetic average salary is \$7,560, the mid-value in the range from high to low is approximately \$6,860 and the value occurring most frequently is from \$6,000 to \$6,999 within which range the salary falls fourteen times.

G.) Superintendent of Public Instruction:

This office occurs in almost half of the Executive Articles, and thus merits some attention. The office is appointive in Pennsylvania but elective in the others. Seven states have a two year term; fourteen have a four year term.

Washington sets the salary at a sum in the Constitution and the rest rely on statutory provision. The arithmetic average salary is \$5,150. The mid-value in the low to high arrangement is about \$5,280, and the value occurring most frequently is from \$5,000 to \$5,999, within which range seven values fall.

H.) Other Officers:

It is doubtful that any conclusions can be drawn with respect to the other offices mentioned in the various constitutions. They occur quite infrequently and vary in the duties and the functions carried out.

ELECTION YEARS FOR STATE OFFICIALS

Data on the coincidence of presidential elections and gubernatorial elections in the twenty-seven states with four year term governors was studied. Sixteen of the twenty-seven states elect their state officials having four year terms in a different year than the presidential elections; ten states elect their executives at the same time as the presidential electors and one state, Louisiana, elects its governor in the same year as the presidential election but at an earlier date.

I. PROVISIONS FOUND IN RECENTLY ADOPTED CONSTITUTIONS:

In those state constitutions which have recently been adopted there is no apparent trend on whether the elections should coincide, but those which separate the two elections are the more numerous.

A. New Jersey:

The New Jersey constitution, adopted by the voters in November, 1947, separates the election of state officials completely from national officers. The state elections are odd year elections with the national elections taking place in even years. This prevents the state administration from being judged at the same time as the national administration, thus separating national and state issues.

B. Georgia:

Georgia's constitution adopted in 1945 is similar to New Jersey's in that it separates the election of the governor from the presidential elections but it still requires state elections in even numbered years that do not coincide with presidential election years, but correspond with congressional elections. Fourteen other states follow a somewhat similar procedure in separating the two elections.

C. Missouri:

Missouri adopted a new constitution in 1945 which definitely provides that the election of the state officials with four year terms will occur at the same time and year as the presidential electors. This is the only constitution of the 48 states which has such a stipulation. Article IV, Section 17, of this document states,

"The governor, lieutenant governor, secretary of state, state treasurer and attorney-general shall be elected at the presidential elections for terms of four years each."

Nine other states which have four year term governors follow the Missouri procedure but do not make such a stipulation directly in their constitutions. The usual procedure is to set by law or constitution an election year corresponding to the presidential election year and providing for the election of the governor at this time and every four years thereafter.

D. Model State:

The Model State Constitution prepared by the Committee on State Government of the National Municipal League recommends a provision similar to that of New Jersey. It provides in Article V, Section 501, that

"The election for governor shall be held on the Tuesday next following the first Monday in November in each alternate odd number year, beginning in 19...."

The model constitution also provides that the state legislative elections be held in odd years. This prevents coincidence of national and state elections. In the accompanying explanatory articles the statement is made that this provision is placed in the constitution to enable a state administration to be judged on the basis of its own record rather than on that of the national administration.

II. OTHER CONSTITUTIONAL PROVISIONS ON ELECTION YEARS:

The manner of determining the election year in nineteen of the

twenty-seven states was to set the year of the first election in the constitution or by statute. Seven of the twenty-seven states either lengthened or shortened the first state officials' terms under the new constitution to fix the election year. Only one state, Missouri, specifically states in its constitution that the election of state officials should take place at the same time as the election of the presidential electors.

III. MERITS OF THE TWO METHODS:

It is contended that money may be saved by having the elections coincide but it is also pointed out that the concentration on state issues which results from separate elections may lead to an even greater saving. In a Missouri study the arguments pro and con on this issue were summed up in the following manner:

"Those who prefer the Missouri arrangement with the state and national elections coinciding contend that it helps to promote national party unity and makes it possible for the party in power nationally to have the support of sympathetic state governments. In other words, the arrangement facilitates responsible party government to a greater degree than when national and state elections are held separately. On the other side, and in favor of separation, it is argued that the more spectacular and dramatic national issues and personalities so completely overshadow state issues and candidates that problems of state government do not receive the discriminating attention which they deserve; and that a winning presidential candidate frequently carries the election for a host of executive officers, many of whom are relatively unknown."*

*Faust, Martin L., Manual On The Executive Article For The Missouri Constitutional Convention of 1943, Columbia, University of Missouri, 1943, page 50.

KNOW YOUR STATE

(III. Legislature, pp. 9-11)

There are 67 legislative districts in Minnesota; total in legislature - 198.

Senate

67 Senators; salary \$4000 for four-year term; Minnesota has largest senate body of the 48 states.

Qualifications: 21 years or older; state resident for 1 year; resident of district six months.

Powers of the Senate:

- a. To judge election returns and eligibility of its own members.
- b. To determine its own rules of procedure.
- c. To elect its own officers except presiding officer who is the Lieutenant Governor of state.
- d. To amend bills of revenue which originate in the lower house.
- e. To try impeachment cases presented by the lower house.
- f. To reject or approve certain appointments made by the Governor.
- g. To punish its members for disorderly conduct and with the approval of 2/3, to expel a member.
- h. To enact laws for the government of the people.

House of Representatives

131 Representatives; salary \$2000 for two-year term; average lower house in the United States about 100.

Qualifications: Same as those listed for Senators.

Powers of the House of Representatives:

- a. May judge the election returns and eligibility of its own members.
- b. May determine its own rules of procedure. (See Legislative Manual)
- c. May elect the Speaker of the House and its other officers.
- d. May initiate impeachment proceedings against any civil officer.
- e. May punish its own members for disorderly conduct and with the approval of 2/3 of its membership, may expel a member.
- f. All revenue bills must originate in the House of Representatives, but may be amended in the Senate.
- g. As indicated above, the House of Representatives has co-ordinate power with the Senate to enact laws for the government of the people.

The State Constitution limits the legislative session to 90 days. There has been a legislative jam at the end of the last three sessions which required the turning back of the official clock for as much as three days. Often the bulk of the key bills are passed during the final hours of a session.

The Constitution calls for redistricting of legislative districts after every federal census so as to recognize the shifts in population and the varying rates of population growth in different sections of the state. The last reapportionment of the legislative body in Minnesota was enacted by the 1913 Legislature, based on the 1910 census. Since that time the population has increased by 34.5%. As a result no one can contend that equal representation exists in Minnesota's legislature today. Based on the present membership of the legislature and the 1940 census there should be one representative for each 21,315 inhabitants. Actually the population per representative district varies from 7,254 (40th district, St. Paul) to 128,501 (33rd district, Minneapolis). In this particular case the larger district (33rd) has two representatives or 64,250 persons per representative, while the smaller (40th) has one representative for 7,254 persons. Variation for House of Representative districts by counties is shown in State Research Bulletin No. 20, Appendix Table V.

Ideally, there should be one senator for each 41,676 inhabitants but at present the number of inhabitants per senator range from 17,653 (Wabasha County) to 128,501 (33rd district, Minneapolis). Twenty-four senatorial districts are under-represented by percentages ranging from 8/10 of 1% to 208.3 %; over-representation in the remaining senatorial districts ranges from $\frac{1}{2}$ of 1% to 57.6%. Variation in Senatorial districts by counties is shown in State Governmental Research Bulletin No. 20, Appendix Table VI.

The legislature has full responsibility for legislative reapportionment.

Committees

Much of the work of the legislature is done by committee. The Committee system in this state is very similar to that of the U. S. Congress (House committees 19; Senate committees 15; Congressmen are limited to one committee assignment; Senators to two committees). In Minnesota there are 35 standing committees in the House with membership varying from 3 to 29 members, committee membership of most committees being 13, 15 or 17 members. The Senate has 42 standing committees varying from 5 to 28 members. Large committees automatically require that members serve on 8 or 10 committees. This in turn results in hearings of the various committees conflicting with each other.

In the Senate the committees are appointed by the Committee on Committees (named by caucus of the majority group). The Speaker of the House (elected by the majority vote of the House) appoints the committees of the House of Representatives.

The 1947 Legislature created a Legislative Research Council. Report of this council is given on another sheet.

Minnesota has a bill-drafting agency. A legislative reference library is in the process of being built up.

For steps in procedure of passing a bill, see "Ninety Days of Law Making." Each group received a copy last year.

League of Women Voters of Minneapolis
84 S. 10th St., Room 407 At 6319

1-7-48

League of Women Voters of Minnesota
84 South Tenth Street, Room 417
Minneapolis 2, Minn.

KNOW YOUR STATE

(I. Constitution, p. 7)

The last time our State Constitution was amended was in 1943. This amendment permitted the state to construct, operate and to assist in constructing and operating airports and other air navigation facilities.

The two methods to secure changes in our State Constitution are: 1) adoption of an entirely new constitution, or 2) individual amendments in sufficient numbers to remedy the ills. A majority of all votes cast at an election are required to amend it. Seventy-three amendments have been adopted, nearly half of which have dealt with state finances; 70 amendments have been rejected. Many people who vote for officials do not vote on the amendments. Such a vote is counted opposed to the amendment. This largely explains the failure to secure enough votes to ratify needed amendments under our present law.

The only Constitutional Convention ever held in Minnesota was in 1857, ninety years ago. Since then changes have been made piecemeal.

Many of the Constitution's provisions are now circumvented, ignored or violated outright.

The Constitution is not primarily a statement of basic principles and broad outlines of public policy but contains excessive detailed legislation. It contains many obsolete and unenforceable provisions. We need a Constitutional Convention to reconsider the whole document. (See Minnesota Law Review, Feb. 1927, "Need for Constitutional Revision.")

The 1947 Legislature passed an act (S.F. 868) "creating an interim commission to make a study of the constitution of the State of Minnesota; propose amendments thereto; requiring the commission to make a report of its recommended amendment to and revisions of the constitution to the next regular session of the Legislature; and appropriating money therefor." Dr. Lloyd Short, Director of the Public Administration Center at the University of Minnesota, is Chairman of the Minnesota Constitutional Commission; Senator Gordon Rosenmeier of Little Falls is Vice-chairman.

(Three copies of a Model State Constitution published by the National Municipal League, are available in the League office for use in comparing it with ours.)

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CONSTITUTIONAL COMMISSION OF MINNESOTA
236 STATE CAPITOL
St. Paul Minnesota

EDUCATION COMMITTEE REPORT NO. 1
STATE CONSTITUTIONAL PROVISIONS FOR EDUCATION

February 1948

COMPARATIVE STUDY OF STATE CONSTITUTIONAL
PROVISIONS FOR EDUCATION

State constitutional provisions for education vary almost as much as the length of such provisions. Where Vermont requires one paragraph of one hundred twenty words to provide the constitutional basis for education, Louisiana uses 5,750 words in twenty-four sections. New Jersey's new constitution adopted in 1947 makes provisions for education - including school trust funds - in three paragraphs of one hundred ninety words. If New Jersey's constitution may be taken as a guide the trend is away from detailed constitutional provisions and toward broad, general outlines of the framework of government, flexible enough to meet unforeseen changes. The Minnesota article on education is divided into eight paragraphs of over 1400 words, with much of the article now obsolete.

I - GENERAL PROVISIONS

Nearly all of the state constitutions (as does Minnesota's Article VIII, Sections 1 and 3) require the state to maintain a system of public schools. With this one statement similarity ceases.

A. Sectarian Aid

Minnesota's constitution (Article VIII, Sec. 3) expressly prohibits public aid to sectarian schools as do the constitutions of twenty other states. Others provide that the schools shall be free of sectarian influence or control (6 states). Religious tests for teachers or pupils are prohibited in some states (6) while sectarian instruction is prohibited in eight states.

B. Segregation

Fifteen state constitutions provide for racial segregation in schools. Eight constitutions forbid it. The balance of the constitutions, including Minnesota's are silent on this matter. Two states forbid separation of pupils by sex.

C. School Age Limits

Twenty-two state constitutions make reference to school

age limits. Minnesota's does not. In eight states the age limits are six to twenty-one; four states - five to twenty-one, and in four states - four to twenty. The remaining references vary widely.

D. Special Legislation

Twenty-four state constitutions, including Minnesota's (Article IV - Sec. 33) prohibit the legislature from regulating the management of schools by special acts. Restrictions on special acts referring to school districts are also numerous (20 states). Prohibitions on the creation of school offices and the creation or change of boundaries of school districts are also found.

E. Miscellaneous.

The interest of teachers or educational officers in the sale of books or equipment is forbidden in five state constitutions. Provisions are made in several constitutions for the transportation of school pupils.

II - PROVISIONS FOR EDUCATIONAL ADMINISTRATION

A. Types of Schools

Less than one-half of the states provide specifically for common schools. Minnesota's constitution refers to "public schools. (Art. VIII Sections 1 and 3) A few (4 states) provide for kindergarten. Several more provide for high schools (6 states) while better than one-fourth make provision for or recognize a state university (17 states). Other schools mentioned are normal schools (10 states) agricultural colleges (12 states) and schools for the deaf and blind (10 states). California provides in its constitution for day and evening elementary education.

B. The State Commissioner of Education or Superintendent of Public Instruction

Reference to this office is found in three-fourths of the state constitutions. No reference is made to this office in the Minnesota constitution. Election is provided for in the constitutions of thirty states while the governor appoints in three states. The remaining states provide for such an official by statute. In the Missouri constitution, adopted in 1945, provision was made for the appointment of a Commissioner of Education chosen by a state Board of Education, to replace an election superintendent of public instruction.

C. The State Board of Education

Nineteen states either specifically or by reference provide in their constitutions for such an organization. Minnesota does not. Twenty states have a statutory state board. Nine states have no state board of education to supervise elementary and secondary education (Ill., Iowa, Maine, Neb. N. D., Ohio, R. I., S. D. and Wis.

1. Membership

State boards of education established by constitutions are of several different types. Some provide for a completely ex officio board composed of officials such as the governor, secretary of state, attorney general, state treasurer and superintendent of public instruction (Colo., Fla., Miss.). In other constitutions provision is made for the appointment of the state board of education by the governor (Cal. New Mex., N. C.). Some states provide for the election of a state board of education by the people (Iowa) or by the legislature (N.Y.). A fourth type is a board composed of both ex officio and elected or appointed members (Ariz., Mont. S.C.).

2. Powers and Duties of State Board of Education.

Some constitutions provide that the powers and duties of the state board shall be established by law, while the constitutions of other states grant specific powers to state boards. Some of these specific powers are the power to remove local school officers (Fla.), to provide free text books (Cal.) but in other states the board is forbidden to prescribe texts, (Colo. Utah). In Kentucky the board invests the permanent school fund while in North Carolina the board has authority to regulate the salaries and qualifications of teachers. In Virginia the state board has authority to pass on the qualifications of superintendents of schools.

III - ORGANIZATION - COUNTY AND DISTRICT LEVEL

Two states provide for the appointment of county superintendent of schools while eight constitutions provide for the election of this officer. Only two states mention the county board of education in their constitutions. Four states make reference to school district organization.

IV - SCHOOL LANDS

The constitutional references to the sale of school lands in most states are now obsolete, as are a good part of Minnesota's (Article VIII - Sec. 2). The bulk of these lands were disposed of some forty to eighty years ago. Those that remain have been largely withdrawn from sale (as in Minnesota) in order to realize other values - mines, oil wells, power sites and forests.

V. STATE PERMANENT FUNDS

A. Sources of Capital

In most states where such a fund is provided by the constitution the sources of capital are derived from the sale of public school lands granted by the federal government (Minnesota and sixteen other states). Other constitutional sources are not uncommon. Eleven states provide that the proceeds of the sale of other public property may be used to augment the fund. Nineteen states provide that the proceeds of escheats be paid into this fund. Still other sources of capital are unclaimed dividends (3 states) and gifts (15 states).

B. Administration

A number of the constitutions establishing such funds are silent on their administration. The investment of school trust funds in some state constitutions is placed in the hands of the legislature. In others it is placed in a special board or commission or in the state treasurer. In still other constitutions while no board or commission is provided, the approval of state officers such as the governor, treasurer, attorney general or superintendent of public instruction is necessary before an investment can be made.

C. Type of Investment Permitted

Again some constitutions do not make any statement as to the type of investment for trust funds. Federal (7 states), state (8 states) and local government bonds (8 states) are favorites as far as fund investment is concerned. Minnesota's permanent school fund may be invested in the foregoing as well as in farm mortgages. Investment in farm mortgages is permitted in three other state constitutions.

D. Miscellaneous

Minnesota's constitution is the only one that sets the interest rates for loans to its own governmental subdivisions as well as limiting the amount of the loan to a fixed percentage of assessed valuation.

Four constitutions (New Mex., S. D., Utah and Wash.) require the legislature to reimburse all losses suffered through the impairment of the capital of trust funds.

VI - STATE OPERATING FUNDS

A. Revenues

Among the operating revenues referred to in constitutions available for educational purposes are: income from school trust funds (24 states, including Minnesota), school or state land rentals (9 states), general and special taxes (14 states), poll tax (8 states), fines and forfeitures (4 states) and grants and gifts (5 states). Other constitutional sources for current school revenues are liquor taxes (S.D.), timber permits (Utah) and occupation taxes (Minn. and Texas - indirectly through trust funds). Nine constitutions provide for state appropriations for school purposes, although the amount is defined in different ways. In Texas the legislature is forbidden to appropriate more than an amount equal to one per cent of the value of the trust fund to schools while in Pennsylvania the legislature must appropriate a minimum of one million dollars a year for schools.

B. Limitation on Use of Operating Funds

A number of state constitutions (10) require that the school operating funds be apportioned for educational purposes to counties, townships or school districts according to the number of pupils. Eleven other constitutions provide that the distribution of operating

funds shall be according to law. According to the Utah constitution the state is forbidden to contribute more than 75% of the total cost of operating a minimum school program. The Idaho constitution provides that no local school board may incur liabilities exceeding revenues of any year without a two-thirds affirmative vote of the residents of the district.

VII - EDUCATIONAL FINANCES IN COUNTY, CITY AND SCHOOL DISTRICT

In general the references in state constitutions to educational finances on the local level are restrictions on the local educational body. However, some constitutions give assurance that each county or local district will receive some portion of state revenues (13 states). Other constitutions provide that local revenues, if the taxing district so desires, may be augmented by such sources as poll taxes (2 states) fines (5 states), or the proceeds of sale of estrays (3 states). Some of the constitutional restrictions on local school organizations are limitations on the amount of taxes that may be levied. Taxes are limited to a percentage of the value of taxable property such as .1%, .3% or .5%. Other restrictions are on the amount of bonds that may be issued as a percentage related to taxable property. Another restriction is that no debt may be incurred for educational purposes without the approval of the voters. The California constitution provides that the maximum school tax rate for all districts is to be set by the legislature.

VIII - STATE EDUCATIONAL INSTITUTIONS

State universities are found in forty-two states. (exceptions: Conn. Mass. N. J., N. Y. Penn., and Rhode Island). In only seventeen of these states is the governing body of the university mentioned in the constitution. In Idaho, Montana and Florida the state board of education controls the state university. The number of regents on the constitutionally established boards varies from five in Nevada to 101 in North Carolina. The terms of these boards vary from sixteen years in California to four years in New Mexico. Only seven of the state constitutions provide for the composition of the board. In a number of the constitutions reference is made to the sources of revenue for the state university - land grants, gifts and taxation.

SUMMARY

Many provisions on education coincide with the accepted definition of what is constitutionally desirable in that they are brief statements of the organic law on that subject. Other constitutions are burdened with a generous amount of wholly statutory materials that might well be a hindrance rather than a help to an effective system of education. Sections on education in the state constitutions are usually restrictions on the legislature, state boards of education or school district. The number, complexity and rigidity of these restrictions may tend to defeat or impair desirable changes that could be more easily obtained through statutory enactment.

C
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1948

MINNESOTA CONSTITUTIONAL COMMISSION
236 STATE CAPITOL
ST. PAUL 1, MINNESOTA

SUBJECT: TENTATIVE PUBLIC INFORMATION PROGRAM

TO:

PROBLEM: To organize a public information and education program which will:

1. Reach a maximum number of people with news of the Commission's work.
2. Utilize cooperative agencies as much as possible.

Comment: Their help will be actively requested from now until October 1. After that date it is hoped that these organizations will carry on parts of the Commission's work as a voluntary project. The Commission plans to have a tentative framework completed which can be the rough blue print for these groups to use as they see fit.

3. Reach its peak sometime in the early part of December.

Comment: It is thought that the most important period will encompass the time after the submission of the final report to the Legislature on October 1st and the beginning of the legislative session in January. This is not to minimize the activities carried on by the Commission prior to its dissolution.

4. Be so designed as to fulfill any of the following contingencies:

- a. Stand upon the efforts made by the Commission's information project prior to October 1.
- b. Utilize other agencies upon a voluntary basis to continue publicity after October 1, using plans projected by the Commission before its dissolution.

METHODS BY WHICH THIS PROGRAM CAN BE ATTAINED.

A. Radio:

1. Debates could be arranged between opponenets on controversial issues

Comment: In the proposed debates, care would have to be exercised to insure that the Commission's side of the argument would be defended by an able, articulate speaker. These debates would not need to be confined to the Twin Cities area but could be spotted at strategic areas throughout the state.

2. Radio staion KUOM as well as commercial stations could be requested for cooperation. This agency provides an educational approach to select groups within the population.

Comment: As a public service institution, the station would probably be willing to allot radio time to certain aspects of the Commission's work. There is ample material which could be used as a basis for radio programs of an educational and informative nature.

B. Newspapers

1. A series of six or seven survey articles, each approximately 1,000 words in length by well-qualified Minnesota citizens could be reproduced and sent to the newspapers

sent to the newspapers of the state.

Comment: This appears to be one of the most promising new ideas yet advanced. A letter sent to 15 newspapers of the state selected at random has brought back an encouraging response to this series. Members of the Information Committee also can be utilized in this matter.

I also feel that our weekly newspaper cooperation can be increased markedly by approaching each newspaper individually - and asking their help. Adequate explanation of the Commission's work plus the personal appeal will, I am certain, greatly augment the coverage we are getting.

2. Articles ~~either~~ written by the legislative members of the Commission might be slanted for consumption in the legislator's home towns.

Comment: Inasmuch as these men come from all sections of the state a general geographic coverage could reasonably be expected.

3. News briefs, historical oddities, etc., might be parceled out to the papers for use as fillers.
4. It might be possible to arrange for the Twin City papers to carry a Sunday feature article to appear during the week the final report is given to the legislature.
5. Charles Cheney, dean of Minnesota political writers, has indicated a willingness to write several more articles for the Commission. His services would be particularly valuable for the lead-off article of the series.
6. Arthur Naftalin's syndicated column carried extensively by the state press would be an excellent vehicle for news of the Constitutional Commission.

Comment: This suggestion was prompted by one of Naftalin's columns of June in which mention was made of the Commission's work.

7. Along with the extensive publicity campaign connected with the Minnesota Territorial Centennial there might be an opportunity to tie some of the Commission's activities in with their work.

C. Social and Civic Groups:

1. These groups have specific and valuable contributions to make to the Commission's information program.

Comment: It would be wise to meet with representatives of various select organizations to discuss the Commission's long-range plans. There is always the strong possibility that some of these various groups will be able to advance the Commission's work.

2. The Commission could act as a coordinating agent between the different groups so that they would not work at cross purposes.

D. Speakers' Bureau

1. This office should act as a liaison agent between the speaker and the organization.
2. Various organizations such as the PTA should be solicited about their interest and availability.

E. Special Publications:

1. Publications from organizations such as the League of Minnesota Municipalities, various legal groups and other specialized organizations can be used.

126-1948

INFORMATION SERVICE
of
Municipal Reference Bureau and League of Minnesota Municipalities
15 University Library Building
Minneapolis 14, Minnesota

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SOME SUGGESTIONS ABOUT
CONSTITUTIONAL PROVISIONS ON LOCAL GOVERNMENT

(A summary of remarks made to the state and local government subcommittee of the Minnesota Constitutional Commission, January 22, 1948, by C. C. Ludwig, Executive Secretary, and Orville C. Peterson, Attorney, League of Minnesota Municipalities).

I. General Comments on Local Government Sections of the Constitution.

- A. The "home rule idea" -- the plan of allowing any municipality to frame a charter for its own government -- embodied in the Minnesota Constitution, Article 4, Section 36, is a desirable one and should be continued.
- B. Our municipalities are not taking full advantage of the home rule right.
 1. Charters are not scrutinized and changed as frequently as they should be.
 2. Some municipalities have taken the easier way of charter amendment by securing special legislation from the state legislature.
- C. To encourage increased use of the home rule process, both positive and negative constitutional approaches are needed.
 1. Restrictions against use of special legislation should be rewritten to make them work.
 - (a) Some device should be inserted to insure compliance with constitutional restrictions or to discourage use of the special legislation method.
 - (b) The possibility of requiring court adjudication of the constitutionality of a special act might be explored to determine its practicability.
 - (c) The constitution might require an act affecting only one municipality or a number less than a class to be submitted to the voters of the affected municipality before going into effect.
 2. As a positive step the home rule amendment should be strengthened.
 - (a) A home rule amendment should probably recognize the paramountcy of the legislature. Attempts to define municipal affairs and to exclude the legislative powers from that field cannot adequately take account of changing conditions and may result in less home rule than under the system that has been followed in Minnesota since the adoption of the home rule amendment in 1896.

- (b) Cooperation between the charter commission and the council should be encouraged; it should not be impossible for city officials to serve on the commission. (This may require only a statute to overrule the effect of the Attorney General's opinions that charter commission membership and city office holding are incompatible).
- (c) The position of the county should be built up.
 - 1. County home rule on a general or restricted basis should be authorized by the constitution.
 - 2. If this is not done (or perhaps even if it is), the legislature should be authorized to provide optional plans of county government to overcome the rigidity of the present county organization, which does not permit taking account of varying needs among counties.
 - 3. The constitution should permit city-county consolidation, or perhaps the organization of any first class city as a city-county.

II. Defects Experienced in the Present Home Rule Provision of the Constitution.

- A. Selection of the board of freeholders by the district court often results in an unrepresentative commission and provides no opportunity for the expression of popular will except upon the finished draft.
 - 1. Minnesota provision is unique among home rule states.
- B. Vote requirements for original charter and amendments need change in several particulars.
 - 1. There is no good reason for a distinction between original charters and amendments. (The constitution now requires a four-sevenths' vote on the former and three-fifths' on the latter).
 - 2. The majority should be calculated on the basis of votes cast on the question.
 - (a) The court has said that when submitted in connection with a state election, a charter election is a special one whether or not so designated but the rule is uncertain when a charter is submitted at municipal elections.
 - (b) Counting of all ballots cast at the election may now be required where several amendments are submitted together.
 - 3. The vote requirements are probably too high, particularly in the large cities.
 - (a) Most states require a majority of votes cast on the question and this probably should be sufficient.
- C. The provision that a charter be submitted within six months after appointment of a commission is of dubious value in a constitution.
 - 1. If a time limit is to be included, it should be directory only and not affect validity of a charter submitted afterwards.

2. It should apply only to a new charter and not to a revision. (This is the present rule by statute but its validity is now being challenged in a Minneapolis action).
- D. The constitutional provision that charters go into effect thirty days after their adoption is an undesirable restriction on the charter making power.
 1. A charter commission should be permitted to coordinate effective dates with election plans and other factors and to place certain portions in operation earlier than others.
- E. The provision for recording a copy in the Register of Deeds office requires unnecessary copying of the charter and resultant unnecessary expense.
 1. Filing requirements are matters of detail that can be left to statute.
- F. If a classification of cities is included, it should be based on the last census.
 1. The present statute providing for the addition of 5 per cent to the census population for purposes of determining the applicability of laws is indefensible in principle.
- G. The present constitution provides no method of abandonment of a home rule charter or dissolution of a home rule charter city.

III. A Suggested Outline of Desirable Home Rule Provisions.

- A. General grant of power to frame a charter for the municipality's own government, with an outline of the subjects that may be included.
- B. General outline of procedure.
 1. Creation of charter commissions.
 - (a) While this is provided in all enabling provisions, it is arguable that the creation, composition and procedure of charter commissions can be left completely to legislative enactment.
 - (b) If included, the board should probably be elective as in other states, but the legislature should be permitted to provide for the election of a whole charter commission as a unit if desired.
 - (c) The council should be able to initiate proceedings for establishment of a commission.
 2. An original charter or revision should be prepared by the charter commission.
 3. Provision should allow amendments to be proposed by the charter commission, by popular petition, or by the council.
 - (a) The council has no authority under the present constitution although many amendments originate with them.

4. The vote required for adoption should be stated in terms of those voting on the proposition and probably this should be a bare majority.
 5. Details of publication, filing copies and council responsibilities in submitting charter questions to the electorate should be left to statute and not included in the constitution.
- C. Limitations on legislative power with reference to cities may be included in the home rule amendment or in the section on special legislation.
1. Some restrictions on legislative overriding of home rule charters should be provided.
 - (a) A specific declaration that an amendment is intended to supersede a conflicting charter provision should be required.
 - (b) Possibly an extraordinary majority should be required for adopting general laws on municipal affairs affecting home rule charter cities.
 2. Cities should be classified as in the present constitution for purposes of legislation, the population being based on the last census.
 3. If the home rule provisions are readily usable by any city, the restriction on special legislation should be implemented, probably with a prohibition against a special law without popular approval in the municipality affected.

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For some specific suggestions by Professor William Anderson of the University, see the December, 1938, issue of MINNESOTA MUNICIPALITIES, pages 408-414.

For a tentative suggestion for a constitutional section on county home rule, see "Congestion in the Minnesota Legislature Caused by Requirements of Local Government", by Professor Horace Reed, University of Minnesota, in the same issue of MINNESOTA MUNICIPALITIES, pages 405-407.

PROGRESS REPORT

February 18, 1948

TO THE MEMBERS OF THE MINNESOTA CONSTITUTIONAL COMMISSION:

Since it seems inadvisable to call you together until one or more of the study committees are ready to submit proposals for our consideration, I would like to make a report of progress which I believe will be of interest to all of you.

Each of the study committees has had two or more meetings and another series of meetings is scheduled for the latter part of February. These meetings have been well attended in spite of adverse weather conditions and unavoidable conflicts. Substantial progress has been made in becoming familiar with the problems of constitutional revision which confront us and in the assignment of work to individuals and subcommittees. A brief summary report for each committee is attached.

Mr. Thomas L. Cúlhane was appointed director of research for the commission on December 11, 1948, as authorized at the November 21 meeting, and in addition to preparing a number of research reports for the committees, he has aided materially in the furtherance and coordination of our work. His appointment is on a three-fourths time basis, which enables him to give general oversight to the work of the office of the County Welfare Merit System of which he is supervisor. We are indebted to Mr. Lierfallom, director of the Division of Social Welfare, for making this arrangement possible. The three part-time research assistants in the Public Administration Center of the University of Minnesota have continued to compile factual information which we are incorporating in research reports submitted to the several committees.

A committee on public information has been appointed as authorized at our November 21 meeting. A list of the members of this committee is attached hereto. Additional members may be added from time to time. A preliminary meeting of this committee was held on Saturday, January 24, 1948, at the Lowry Hotel following the business session of the Minnesota Editorial Association. At this meeting it was voted that the chairman of the commission should appoint a chairman of the committee on public information and that the two of us should choose a small subcommittee of persons who are readily accessible to the commission office and who can meet with us fairly frequently to advise with reference to the dissemination of information about the work of the commission to the people of the state. Mr. Val Bjornson of the St. Paul Pioneer Press-Dispatch and of Radio Station K.S.T.P. has accepted the chairmanship of the committee. The first meeting of the subcommittee was held on Saturday, February 14. I am pleased to report that those we have asked to serve on this committee on public information have accepted almost without exception and their expressions of interest in our work were numerous and sincere.

You have all received the two volumes of Minnesota Statutes Annotated which were given to us as a public service by the West Publishing Company. More recently at the suggestion of Mr. Charles Lesley Ames, treasurer of the West Publishing Company and a member of our committee on taxation and finance, we have been furnished with a very generous supply of working notebooks on the constitution, which have been specially printed for our use. These will be distributed at future meetings of the study committees.

Five persons have been appointed to the study committees since our November

Page -2- February 18, 1948

meeting as follows:

JUDICIARY COMMITTEE: Mr. William D. Gunn, chief of the legal and research division of the Minnesota State Federation of Labor, and Representative Joseph Prifrel, representative for the 38th District of Minnesota, and international representative of the Fur & Leather Workers' Union.

BANKS AND CORPORATIONS COMMITTEE: Mr. George E. Buscher, president of the Alexandria State Bank, Alexandria, Minnesota, and Mr. John S. Pillsbury Jr., a member of the law firm of Faegre & Benson, Minneapolis, Minnesota.

LEGISLATIVE COMMITTEE: Mr. R. J. Quinlivan, formerly a member of the legislature, a member of the Board of Regents of the University of Minnesota, and an attorney in St. Cloud, Minnesota.

These appointments were made subject to the confirmation of the commission, but all five have begun service with the committees indicated. With your permission I would like to announce their appointments without further delay and also to announce the appointments to the committee on public information. Unless I hear from you to the contrary within one week after the mailing of this progress report, I will assume your approval.

The article on The Need for Constitutional Revision in Minnesota by Professor William Anderson has been duplicated as authorized by the commission and copies are being distributed to interested persons and organizations upon request. We would appreciate your return of the copies of the Minnesota Law Review for February, 1927, containing this article which were distributed at an early meeting of the commission. This can be done at any meeting of one of the committees which you may attend, or at the next meeting of the commission. In exchange we will give you one or more copies of the reprint.

I am sending you under separate cover minutes of the meeting of the Steering Committee held Friday, January 16, 1948, and also a copy of an article on constitutional revision in Louisiana which we have reprinted from State Government for December, 1947, with permission of the Council of State Governments.

In conclusion may I invite you to offer suggestions at any time with reference to the furtherance of our work. Unless I hear from you to the contrary I will assume that our policy of deferring a meeting of the entire commission until we have received reports from at least some of the study committees, meets with your approval.

Sincerely,

LLOYD M. SHORT
CHAIRMAN

LMS:L

A SUMMARY REPORT OF COMMITTEE MEETINGS
MINNESOTA CONSTITUTIONAL COMMISSION
February 18, 1948

JUDICIARY COMMITTEE

At the first meeting of this committee assignment of specific projects was made to the members, and Professor Maynard E. Pirsig of the University of Minnesota Law School agreed to act as consultant for the committee. At the second meeting the committee devoted its time to the consideration of the Bill of Rights. The committee has also studied the organization and jurisdiction of the state courts. Members of the committee appeared before the State Bar Association Jurisprudence Committee to explain the work of the commission and of their committee.

LEGISLATIVE COMMITTEE

This committee has organized four subcommittees - membership, legislative procedure, specific limitations on legislation and elections, franchise and impeachment. These subcommittees are currently engaged in studying those sections assigned to them. As soon as reports from these subcommittees are prepared, the committee will meet again to study them. Research reports on elections and suffrage and on constitutional limitations on special and local legislation have been submitted to the committee.

EXECUTIVE COMMITTEE

At its second meeting this committee heard Mike Holm, Secretary of State, Mr. Earl Berg, Commissioner of Administration, Mr. Charles E. Houston, Assistant Attorney General, Mr. Stafford King, State Auditor, and Mr. Julius Schmahl, State Treasurer. These officers discussed the executive article of the constitution in relation to their offices. At the third meeting there was considerable discussion of the problem of the proper location of the pre-audit and post audit functions. This committee has received research reports on gubernatorial succession, election years of state officers, and the constitutional and statutory duties of state officers.

HIGHWAYS AND AIRPORTS COMMITTEE

Representatives of the Department of Aeronautics and the Department of Highways have appeared before this committee at its request. It has scheduled additional appearances of representatives interested in highways at its next meeting, February 27. Three subcommittees have been chosen to study the constitutional designation of trunk highways, the constitutional dedication of funds, and the relation of the legislature to the highway system.

TAXATION AND FINANCE COMMITTEE

This committee has met three times with a fourth meeting scheduled for February 13. It has heard Mr. G. Howard Spaeth, Commissioner of Taxation, and Professor Roy G. Blakey of the University of Minnesota. The committee has reviewed the obsolete and inoperative sections of the constitution relating to taxation and finance. It is the intention of the committee to survey the various taxes that are enumerated in the present constitution and the dedication of funds.

EDUCATION COMMITTEE

The first two meetings were given over to informal discussion and the exploration of matters to come before this committee. At its third meeting this committee studied the basic issues and questions in the sections of the constitution assigned to it. A comparative study of all provisions in state constitutions relating to education is under way and will be presented to the committee at its next meeting.

LOCAL GOVERNMENT COMMITTEE

In connection with its study this committee has heard Mr. C. C. Ludwig and Mr. Orville Peterson of the League of Minnesota Municipalities and Professor Edward Weidner, assistant director of the Intergovernmental Relations Project at the University of Minnesota, discuss the problems of local government in relation to the present constitution. A report on local government unit consolidation has been submitted to the committee and a survey of restrictions on special legislation prepared for the legislative committee also has been referred to this committee for study. Scheduled to appear before this committee at its next meeting are representatives of associations of local officials and of municipal charter commissions.

BANKS AND CORPORATIONS COMMITTEE

This committee has held three meetings. Among representatives of various organizations who have appeared before it are: Mr. F. A. Amundson, Commissioner of Banks, Mr. Ben DuBois, Secretary of the Independent Bankers Association; Mr. Robert E. Pyé, Secretary of the Minnesota Bankers Association; Professor J. W. Stehman, School of Business Administration, University of Minnesota, and Professor Stanley V. Kinyon of the University of Minnesota Law School. This committee anticipates that it will complete its assignment at its next meeting and submit final proposals for the consideration of the Commission.

COMMITTEE ON PUBLIC INFORMATION
CONSTITUTIONAL COMMISSION OF MINNESOTA

- * (Members of Subcommittee)
- o (acceptance not yet received)

CHAIRMAN - - - - - * Mr. Val Bjornson
St. Paul Pioneer Press-
Dispatch
K. S. T. P.
St. Paul, Minnesota

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International Falls, Minn

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Sleepy Eye Herald Dispatch
Sleepy Eye, Minnesota

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School of Journalism
University of Minnesota
Minneapolis, Minnesota

* Mr. Charles Corbin
Assistant Executive Editor
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o Mr. Gordon E. Duenow
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Hopkins, Minnesota

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Owatonna Photo News
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* Mr. Alfred D. Stedman
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St. Paul Pioneer Press-
Dispatch
Saint Paul, Minnesota

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Thief River Falls, Minn.

Mr. Clifford Russell
Mankato Free Press
Mankato, Minnesota

Mr. Ludwig Roe
Montevideo News
Montevideo, Minnesota

RADIO NEWS COMMENTATORS

Mr. Val Bjornson
K. S. T. P.
St. Paul, Minnesota

Mr. Sig Mickelson
W. C. C. O.
Minneapolis, Minnesota

CIVIC ORGANIZATIONS

Mrs. Irvine McQuarrie
Minnesota League of Women Voters
832 Lumber Exchange
Minneapolis, Minnesota

Mr. Stuart Leck
Good Government Group
211 South 11th Street
Minneapolis, Minnesota

INDIVIDUALS

Prof. Joseph Kize
Moorhead State Teachers College
Moorhead, Minnesota

MINUTES OF THE MEETING OF THE SUBCOMMITTEE OF THE COMMITTEE ON PUBLIC
INFORMATION OF THE CONSTITUTIONAL COMMISSION OF MINNESOTA HELD FEBRUARY
14, 1948, IN ROOM 236 STATE CAPITOL, SAINT PAUL, MINNESOTA, AT 10:00 A.M.

Members present:

Mr. Val Bjornson, Chairman
Dr. Ralph Casey
Mr. Charles Corbin
Mr. Ralph Keller
Mr. J. L. Markham

Members absent:

Mr. A. F. Lockhart
Mr. Alfred Stedman

Also present:

Dr. Lloyd M. Short, Commission Chairman
Mr. Thomas L. Culhane, Director of Research

The meeting was called to order by the chairman, Mr. Val Bjornson at ten o'clock A. M. in Room 236 State Capitol.

Dr. Short, chairman of the Constitutional Commission, reported a nearly one hundred per cent acceptance from those who had been requested to accept membership on the Committee on Public Information. Mr. Harold Barker of Elbow Lake, Minnesota, expressed regret that he could not serve on account of his combined newspaper and party duties. Dr. Short then asked for suggestions for additional members of the committee, particularly from the northwest section of the state.

Various members of the subcommittee offered the names of suitable persons. The chairman of the commission will make the additional appointments, subject to commission confirmation.

Dr. Short and Mr. Culhane gave brief reports of the organization and work of the commission. The members of the subcommittee were then asked to suggest ways and means whereby the work of the commission and the problems of constitutional revision could be most effectively presented to the people of the state. The following suggestions were made:

1. The preparation of a series of at least three news releases to be sent out to editors through the facilities of the Minnesota Editorial Association.
2. The submission to Mr. Keller of the Minnesota Editorial Association of short items with reference to the constitution which would be suitable for newspaper use.
3. The preparation of a question and answer sheet pertaining to the Minnesota constitution.

4. The formation of a Speakers Bureau with responsibility of providing speakers in response to requests from civic groups and other organizations throughout the state.
5. Mr. Keller volunteered to prepare at least one article for distribution to the press.
6. The use of radio broadcasting facilities for news reporting and talks or panel discussions.
7. An approach to the Minnesota Centennial Committee and the Chairman of the Centennial Committee of the Minnesota Editorial Association with a view to getting attention for and stimulating discussion of the work of the commission.

Dr. Short reported contacts already made with the Good Government Groups of St. Paul and Minneapolis, the state and local Leagues of Women Voters and the Hi-Y Youth in Government program of the Y.M.C.A.

It was moved, seconded and carried unanimously to recommend to the Constitutional Commission the appointment of a qualified person on at least a part time basis to aid in the preparation of public information materials with reference to the Minnesota constitution and the work of the commission.

It was the judgment of the subcommittee that copies of the Act creating the commission, the Model State Constitution of the National Municipal League, the article by Professor William Anderson on The Need for Constitutional Revision in Minnesota, and research reports prepared for the commission should be sent to all members of the committee on Public Information.

The subcommittee meeting adjourned at twelve o'clock noon to convene again at the call of the chairman.

T. L. Culhane
Secretary

The Constitutional Commission of Minnesota

Supreme Court:
Hon. Leroy E. Matson

236 State Capitol
Saint Paul Minnesota

FILE COPY

Senators:

Gordon Rosenmeier
Gerald T. Mullin
Harry L. Wahlstrand
William E. Dahlquist
A. R. Johanson
Elmer Peterson
Milton C. Lightner
Henry A. Larson

March 9, 1948

League of Women Voters of Minnesota
84 South Tenth Street, Room 417
Minneapolis 2, Minnesota

TO THE MEMBERS OF THE COMMITTEE ON PUBLIC INFORMATION
OF THE CONSTITUTIONAL COMMISSION OF MINNESOTA:

Representatives:

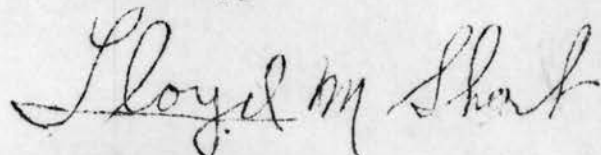
Harold R. Lundeen
O. L. Johnson
Frank B. Johnson
Howard W. Rundquist
Stanley W. Holmquist
E. B. Herseth
Thomas N. Christie
Robert J. Sheran
Mrs. Mabeth Hurd Paige
George W. Lawson
Lloyd M. Short, Chairman
Earl L. Berg, Secretary

Ladies and Gentlemen:

I am sending you herewith a list of the membership of the committee to date, minutes of the meeting of the subcommittee held in the Commission office on February 14, and a progress report prepared for the members of the Constitutional Commission and its eight study committees. In pursuance of the suggestions of the subcommittee I am also sending you a copy of the Act creating the commission and a copy of an article by Professor William Anderson of the University of Minnesota on The Need for Constitutional Revision in Minnesota. I regret to report that the Model State Constitution of the National Municipal League is out of print so that copies may not be sent to you. The research reports prepared for the use of the Commission and its committees up to this point have been issued only in typewritten form, and copies are not available to send you. It is our intention, however, to mimeograph these reports as soon as the committees for whom they were prepared authorize their release, and we will send copies of them to you as soon as they are available.

We deeply appreciate your acceptance of service on this committee, and I hope we may call upon you from time to time for assistance in keeping the people of our state adequately informed of the work of the Commission and the problems of constitutional revision with which we are confronted. Your suggestions to this end will be welcome.

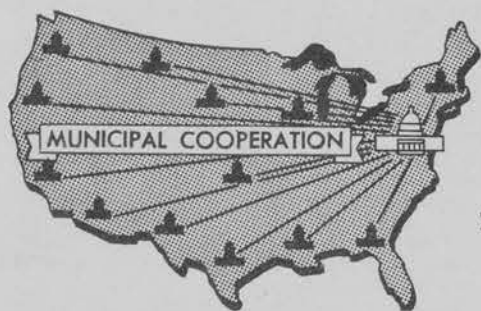
Sincerely,



Lloyd M. Short
Chairman

LMS:L
ENCLS

THE UNITED STATES



CONFERENCE OF MAYORS

730 JACKSON PLACE • • • WASHINGTON, D. C.

APRIL, 1948

**Representation is the basis of our structure of government.
Unequal representation is not democracy!**

Equal representation is not a mere theory or doctrine. It is a fundamental feature of democracy; and the failure of any legislative body to enforce the principle should be met with instant and vigorous protest on the part of the people affected. The importance of this principle was well expressed by the Supreme Court of Kentucky (*Ragland v. Anderson*, 125 Ky. 141) some years ago when it said:

"He has studied our constitution in vain who has not discovered that the keystone of that great instrument is equality, equality of men, equality of representation, equality of burden, equality of benefits . . .

"Equality of representation is a vital principle of democracy. Without equality republican institutions are impossible. Inequality of representation is a tyranny to which no people worthy of freedom will tamely submit. To say that a man in Spencer county shall have seven times as much influence as a man in Butler or Edmonson county is to say that six men out of every seven in those counties are not represented in the government at all. They are required to submit to taxation without representation.

"Equality is the basis of patriotism. No citizen will or ought to, love the state which oppresses him; and that citizen is arbitrarily oppressed who is denied equality of representation with every other of the commonwealth."

But in our state legislatures today we do not have equality of representation!

59% of the people of this country elect only 25% of the state legislators!

Who are the second-class citizens in this under-represented majority? They are the 84,000,000 people who live in our towns and cities.

Our Real Second-Class Citizens

A GREAT deal has been said about "second-class citizenry" in recent weeks in the argument about President Truman's civil rights program. The major reference, of course, has been to the 13,000,000 Negroes who call the United States home.

However, it begins to appear that our real "second-class citizenry" is composed of the 84,000,000 urban dwellers in the various states. That is the conclusion reached by the United States Conference of Mayors after a survey of representative government as reflected in state legislatures. The survey, in broad outline, paints a picture of these 84,000,000 beings permitted to elect only one-fourth of the members of their respective state legislatures. That means 59 percent of our population elects but 25 percent of our state legislators. And that, the survey continues, is not only bad arithmetic but bad government.

THIS fantastic condition which is utterly repugnant to the basic concept of democratic processes of government exists because of (1) area representation without regard to population in the upper house in most states and (2) failure to reapportion districts in accordance with population shifts. Here are some of the disparities pointed out in the survey:

Wayne county, Michigan, which contains Detroit and 40 percent of that state's population, elects only 27 percent of the lower house representation; New Jersey where eight urban counties with 80 percent of the state's population elects only eight of the 21 state senators; Fulton county, Georgia, in which Atlanta is located, elects three representatives from a population of 393,000 while Echols county with 3,000 souls elects one; New Castle county, Delaware, which embraces Wilmington, has 67 percent of the state's population but has only 42 percent of the state's legislative representation; Los Angeles with 39 percent of California's population has exactly 2½ percent of its state senators; St. Louis with 816,000 population has 18 state representatives—exactly the same number as 18 rural counties in Missouri with a population of 158,000.

THE list trails on through Pennsylvania, Oregon, Illinois, Connecticut, Colorado, Ohio, Iowa, Maryland, Rhode Island, Wisconsin, Montana and into Oklahoma, where the survey shows Oklahoma City with its 250,000 plus population has seven representatives in the lower house—exactly the amount for seven rural counties with a combined population of 57,000. Continued refusal, in several states as well as in Oklahoma, to redistrict for congressional purposes is doing similar injustices to urban dwellers.

This is in no sense a city versus farm argument, even though the study was sponsored by mayors of leading cities. It is merely a plea for something resembling true democracy in the matter of legislative representation. It is all very well to shed crocodile tears over the plight of 13,000,000 Negroes, who are in varying degrees of disenfranchisement but if wails be raised for these 13,000,000, how about the 84,000,000 who also are literally one-half disenfranchised by reason of reluctance to put democracy to work in the many states?

Oklahoma City "Times"

Challenge to the States

It is little comfort to the citizens and officials of Ohio cities to know that the unfair representation of the cities in the State Legislature is common to many other states.

This rural domination of the legislatures in states which have a majority of the population living in the cities is at the root of many of the municipalities' troubles with taxation, annexation and similar handicaps to good, effective home government.

Cincinnati "Post":



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CONSTITUTIONAL COMMISSION REPORT NO. 4
AMENDMENT OF STATE CONSTITUTIONS
April, 1948

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In studying the amending process in Minnesota, it is well that we devote some attention to the provisions of other state constitutions on this subject. In doing so, however, it is proper to observe that a relatively long constitution which contains much material that might otherwise be incorporated in statutes, of necessity requires an easy mode of amendment. Conversely, a brief constitution devoted to basic or fundamental provisions for state governmental organization and powers can and probably should be made more difficult to amend. The Minnesota constitution is about average in length in comparison with the constitutions of other states.

With reference to the proposal of amendments by legislative action, Minnesota has the simplest and easiest method of all the states, namely, proposal by a majority vote of both houses. The historical explanation for this easy mode of proposing constitutional changes has been pointed out elsewhere.¹ In contrast, twenty states require a two-thirds vote of the members elected to each house to propose amendments; six states, including the new New Jersey constitution, require a three-fifths vote of the members elected; and eighteen states require a majority of the members elected, ten of which also require that the proposal be adopted by two successive legislatures.

With reference to popular ratification of amendments proposed by the legislature, however, the situation is just reversed. Whereas the Minnesota constitution originally provided for ratification by a simple majority of the voters voting upon the proposition, an amendment adopted in 1898 requires a

majority of all the electors voting at the election. In contrast, thirty-six states require only a majority of those voting on the proposition. Six states have a provision similar to the one in Minnesota. An amendment submitted to the voters of Minnesota by the 1947 legislature (Chapter 640, Laws of Minn. p. 1294), if adopted, would permit two or more alterations or amendments to the Constitution to be submitted at one time without requiring that the voters shall vote for or against each separately, but no change was proposed with respect to the requirement that a majority of all the electors voting at a general election is necessary to ratify such alterations or amendments.

A tabulation of the legislative votes on proposed constitutional amendments in Minnesota from 1921 to 1945 reveals that all but four of a total of thirty-two received more than a two-thirds vote in each house. Of course, if the mode of ratification were made less difficult, it is possible legislative scrutiny of proposed amendments might be more searching. In a preliminary report on the amending process in Minnesota it was pointed out that the present requirement for ratification has proved a difficult one, that on the average thirty-three percent of the voters at a general election fail to vote on proposed amendments, and that of the eighteen amendments which were proposed between 1921 and 1948 which failed of ratification, thirteen received sixty per cent or more of the votes cast on the proposal and all but two received a majority of such votes.

A second method of amending state constitutions, which is not provided for in Minnesota, is the initiative and referendum. Fourteen states, well distributed throughout the nation, make provision for this method of proposing and ratifying constitutional amendments. The procedure required for proposing constitutional amendments by popular initiative is practically the same in all cases except for the number of signatures required, which ranges from five to fifteen per cent of all legal voters casting their votes for the office of governor in the preceding general election. Eleven of the fourteen states re-

quire ratification by a majority vote on the amendment and three require a majority voting at a general election. Despite the limited use of this method of amendment at present, it is in harmony with our basic American philosophy of government which recognizes sovereign power as being vested in the people. It also makes possible constitutional changes affecting legislative organization and powers which the legislature itself may not see fit to propose.

Thorough revision of state constitutions or the drafting of new constitutions is generally intrusted to state constitutional conventions. Thirty-six state constitutions make express provision for such conventions. The other twelve make no such provision, but it has been held in at least one of these states that the legislature has the inherent right to provide for the calling of a constitutional convention unless expressly forbidden by the constitution to do so. (55 Rhode Island 56-122, April 1, 1935). Nineteen states require a two-thirds vote of the members elected to their legislature to submit the proposition of calling a constitutional convention to the people. Five require only a majority of the members elected in each house. Only two states, Georgia and Maine, permit the legislature to call a convention without submitting the matter to popular vote, as is provided in an amendment submitted to the voters of Minnesota by the 1947 legislature (Chapter 641, Laws of Minn. p. 1295).

Eight state constitutions (Iowa, Maryland, Michigan, Missouri, New Hampshire, New York, Ohio and Oklahoma) make mandatory the periodic submission to the people of a proposal to call a constitutional convention. The frequency of submission ranges from seven to twenty years, with five of the eight states using the latter period. One state (Oregon) authorizes a vote on the calling of a convention by popular initiative. A study of the effect of these provisions made for the New Jersey Committee for Constitutional Revision in July, 1947 reveals that provisions for the periodic submission of the question of calling a constitutional convention have not resulted in frequent conventions as might be supposed. On the contrary "the people generally do not vote for revision either

by calling a convention or approving a product thereof unless there is a well-organized campaign conducted by some sort of cross section of citizen interests and organizations."²

With reference to the popular vote on proposals for calling constitutional conventions, sixteen states, including Minnesota, require a majority of those voting at the election and seventeen require only a majority of those voting on the question. Of the thirty-six states which provide for the initiation of amendments or revisions by constitutional convention, nineteen prescribe final adoption or rejection of the convention's recommendations by direct popular vote. Seventeen states, however, of which Minnesota is one, make no provision for the submission of the work of constitutional conventions to the voters, but it is reasonable to expect that even without such an express provision, members of a constitutional convention will decide to submit their work to a vote of the people.

In summary, then, it may be pointed out that the present Minnesota provision for the proposal of amendments by legislative action is a simple and easy one but that since 1898 it has been very difficult to secure popular ratification of such proposals. Minnesota makes no provision for constitutional amendment by the initiative and referendum. The calling of a constitutional convention in Minnesota at present is a difficult process, but it would be made easier if an amendment proposed by the 1947 legislature is adopted. Some states make mandatory the submission to the people at stated intervals the question of calling a constitutional convention. Minnesota does not require the submission of the work of a convention to the people for ratification, but it is unlikely a convention would undertake to put a new or extensively revised state constitution into effect without a vote of the people.

League of Women Voters of Minnesota
84 South Tenth Street, Room 417
Minneapolis 2, Minnesota

JUN 18 1948

WCCO

FILE COPY

COLUMBIA BROADCASTING SYSTEM, INC.

625 SECOND AVENUE SO. MINNEAPOLIS 2, MINN.

MAIN 1202

May 24, 1948

Dear Sir:

As you undoubtedly know, the Constitutional Commission established by the 1947 session of the State Legislature is now at work preparing a new or amended state constitution for submission to the 1949 legislature and subsequently to the people of the state. Committees operating as branches of this commission have begun submitting reports on suggested revisions to the constitution. The second of these reports was issued during the week ending May 15. Subsequent reports will be issued from time to time through a good part of the summer.

Val Bjornson of KSTP and I have been designated as a committee to work with radio stations in Minnesota in connection with informing the public concerning the suggested changes in the state constitution. We accepted on the basis that we think constitutional revisions are an enormously important step and should be undertaken only with the fullest possible knowledge and understanding on the part of the citizens of the state. As part of a suggested informational program, we have discussed the possibility of preparing a series of 15-minute discussion programs utilizing members of the constitutional commission and its study committee. These members would discuss in specific terms some of the recommended changes in the constitution. Among these persons are State Representative Howard R. Rundquist, State Senator Gerald T. Mullin, Mrs. Mabeth Hurd Paige, Mr. Earl L. Berg, and George W. Lawson.

These discussions would be transcribed to run $13\frac{1}{2}$ or 14 minutes and would be made available to all stations in the state which might be interested in using them.

Since there is no financing assistance available for broadcasts of this type, we are writing now to inquire whether you would be interested in such a series to run from six to eight programs and whether you would be willing to assume the cost of the discs and mailing? All other charges would presumably be taken care of by Twin Cities stations making the original cut.

We estimate the total cost of disc and mailing to run somewhere in the vicinity of \$3, certainly not above that figure.

-2-

Could you drop us a line indicating whether you would like to have such a series of transcriptions and whether you would be willing to stand the approximately \$3 per show cost?

We all think this is a rather important venture and we are convinced that the public should know as much as possible about the constitution before it makes its decision either for adoption or revision of the suggested changes.

Sincerely,

Sig Mickelson
for the
Public Information Committee
The Constitutional Commission of Minnesota

SM:n

REPORT ON THE REVISION OF THE
EXECUTIVE ARTICLE OF THE MINNESOTA STATE CONSTITUTION

By

Committee on the Executive of the Minnesota
Constitutional Commission

The executive committee is one of the committees established by the Constitutional Commission of Minnesota to study particular articles or sections of the constitution. To this committee there was assigned those parts of the constitution relating to the executive branch of the government, principally Article V. This report represents substantially the presentation that will be made to the full commission for its consideration. These recommendations of the committee embody some substantial changes. These changes, however, are based upon the experience of our own state, other states and the Federal Government.

GENERAL COMMENT

The principal features of the committee's recommendations are as follows:

1. The number of constitutionally elected officers is reduced to three.
2. The terms of office of the governor, lieutenant governor and attorney general are extended to four years.
3. The position of auditor is made responsible to the legislature.
4. Succession to the governorship is clarified and provision is made for additional successors.
5. The governor is required to submit a budget to the legislature. This is at present a statutory requirement.

6. The merit system in state and local employment is provided for.

It should be clearly understood that the above changes in the Minnesota constitution are being submitted by the executive committee to the full commission for consideration and final action. The commission will welcome comments in writing from interested citizens or public officials upon any or all of these recommendations, and, so far as time permits, will grant an opportunity to those who wish to be heard for oral statements to the commission. Inasmuch as the commission desires to begin the consideration of this and other committee reports at an early date, comments should be received no later than June 10, 1948.

EXECUTIVE COMMITTEE

Mrs. Mabeth Hurd Paige

Senator Gerald T. Mullin

George W. Lawson

Earl L. Berg

Frank M. Rarig, Jr.

Walter W. Finke

Secretary

Rep. Howard W. Rundquist

Chairman

CONSTITUTIONAL COMMISSION OF
MINNESOTA
236 STATE CAPITOL
SAINT PAUL

TENTATIVE DRAFT OF PROPOSED ARTICLE V
OF MINNESOTA STATE CONSTITUTION, TOGETHER WITH RE-
COMMENDATIONS CONCERNING CERTAIN SECTIONS OF ARTICLES
IV AND ARTICLE VIII

- - - - -

(Note: Words underlined are new words - words with broken lines through them are provisions of the present constitution which it is proposed be omitted.)

OFFICERS IN EXECUTIVE DEPARTMENT

Section 1. The executive department shall consist of a governor, lieutenant governor, (~~secretary-of-state, auditor, treasurer~~) and attorney general, who shall be chosen by the electors of the State, and of such subordinate executive officers as may be provided by law.

Comment:

The committee has sought to approach closely the principle of placing executive responsibility in the hands of a single popularly elected official - the governor. He is the only officer according to our present constitution who is charged with the responsibility of taking "care that the laws be faithfully executed." The committee proposes to strengthen this constitutional position and responsibility of the governor.

The offices of the secretary of state and treasurer are removed from the constitution. Neither of these offices has anything to do with policy formulation or control functions. Their powers are ministerial rather than discretionary. The great bulk of their duties are statutory, the same kind of duties performed by the commissioner of taxation, of highways and of conservation. It will be up to the legislature to determine whether these offices will be continued, whether they will be elective or appointive, or whether the duties will be assigned in whole or in part to other offices.

ELECTION RETURNS

Section 2. The returns of every election for the officers named in the foregoing section shall be made to (~~the secretary-of-state~~) an officer designated by law who shall call to his assistance two or more of the judges of the supreme court, and two disinterested judges of the district courts of the State, who shall constitute a board of canvassers, who shall open and canvass said

returns and declare the result within three days after such canvass.

Comment:

The only change suggested in this section is the substitution of an officer designated by law for the secretary of state. The latter might be continued as a member of the canvassing board if the office of secretary of state is established by the legislature.

OFFICIAL TERM OF GOVERNOR, LIEUTENANT GOVERNOR AND ATTORNEY GENERAL:

Section 3. The term of office for the governor, ~~(and)~~ lieutenant governor, and attorney general shall be ~~(two)~~ four years, and until their successors are chosen and qualified. Each shall have attained the age of twenty-five (25) years, and shall have been a bona fide resident of the State for one year next preceding his election. ~~(Each)~~ Each shall be a citizen ~~(a)~~ of the United States. The further duties and salaries of the said executive officers shall be prescribed by law.

Comment:

The terms of office of the governor, lieutenant governor and attorney general are set at four years. This length of term is becoming increasingly common in the states that are revising their constitutions. Such a term would provide a more ample opportunity for the governor to establish and carry out an effective program. The biennial election of the legislature would provide a means of expressing disapproval of any measures which are against the popular will.

POWERS AND DUTIES OF GOVERNOR

Section 4. The governor shall communicate by message to each session of the legislature such information touching the state and condition of the country as he may deem expedient. Within three weeks after the legislature convenes in a biennial session he shall submit to it a budget showing proposed expenditures and an estimate of available revenues of the state for the years prescribed by statute, together with his recommendations for providing revenue therefor. He shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, suppress insurrection and

repel invasion. He may require ~~(the)~~ written or verbal opinions ~~(in-writing)~~ of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power, in conjunction with the board of pardons, of which the governor and attorney general shall be ex officio ~~(*)~~ members and the other members of which ~~(shall consist-of-the-attorney-general-of-the-State-of-Minnesota-and-the-chief-justice-of-the-supreme-court-of-the-State-of-Minnesota-and-whose)~~ together with its powers and duties shall be defined and regulated by law, to grant reprieves and pardons after conviction for offenses against the State, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to appoint ~~(a-state-librarian-and-notaries-public,-and-such-other)~~ such officers as may be provided by law. He shall have power to appoint notaries public and commissioners to take the acknowledgement of deeds or other instruments in writing, to be used in the State. He shall have a negative upon all laws passed by the legislature, under such rules and limitations as are in this Constitution prescribed. He may on extraordinary occasions convene both houses of the legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of ~~(secretary-of-state,-treasurer, auditor)~~ attorney general, and such other state and district offices as may be ~~(hereafter-created)~~ provided by law, until the next ~~(annual)~~ election, and until their successors are chosen and qualified.

Comment:

In providing for an executive budget the state is assured of the continued use of this system of executive responsibility for presenting to each regular session of the legislature a coordinated plan of revenue and expenditure.

In giving the governor power to require oral as well as written opinions from the heads of departments the committee is merely recognizing current practice. It was not deemed advisable to force a cabinet upon the governor by constitutional action.

The composition of the board of pardons is changed by the omission of the Chief Justice of the Supreme Court. This change is in accordance with the considered opinion of justices who have served as members of this board. The change also coincides with the constitutional theory that the pardon power should be placed exclusively in the executive branch of the government as it is in the federal constitution. Through another change in this section the senate will be relieved of the necessity of approving the appointment of hundreds of notaries public.

OFFICIAL-TERM-OF-OTHER-EXECUTIVE-OFFICERS

(Sec. 5. -- The official term of the secretary of state, treasurer and attorney general shall be two (2) years. -- The official term of the state auditor shall be four (4) years, and each shall continue in office until his successor shall have been elected and qualified. -- The further duties and salaries of said executive officers shall each be prescribed by law.)

Comment:

The elimination of two of the offices mentioned in the above section is discussed in the comment following Section 1. Reference to the state auditor will be found in the section immediately following the proposed Section 8 of this article.

DUTIES OF LIEUTENANT GOVERNOR

Section 5. (Sec. 6) The lieutenant governor shall be ex officio president of the Senate. (and in case a vacancy should occur from any cause whatever , in the office of governor, he shall be governor during such vacancy.) The compensation of the lieutenant governor shall be double the compensation of a state senator. Before the close of each session of the Senate they shall elect a president pro tempore, who shall be lieutenant governor in case a vacancy should occur in that office.

Comment:

Succession to the governorship is provided for in the next section.

SUCCESSION TO THE GOVERNORSHIP

Section 6. If the governor elect should die before taking office the lieu-

tenant governor elect shall take the term of the governor elect.

In case of the failure of the governor to qualify, or of his impeachment, or of his removal from office, death, resignation, or inability to discharge the powers and duties of his office, the powers and duties of his office shall devolve upon the lieutenant governor for the remainder of the term, or until the disability be removed.

In case a vacancy occurs in the office of the lieutenant governor from any of the causes aforesaid, the president pro tempore of the senate and the speaker of the house in succession shall act as governor until the vacancy is filled or the disability removed.

In the event all of the foregoing are either deceased, unavailable, or incapacitated the oldest member in chronological age of the senate shall call the senate together to elect a president pro tempore.

Comment:

A self-executing succession to the governorship is established. This provision should cover almost all of the exigencies that may occur. Readers will recall the recent turmoil in Georgia when the governor-elect died and the Oregon situation in which several of the men who would succeed to the governorship were killed with the governor in one accident.

OFFICIAL-TERMS-OF-FIRST-STATE-OFFICERS

(See, -7,--The term of each of the executive officers named in this article shall commence on taking the oath of office on or after the first day of May, 1858, and continue until the first Monday of January, 1860, except the auditor, who shall continue in office till the first Monday in January, 1861, and until their successors shall have been duly elected and qualified, and the same above mentioned time for qualification and entry upon the duties of their respective offices shall extend and apply to all other officers elected under the State Constitution, who have not already taken the oath of office, and commenced the performance of their official duties.)

Comment:

This section is now obsolete. It was applicable to the first officials elected under the constitution in 1858.

OATH OF OFFICE TO BE TAKEN BY STATE OFFICERS

(Section-8) Sec. 7 Each officer created by this article shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

Comment:

No changes were recommended in this section by the committee .

LAWS-TO-BE-PASSED-AT-FIRST-LEGISLATIVE-SESSION

(Sec. 9. -- Laws shall be passed at the first session of the legislature after the state is admitted into the Union to carry out the provisions of this article.)

Comment:

This section is now obsolete.

CIVIL SERVICE

Section 8. Appointments and promotions in the civil service of the state, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, as far as practicable by examination, which, as far as practicable, shall be competitive; except that preference in appointments by reason of active service in any branch of the military or naval forces of the United States in time of war may be provided by law.

Comment:

The establishment of the merit system in the constitution will strengthen this system for selection and retention of qualified employees in the state and its political subdivisions. The section here proposed is found in the new New Jersey constitution adopted in 1947 and is substantially similar to the provision of the New York constitution adopted in 1938.

Note: The following sections are recommended to the Legislative Committee for inclusion in Article IV.

STATE AUDITOR

Article IV. Sec. ____ .The legislature, in joint session, shall appoint a state auditor. His term shall be six years and until his successor is appointed and qualified. He shall conduct a post audit of the accounts and transactions of each department, office and agency of the state. He shall report to the legislature, or to any committee thereof, and shall perform such other duties as are required by law.

Comment:

This recommendation the committee considers one of the most important that it is making. At the present time the Minnesota legislature appropriates the state's money but has no effective method of determining how its mandates are being carried out, and what changes should be made by law for the more efficient handling of public funds.

The creation of a post auditor chosen by and responsible to the legislature will insure financial accountability to that body which has constitutional responsibility for the raising and spending of state funds.

VETO POWER OF THE GOVERNOR

Article IV. Section 11. If any bill be not returned by the governor within six (~~three~~) days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by adjournment within that time, prevents its return; in which case it shall not be a law. The governor may approve, sign and file (~~in the office of the secretary of state~~) as provided by law within twelve (~~three~~) days (Sundays excepted) after the adjournment of the legislature, any act passed during the last six (~~three~~) days of the session, and the same shall become a law.

Comment:

The extension of the time in which the governor may consider a bill will provide for more thorough examination of the work of the legislature. The present limitation of three days after the adjournment of the legislature sometimes requires the governor to consider as many as one hundred bills in a single day.

* * * * *

EXCHANGE OF PUBLIC LANDS: RESERVATION OF RIGHTS

Art. 8, Sec. 8. Any of the public lands of the state, including lands held in trust for any purpose, may, with the unanimous approval of a commission consisting of the governor, the attorney general and the state auditor, be exchanged for lands of the United States and/or privately owned lands in such manner as the legislature may provide, and the lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject, and the state shall reserve all mineral and water power rights in lands so transferred by the state.

Comment:

No change is being recommended in this section by the executive committee. However, this section will also be considered by the committee on taxation and finance.

MATERIAL AND REPORTS CONSIDERED BY THE EXECUTIVE
COMMITTEE - APPEARANCES BEFORE THE COMMITTEE

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(I) RESEARCH REPORTS PREPARED FOR THE USE OF THE EXECUTIVE COMMITTEE

Executive Committee Report No. 1 Constitutional Provisions for
Elective Officers - Dec. 12, 1947

Executive Committee Report No. 2 - Succession to the Governorship
Jan. 15, 1948

Executive Committee Report No. 3 - Constitutional and Statutory
Duties of Certain State Officers - With Special Reference
To The Term Of Office and Power of Appointment of the
Governor - Jan. 16, 1948

Executive Committee Report No. 4 - Election Years of State Officials
Jan. 15, 1948

Executive Committee Report No. 5 - Constitutional Provisions on the
Executive Budget - April 1, 1948

Executive Committee Report No. 6 - Veto Power of the Governor
April, 1948

(II) LETTERS AND REPORTS

Dec. 12, 1947 - Letter from Julius Schmahl, State Treasurer,
Commenting on Article 5, Section 5, Term of Office;
Article 8, Section 6, Rate of Interest on Trust Funds;
Article 9, Section 11, Publication of Receipts and
Expenditures - Dec. 16, 1947.

Dec. 16, 1947 - Memorandum from Charles E. Houston, Assistant Attorney
General, upon the provisions of Article 5 - State Constitu-
tion.

Dec. 1947 - Memorandum from Mike Holm, Secretary of State, on estimated
expenses of general and primary elections.

Jan. 9, 1948 - Letter from Stafford King, State Auditor, on the duties
of the State Auditor.

(III) APPEARANCES BEFORE THE COMMITTEE

Mike Holm, Secretary of State
Stafford King, State Auditor
Julius A. Schmahl, State Treasurer
Charles E. Houston, Assistant Attorney General

Constitutional Commission of
Minnesota
236 State Capitol
Saint Paul, Minnesota

HIGHWAYS AND AIRPORTS COMMITTEE
REPORT NO. 3

JUNE 10, 1948

- - - - -
REPORT ON THE REVISION OF THE ARTICLES OF THE MINNESOTA STATE CONSTITUTION
RELATING TO HIGHWAYS AND AIRPORTS BY THE COMMITTEE ON HIGHWAYS AND AIRPORTS
OF THE MINNESOTA CONSTITUTIONAL COMMISSION

The highways and airports committee is one of the committees established by the Constitutional Commission of Minnesota to study particular articles or sections of the constitution. To this committee were assigned those parts of the constitution relating to highways and airports; principally Section 5 of Article 9, Article 16 and Article 19. This report represents the presentation that will be made to the full commission for its consideration. The recommendations of the committee do not embody many fundamental changes, but they do provide for a considerable revision and re-wording of the contents of those articles.

GENERAL COMMENT:

The principal features of the committee recommendations are as follows:

1. The elimination from the constitution, except by reference, of the detailed listing of trunk highway routes.
2. Provision for the establishment of a commission to study and report to the legislature on the advisability of additions to, or deletions from the trunk highway system.
3. The power to delete from or add to the state trunk highway system other than routes 1 to 70 is placed in the hands of the legislature.
4. The retention of the dedication of highway user taxes for the construction and maintenance of roads.

5. The retention of the present article on aeronautics as it now stands.

It should be clearly understood that these recommended changes in the Minnesota constitution are being submitted by the highways and airports committee to the full commission for consideration and final action. The commission will welcome comments in writing from interested citizens and public officials upon any or all of the recommendations and, so far as time permits, will grant an opportunity for those who wish to be heard for oral comments to the commission. As the commission desires to begin the consideration of this and other committee reports at an early date, comments should be received no later than June 18, 1948.

The committee members wish to express their appreciation to the individuals who submitted materials and briefs and who appeared before the committee, for their assistance and suggestions.

HIGHWAYS AND AIRPORTS COMMITTEE

Rep. O. L. Johnson, Chairman
Senator Elmer Peterson
Senator A. R. Johanson
Rep. Robert J. Sheran
Rep. P. J. E. Peterson
Rep. Frank B. Johnson
Mr. William C. Green

DRAFT OF PROPOSED ARTICLES OF MINNESOTA STATE CONSTITUTION RELATING TO
HIGHWAYS AND AIRPORTS

Section 1. (Motor Vehicle Tax - Present Article 16 - Sec. 3)

The legislature may tax motor vehicles using the public highways on a more onerous basis than other personal property. Any such tax shall be in lieu of all other taxes thereon, except wheelage taxes imposed by local governments. The legislature may impose such motor vehicle tax upon the motor vehicles of taxpayers paying taxes under a gross earnings system of taxation although earnings from these vehicles may be included in the earnings upon which such gross earnings taxes are computed. The legislature may exempt from taxation any motor vehicle owned by a nonresident of the state temporarily using the public highways of the state. The proceeds of any tax levied in accordance with this section shall be used for the payment of the principal and interest of any bonds which may be issued under authority of this article and any moneys in excess of such requirement shall be appropriated solely in aid of the construction and maintenance of the trunk highway system.

Comment:

Without making fundamental changes, the committee has sought to draw up a more concise section on motor vehicle taxes and their use.

Section 2. (Present Article 9 - Sec. 5)

Two-thirds of the proceeds of any tax levied upon any product used or useful in producing power for propelling vehicles used on the public highways of this state shall be appropriated solely in aid of the construction and maintenance of the state trunk highway system, and one-third shall be appropriated to the counties for roads as provided by law. All highway construction involving expenditure of state collected taxes shall be approved by a state

officer as provided by law.

Comment:

The committee reached no decision on the method of dividing the income from the gasoline tax between the counties and the state. As this question will be presented to the people at the November election this year, and has been made the subject of special study by the legislative interim committee on highways, this study committee is making no recommendation for change.

The committee believes that in order to provide for a unified system of roads in the state, the state should have supervision of highway construction for which the state furnishes money.

Section 3.

The highways extending along the routes described in the constitutional amendment adopted November 2, 1920, as routes Nos. 1 through 70 are continued as a part of the state trunk highway system, and shall be located, constructed, reconstructed, improved and forever maintained as public highways by the state. They shall extend along said routes, the more specific and definite location of which shall be fixed and determined in such manner as may be prescribed by law, but in fixing such specific and definite routes there shall not be any deviation in fixing the routes from various villages and cities named therein through which such routes pass.

Comment:

The committee is recommending the retention of routes 1 through 70 as constitutionally established state trunk highways by reference rather than by detailed enumeration as at present. This will reduce by approximately 25% the length of the state constitution.

Section 4.

Each highway extending along an additional route established by the legislature as a portion of the trunk highway system of this state other than routes 1 through 70 as described in Section 3 above is declared to be and shall until otherwise provided by law continue to be a portion of the trunk highway system and shall be located, constructed, improved and maintained as a public highway by the state.

Comment:

The committee is recommending that the routes added to the trunk highway system since the adoption of the Babcock Amendment (Art. XVI) in 1920 be retained as part of the trunk highway system until otherwise provided by law.

Section 5.

There shall be established by law a commission whose sole duty shall be to study and recommend to the legislature changes in the trunk highway system.

Comment:

The committee earnestly believes that an impartial commission whose duty it would be to study and recommend to the legislature changes in the trunk highway system will provide for a more scientific and objective selection or elimination of roads from the trunk highway system.

Section 6.

The legislature after considering the recommendations of the commission established in Section 5, shall have authority to alter, change the location of, add to or delete from the trunk highway system any route other than those described in Section 3 above. Whenever the legislature shall so alter, relocate, or delete from the trunk highway system, any highway, any

easement, or portion thereof which has been acquired for trunk highway purposes and which is no longer necessary, may be abandoned, or any portion thereof relinquished to any county, city, village, borough or town for use as a road or street, all in such manner as shall be prescribed by law.

Comment:

Under this proposed change the legislature would have authority to alter, change the location of, add or delete from the trunk highway system any route not fixed by the constitution. This would eliminate the inflexibility of the present system whereby a highway once added to the trunk line system by the legislature cannot be deleted by the legislature.

Section 7. (Present Article XVI, Sec. 4)

The issuance and sale of bonds of the state in amounts as may be necessary to carry out the provisions of this article shall be provided by law.

Comment:

This committee is of the opinion that the present limitation in the constitution as to the amount of bonds to finance highway construction that may be sold in any one year or in total amount should be eliminated.

* * * * *

Article 19 (Aeronautics)

Section 1. The state may construct, improve, maintain, and operate and may assist counties, cities, towns, villages, boroughs, and public corporations in constructing, improving, maintaining, and operating airports and other air navigation facilities.

Section 2. For the purpose of carrying on or assisting in carrying on such

work it may expend monies, including such monies as the legislature may see fit to appropriate, may incur debts, and may issue and negotiate bonds to provide money therefor. The provisions of Section 5 of Article 9 of the Constitution shall not apply to the provisions of this section, and the purpose for which the credit of the state may be given or loaned as herein provided are declared to be public purposes.

Section 3. The state may levy a state excise tax upon any fluid or other means or instrumentalities, or the business of dealing in, selling, or producing any or all thereof, used in producing or generating power for propelling aircraft of any kind now known or hereafter invented, or for propelling or operating motor or other vehicles, or other equipment used for airport purposes and not used on the public highways of this state.

Section 4. The legislature is hereby authorized to provide, by law, for the taxation of aircraft using the air space overlying the State of Minnesota and the airports thereof, including any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air, on a more onerous basis than other personal property; provided, however, that any such tax on aircraft shall be in lieu of all other taxation thereon, and except that the legislature may impose such tax upon aircraft of companies paying taxes under any gross earnings system of taxation, and upon the right to use such aircraft in the air space overlying the State of Minnesota and upon the airports thereof, notwithstanding the fact that earnings from such aircraft may be included in the earnings of such companies upon which such gross earnings taxes are computed. Any such law may, in the discretion of the legislature, provide for the exemption from taxation of any aircraft owned by a nonresident of the state and transiently or temporarily using the air space overlying the State of Minnesota or the airports thereof.

Comments:

Due to the recent adoption of this Article (1944) and the limited amount of experience with its operation, this committee is recommending that the article be retained in its present form.

HIGHWAYS AND AIRPORTS COMMITTEE
CONSTITUTIONAL COMMISSION OF MINNESOTA
236 State Capitol
Saint Paul, Minnesota.

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I. RESEARCH REPORTS

Highways and Airports Committee Report No. 1 - Determination of Routing of State Highways

Highways and Airports Committee Report No. 2 - State Highway Funds and Finances

II. LETTERS, REPORTS AND MEMORANDA

Nov. 19, 1947	Letter from Charles H. Richter, St. Cloud, Minnesota, commenting on the constitutional restrictions on highway routing
Dec. 1947	<u>A Highway Policy for Minnesota</u> , prepared by the statewide Highway Committee of the Minnesota State Automobile Association
Jan. 22, 1948	Letter from Louis B. Brechet, Special Assistant Attorney General, commenting on the desirable changes in the constitutional provisions on trunk highways
Feb. 1948	<u>Memorandum - Tentative Suggestions for Constitutional Amendment on Highway User Taxes</u> , prepared by League of Minnesota Municipalities
Feb. 1948	<u>Tentative Tabulation showing Authority for Additions to Trunk Highway System</u> , prepared by Minnesota Highway Department
Feb. 3, 1948	Memorandum from Louis B. Brechet, Special Assistant Attorney General, discussing constitutionally dedicated revenues and constitutional delineation of highway routes.
Feb. 4, 1948	Letter from Mr. O. L. Kipp, Chief Engineer, Minnesota Highway Department, discussing trunk highway improvement status.
Feb. 27, 1948	Resume of the appearance of Mr. G. W. Price, Manager of Good Roads Association, before Highways and Airports Committee:
	a. <u>Minnesota Road Funds - Fiscal Year Ending June 30, 1946</u> , prepared by Good Roads Association, Minneapolis, Minnesota

b. Condition of state aid, county aid and other county roads from County reports, September, 1946, prepared by Good Roads Association, Minneapolis, Minnesota

C. A study of Minnesota County Road Finances 1946, Good Roads Association, Minneapolis Minnesota

Mar. 23, 1948 Study by Representative Frank B. Johnson entitled Dedicated Highway Funds

April 15, 1948 Proposed Amendment, Article 16, Section 1 Minnesota Constitution prepared by Mr. William C. Green, member of Highways and Airports Committee

April 15, 1948 Proposals and Issues for discussion by the Highways and Airports Committee

May 18, 1948 Letter from Mr. Orville Peterson, League of Minnesota Municipalities commenting on proposed draft of Constitutional article on Highways, May 12, 1948

May 21, 1948 Letter from Mr. Louis B. Brechet, Special Assistant Attorney General, Highway Department, commenting on proposed draft of Constitutional article on highways - dated May 12, 1948

May 25, 1948 Letter from Rep. E. B. Herseth, commenting on proposed draft of constitutional article on highways, dated May 12, 1948

May 25, 1948 Letter from Mr. O. L. Kipp, Chief Engineer, Minnesota Highway Department, commenting on proposed draft of constitutional article on highways dated May 12, 1948

May 25, 1948 Letter from Mr. E. Ray Cory, president of Minnesota State Automobile Association, commenting on proposed draft of constitutional article on highways dated May 12, 1948

May 26, 1948 Letter from Mr. G. W. Price, Manager, Good Roads Association, ~~commenting on~~ proposed draft of constitutional article on highways dated May 12, 1948

James D. Parker v. City of Duluth, 134 Minn. 296

48 U. S. 993 - Provisions of the Federal Law applicable to state dedication of revenues for highway purposes.

III - APPEARANCES BEFORE THE COMMITTEE

Mr. G. C. Axelrod, attorney for Minnesota State Automobile Association

Mr. Louis B. Brechet, Special Assistant Attorney General of Minnesota, (Department of Highways)

Mr. E. Ray Cory, President, Minnesota State Automobile Association

Rep. E. B. Herseth, Minnesota Farm Bureau

Mr. O. L. Kipp, Chief Engineer, Minnesota Highway Department

Mr. C. C. Ludwig, Executive Secretary, League of Minnesota Municipalities

Mr. G. W. Price, Manager, Good Roads Association.