



## League of Women Voters of Minnesota Records

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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 28, 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.



Comment:

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.



February 26, 1948

PROVISIONS ON HIGHWAY ROUTES CONTAINED  
IN STATE CONSTITUTIONS

I. General Constitutional Provisions:

Only fifteen of the forty-eight state constitutions analysed mention the subject of highway routes.

Ten of that fifteen mention highway routes only in giving the state legislature the power to plan, construct, reconstruct and maintain the state's highway system.

No set pattern is followed in the constitutions of the other five states specifically mentioning highways. For example, West Virginia delegates the power of planning highway routes to the legislature, but requires that such routes must connect county seats. Alabama and Missouri, on the other hand, charge the state highway commission with planning their highway routes. In Alabama the highway commission's routes must fulfill the following three conditions: connect county seats, meet roads from bordering states and connect communities within a county holding court if the county is divided into two or more judicial districts. The Missouri highway commission is limited to conditions imposed by law as to the manner and means of exercising its routing authority.

II. Specific Constitutional Requirements:

Minnesota and Louisiana are the only two states in the Union specifically detailing highway routes in their constitutions. In fact, approximately 25 per cent of the content of Minnesota's constitution is devoted to such a listing. While Louisiana avoids this lengthy method of describing its highways, it does make a

map detailing such routes a part of its constitution. In Minnesota's case, the legislature may not deviate from the routes listed in the constitution, while Louisiana's constitution provides:

"The paved highway routes to be constructed and to which the proceeds of funds herein provided are available for such construction shall be and are hereby specifically dedicated, shall be those routes or roads laid out upon the accompanying map - which map is hereto attached - and made a part of this act or amendment."

### III - Additional Routes

Only four of the forty-eight states have provisions concerning additional routes. An amendment of the California constitution lists routes which are to be made state highways in addition to those created by the state legislature with the stipulation that they be the most direct and practical route. The Missouri constitution gives the state highway commission power to locate and re-locate state highway routes. The Massachusetts constitution places similar power in the state legislature. In Minnesota the legislature has the power to create additional routes to connect the county seat of a new county and also when 75% of the total mileage of the listed routes has been constructed and permanently improved and if sufficient funds are available for such additional routes.

### IV - New Constitutions

In those state constitutions which have recently been adopted or revised only Missouri includes a provision on highway routing. The revised constitutions of New Jersey, Georgia and New York do not make any reference to routing.

April 2, 1948

CONSTITUTIONAL HIGHWAY FUNDS AND REVENUES

I. Establishment of Highway Funds:

Twenty-two state constitutions have no provisions on highway funds and dedicated revenues, while among the remaining twenty-six a variety of provisions appear. Of these twenty-six, nine create a separate and distinct highway fund; two, Wisconsin and Wyoming, merely state that the state legislature may appropriate funds from the treasury for highway purposes; and the remaining fifteen make no mention of a highway fund directly.

II. Dedicated Revenues:

Twenty-two states have dedicated revenues for highway purposes. Four states having provisions on highway funds but making no mention of dedicated revenues are New York, West Virginia, Wisconsin and Wyoming. All of the twenty-two have motor vehicle tax provisions. However, Florida's tax is not specifically dedicated for highway purposes and Maine specifies that if the motor vehicle tax is imposed in lieu of personal property tax, it is not governed by the limitations on dedicated revenues. Seventeen of these same states have provisions on motor fuel and gasoline taxes dedicated for highway purposes. The three states which have provisions for a motor vehicle tax and not a gasoline tax are Arizona, Iowa and New Mexico. Missouri has, in addition to a motor vehicle tax and gasoline tax dedicated to highway use, a tax on the manufacture, receipt, storage, and distribution of motor vehicles. Pennsylvania added an amendment



November 7, 1945, providing for dedicated revenues from a motor vehicle . and gasoline tax for highway purposes, and allowing the General Assembly to appropriate the excesses remaining from the dedicated revenues to agencies of the state or political subdivisions thereof for safety on public highways and bridges and air navigation facilities.

III. Uses of Dedicated Revenues Established by Constitutions:

The uses of the dedicated revenues are similar in all twenty-two states in specifying that the funds will be used for the construction and maintenance of a state highway system, less the cost of collecting the tax and the administration thereof. Florida puts a further restriction by allowing only 80% of the total dedicated revenues to the State Road Department for construction of state roads and 20% to the Board of County Commissioners of each county on a proportional basis. Sixteen of the twenty-two allow the dedicated revenue to pay the interest and principal on highway bonds. California, however, specifies that not more than 20% of one cent per gallon gasoline tax may be used for re-funding special assessment bonds issued for street and highway purposes. Six states, California, Maine, New Hampshire, Ohio, Oregon and Washington, allow dedicated revenues to be expended for the supervision and policing of traffic on state highways. Oregon also allows dedicated revenues to be used for the development, maintenance, care and use of parks and also for publicizing park developments. West Virginia allows the funds to be used for the operating of span bridges and ferries. Ohio's amendment added in 1947 has an unusual use of dedicated revenues for highway purposes by specifying that the funds may be used for the hospitalization of indigent persons injured in automobile accidents on public highways. Minnesota provides that the legislature may reimburse



the counties for funds they expended on highways prior to 1919 and Missouri allows the use of dedicated revenues to reimburse the various <sup>the</sup> counties and political subdivisions of/state (except incorporated cities) for money expended on roads taken over for state highways.

Only two states, Louisiana and Arizona, indicate by constitutional provision the exact amount of the motor vehicle tax. Arizona states that the tax will be \$4 per \$100 on sixty per cent of the manufacturer's price list the first year with twenty-five per cent reduction each succeeding year. Louisiana specifies the minimum will be \$3.

#### IV. In Lieu Taxation of Motor Vehicles:

Four states, Minnesota, Arizona, Colorado and Florida, state that the motor vehicle tax will be in lieu of personal property tax while one state, Washington, specifies that the tax will not be in lieu of a personal property tax. Minnesota, however, allows the city, borough or village to levy wheelage taxes on automobiles. In this same state company vehicles may be taxed regardless of the fact they are included under gross earning taxes of the company. Colorado does not exempt motor vehicles, trailers or semi-trailers in the process of manufacture or in storage.

Alabama, Florida and Louisiana constitutionally indicate the amount of the gasoline tax. It varies from two cents per gallon in Alabama and Florida to five cents in Louisiana.

#### V. Bonds for Highway Financing:

Only Minnesota puts a yearly limit on the total amount of bonds that can be issued for highway purposes. This limit is ten million dollars.

Eleven states set a total limit on the amount of bonds to be issued

for highway purposes. The amount varies from two million in New Mexico to one hundred million dollars in Pennsylvania. Oregon sets a limit for highway purposes of four per cent assessed valuation of all property in the state. Maine which has a total amount limit of thirty-six million dollars allows the Governor and Council to issue bonds for the state up to one million a year in excess to match federal funds if necessary.

Seven states put a limit on the bonds. It varies from twenty years in Minnesota, Colorado and Louisiana to fifty years in Florida.

Seven states also set a maximum interest rate which varies from three per cent in Florida to 6 per cent in Alabama and California. Few states have provisions on the administrative organization to handle the issuing of bonds. California sets up a Finance Board composed of the Governor, State Controller, State Treasurer, Chairman of State Board of Control and Chairman of the Highway Commission to administer the issuing of bonds. Colorado and Florida set up similar ex-officio boards and Louisiana sets up a State Advisory Board to aid the Board of Liquidation of State Debt in the administering of highway bonds.

Only Minnesota and Louisiana have provisions for deficiencies. Minnesota allows the legislature to increase taxation and to appropriate money to the highway fund to cover deficiencies. Louisiana allows the legislature to appropriate money to cover deficiencies.

## VI. SUMMARY

Of all the states which have provisions on highways Louisiana's constitution has the most extensive ones. The constitution defines "motor vehicles" and even establishes penalties for failure to pay the taxes. Most states provide for these by statute. The Model State Constitution prepared by The Committee on State Government of the National Municipal League has no provisions on highways or highway funds. Those states which have provisions on highway finances have found that they have had to amend their constitutions to raise the debt limit, to set new limits on debt maturity or to change interest rates.

CONSTITUTIONAL COMMISSION OF MINNESOTA  
ROOM 236 State Capitol  
St. Paul 1, Minnesota

BANKS AND CORPORATIONS  
COMMITTEE REPORT NO. 1

JUNE 11, 1948

REPORT ON THE REVISION OF THE SECTIONS PERTAINING TO BANKS AND CORPORATIONS OF  
THE MINNESOTA STATE CONSTITUTION BY THE COMMITTEE ON BANKS AND CORPORATIONS OF  
THE MINNESOTA CONSTITUTIONAL COMMISSION

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To this committee there were assigned those parts of the constitution relating to banks and corporations: Sec. 35 of Article IV, Section 13 of Article IX and all of Article X. This report is the presentation that will be made to the full commission. The committee is recommending the deletion of all of the sections assigned to it with the exception of one section relating to banking laws.

GENERAL COMMENT:

The principal change recommended by the committee is the removal of the constitutional provision requiring double liability for state bank stockholders. With the exception of the section on general authority to enact banking laws, the committee is recommending the elimination of the balance of those sections assigned to it for the reason that the material is either obsolete, covered by other constitutional provisions or more properly the subject of legislation.

Attached hereto are a draft and a bibliography of supporting and explanatory documents. The draft sets forth in detail the sections of the constitution considered by this committee and the amendments or deletions recommended. The bibliography sets forth the letters, reports and other material considered by the committee and the names of persons appearing before the committee.

The above changes are being submitted by the Committee on Banks and Corporations to the full commission for consideration and final action.



The committee has been asked to state that the commission will welcome written comments from public officials and citizens upon 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. 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 28, 1948.

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

#### COMMITTEE ON BANKS AND CORPORATIONS

Rep. Robert J. Sheran, Chairman

Sen. M. C. Lightner

Rep. Stanley W. Holmquist

Mr. George W. Lawson

Mr. John S. Pillsbury, Jr.

Mr. George E. Buscher



TENTATIVE DRAFT OF PROPOSED SECTION 13 OF ARTICLE IX OF MINNESOTA STATE CON-  
STITUTION, TOGETHER WITH RECOMMENDATIONS CONCERNING CERTAIN SECTIONS OF ARTICLES  
IV AND X

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

Article IV

Sec. 35. (~~Against Combinations or Pools to Affect Markets~~)

~~Any combinations of persons, either as individuals or as members or officers of  
any corporation, to monopolize the markets for food products in this State, or  
to interfere with, or restrict the freedom of, such markets, is hereby declared  
to be a criminal conspiracy, and shall be punished in such manner as the legis-  
lature may provide.~~

Comment:

The committee is recommending the elimination  
of this section. This section was adopted as an amend-  
ment to the constitution in 1888 before the enactment  
of the federal anti-trust act. The committee believes  
that this subject is one that could more properly be  
left to the legislature as is the penalty section of the  
present constitutional prohibition. As a matter of fact,  
the substance of this section has been enacted into law  
as Section 623.19 of Minnesota Statutes.

Article IX

Sec. 13 (General Banking Law; Provision and Restrictions)

The legislature may pass (~~by a two-thirds vote, a~~) general banking laws.  
~~with the following restrictions and requirements, viz.~~

~~First---The legislature shall have no power to pass any law sanctioning in  
any manner, directly, or indirectly, the suspension of specie payments by any  
person, association or corporation issuing bank notes of any description.~~

~~Second---The legislature shall provide by law for the registry of all bills  
or notes issued or put in circulation as money, and shall require ample security  
in United States stock or State stocks for the redemption of the same in specie;  
and in case of a depreciation of said stocks, or any part thereof, to the amount~~

of ten percent or more on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by additional stocks.

Third---The stockholders in any corporation and joint association for banking purposes, issuing bank notes, shall be individually liable in any amount equal to double the amount of stock owned by them for all the debts of such corporation or association, and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Fourth---In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Fifth---Any general banking law which may be passed in accordance with this Article shall provide for recording the names of all stockholders in such corporation, the amount of stock held by each, the time of transfer, and to whom transferred.

Comment:

The committee recognizes that this section, in the form recommended by it, will be merely declaratory of inherent power already vested in the legislature and that in general the constitution of Minnesota does not contain declaratory provisions. However, the committee did not deem it wise to assume the responsibility of completely deleting any provision relating to banking, but felt that this was more properly a question of policy to be determined by the Commission, as a whole or by the Legislative Committee of the Commission, and it accordingly, has referred its discussion of this question to the Legislative Committee.

Much of this section of the constitution as it now stands became obsolete at the time of the Civil War with the establishment of national banks and the enactment of a federal tax of ten per cent on all state bank notes. The second paragraph of the present section on the suspension of specie payments is no longer effective. The government has suspended all gold payments. The third, fourth and fifth paragraphs apply to the issuance of state bank notes, notes that went out of circulation over eighty years ago.

The sixth paragraph requiring the recording of names of all stockholders of bank stock could well be left to statute, the committee believes.

## ARTICLE X

Sec. 1. -- (Corporation for General Purposes) -- The term "Corporation" as used in this article, shall be construed to include all associations and joint stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges and all corporations shall have the right to sue, and shall be liable to be sued in all courts, in like manner as natural persons.

### Comment:

The committee did not consider it appropriate to extend the length of the constitution by the inclusion of such a well accepted legal concept as "corporation".

## ARTICLE X

Sec. 2. -- (Not to be Created by Special Act) -- No corporation shall be formed under special acts, except for municipal purposes.

### Comment:

The prohibition on the establishment of corporations by special act of the legislature is a duplication that is thoroughly covered in Section 33 of Article IV.

## ARTICLE X

Sec. 3. -- (Liability of Stockholders) -- The legislature shall have power from time to time to provide for, limit and otherwise regulate the liability of stockholders or members of corporations and co-operative corporations or associations, however organized. -- Provided every stockholder in a banking or trust corporation or association shall be individually liable in an amount equal to the amount of stock owned by him for all debts of such corporation contracted prior to any transfer of such stock and such individual liability shall continue for one year after any transfer of such stock and the entry thereof on the books of the corporation or association.



Comment:

The committee believes the first sentence is superfluous. The power which appears to be granted by this section is actually vested in the legislature unless limited or qualified by constitutional provisions.

That part of this section referring to the double liability of state bank stockholders is recommended for elimination. Minnesota and Illinois are the only states that now impose double liability on stockholders of state banks by constitution. The depositors of most state banks are adequately protected by insurance under FDIC. Testimony before this committee has shown that this requirement discourages the building up of an adequate financial structure for state banks. Because of the requirements of double liability individuals interested in establishing banks choose national bank charters that impose only single liability rather than the charter granted by the state that imposes double liability. Over the years the collectibility of the liability imposed has been low.

ARTICLE X

~~Sec. 4. (Lands-May-Be-Taken-for-Public-Use) Lands-may-be-taken-for-public-way,-for-the-purpose-of-granting-to-any-corporation-the-franchise-of-way-for-public-use,-in-all-cases,-however,-a-fair-and-equitable-compensation-shall-be-paid-for-such-land,-and-the-damages-arising-from-the-taking-of-the-same,-but all-corporations-being-common-carriers-enjoying-the-right-of-way-in-pursuance of-the-provisions-of-this-section,-shall-be-bound-to-carry-the-mineral,-agricultural-and-other-productions-of-manufacturers-on-equal-and-reasonable-terms.~~

Comment:

The protection to the individual property owner set forth in this section is adequately covered in Section 13 of Article I of the present constitution. Its inclusion here would be a duplication.

As inserted in the original constitution this section apparently was intended to relate only to railroads. The committee is satisfied that a general statement granting to the state the power of eminent domain for the purpose of securing for a public utility a right of way is not necessary inasmuch as this is an inherent power of the state.



I. LETTERS, REPORTS AND OTHER MATERIAL CONSIDERED BY THE COMMITTEE ON BANKS AND CORPORATIONS

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Nov. 5, 1947 Letter from Stanley V. Kinyon, Law School  
University of Minnesota, discussing Section  
13 of Article 9.

Dec. 3, 1947 Copy of letter from D. O. Saunders, Superinten-  
dent of Banks, Phoenix, Arizona, to Thos. B.  
Patton, Secretary, Committee on State Legisla-  
tion, American Bankers Association, N.Y. dis-  
cussing the effects of Arizona's statutory double  
liability law.

Dec. 1947 Statement from Ben DuBois, Secretary of the In-  
dependent Bankers Association in support of a  
proposal to prohibit branch banking constitution-  
ally.

Dec. 1947. Letter from F. A. Amundson, Commissioner of Banks  
of the State of Minnesota, discussing provisions of  
Articles 9 and 10 of the state constitution as those  
articles relate to banking.

Jan. 21, 1948 Letter from J. C. Thompson, president of Northwest  
Bancorporation, discussing branch banking.

Jan. 22, 1948 Letter from A. H. Kennedy, president of the First  
Bank Stock Corporation, discussing branch banking.

Feb. 3, 1948 Letter From J. W. Stehman, Professor of Economics  
and Finance, University of Minnesota, discussing  
Section 13 of Article 9, Section 3 of Article 10  
and branch banking.

Feb. 13, 1948 Letter from Thomas B. Patton, Assistant General  
Counsel of American Bankers Association, commenting  
on Section 13 of Article 9 and Section 3 of Article  
10.

Mar. 6, 1948 Letter from J. S. Coleman, commenting on Article 10  
and Section 35 of Article 4.

Mar. 8, 1948 Letter from Harvey Hoshour, St. Paul, Minnesota,  
discussing Section 35 of Article 4 and Article 10.

Oregon Constitution, Article 11, Sec. 3, Amendment  
adopted Dec. 7, 1944, eliminating double liability

Henry V. Raboin, 69 N.E. (2nd) 491, stockholders  
constitutionally superadded liability

Eugene C. Zorn, School of Business, Columbia  
University of New York-excerpt from Thesis -  
"The Regulation of Capital of Commercial Banks".

## II. APPEARANCES BEFORE THE COMMITTEE

Mr. F. A. Amundson, Commissioner of Banks of the State of Minnesota

Mr. Ben DuBois, Secretary of the Independent Bankers Association

Professor Stanley V. Kinyon, Law School, University of Minnesota

Mr. Robert E. Pye, Secretary of the Minnesota Bankers Association

Professor J. W. Stehman, School of Business Administration, University of Minnesota.

CONSTITUTIONAL COMMISSION OF MINNESOTA  
236 State Capitol  
St. Paul 1

Judiciary Committee Report #2

FINAL REPORT ON REVISION  
of  
JUDICIARY ARTICLE OF MINNESOTA STATE CONSTITUTION  
by

Judiciary Committee of Minnesota  
Constitutional Commission

June 19, 1948

The 1947 session of the legislature created the Minnesota Constitutional Commission and charged it with a duty of recommending what amendments, if any, should be made to our State Constitution in the interest of the public welfare.

One of the committees created by the Commission was the undersigned Judiciary Committee which was given the task of making a study of the Bill of Rights (Article I) and of the Judiciary Article (Article VI) of our Constitution.

The Judiciary Committee herewith submits its final recommendations for the amendment of Article VI in the form of specific constitutional provisions. Prior to the formulation of these final recommendations, a state-wide discussion, based on an earlier draft in tentative form, was carried on among members of the bench and bar throughout the State. In other words, the proposed amendment of Article VI is the product of thorough discussion and careful thought.

The salient features of the proposed amendment for the improvement of our judicial system may be summarized as follows:

1. Courts established by constitutional provision or which may be created by law:
  - (a) A supreme court, a district court, and a probate court are established.
  - (b) Other courts with jurisdiction inferior to the supreme and district courts may be created by law.
  - (c) Special provision made for juvenile court work.
2. Justice of the peace courts no longer required by constitutional mandate.
3. Provision for administrative council to consist of the chief justice and certain representatives from other courts, the legal profession, and the public. This council will formulate policies for the efficient administration of the court system.
4. Provision for retirement of all supreme, district, and probate court judges at the age of 70 years.
5. Judges to be elected for term of six years.
6. A modified plan for the retention of supreme court justices may be authorized by the legislature.
7. Probate court provisions:
  - (a) Unlimited jurisdiction in law and equity for administration of estates, etc.
  - (b) Trust estate jurisdiction may be conferred by law.
  - (c) Jurisdiction for determination of taxes contingent upon death may be conferred by law.
  - (d) Each county made a probate court district unless otherwise provided by law.
8. District court clerks to be elected.



9. Supreme court clerk and state law librarian to be appointed by the court.

10. All supreme, district and probate judges must be learned in the law. Qualifications of other judges to be prescribed by the legislature. Incumbent probate judges recognized as learned in the law.

11. Judges of the supreme and district courts may not hold any other office.

Judiciary Committee

Senator A. R. Johanson

Senator Ancher Nelsen

Rep. Robert Sheran

Rep. Joseph Prifrel, Jr.

Donald D. Harries

Ludwig I. Roe

William D. Gunn,  
Secretary

Leroy E. Matson,  
Chairman

Maynard E. Pirsig,  
Committee Consultant

FINAL DRAFT OF PROPOSED AMENDMENT  
OF ARTICLE VI OF THE CONSTITUTION  
OF MINNESOTA

SECTION 1.

The judicial power of the state is hereby vested in a supreme court, a district court, a probate court, and such other courts, minor judicial officers and commissioners with jurisdiction inferior to the supreme court and the district court as the legislature may establish.

SECTION 2.

The supreme court shall consist of one chief justice and six associate justices. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in said court.

Subject to rules of the administrative council, a judge of the district court may be assigned temporarily to act as a justice of the supreme court upon its request.

The supreme court shall appoint, to serve at its pleasure, a clerk, a reporter, a state law librarian, and such other employees as it may deem necessary.

SECTION 3.

The number and boundaries of judicial districts shall be established or changed in the manner provided by law, but the office of a district judge may not be vacated during his term. There shall be one or more judges in each district. A district judge shall, at the time of his selection, be a resident of the district for which he is selected, and shall reside therein during his continuance in office.

#### SECTION 4.

There shall be elected in each county one clerk of the district court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be six years.

#### SECTION 5.

The district court shall have original jurisdiction in all civil and criminal cases, and shall have such appellate jurisdiction as may be prescribed by law.

#### SECTION 6.

The probate court shall have unlimited jurisdiction in law and equity for the administration of the estates of deceased persons and all guardianship and incompetency proceedings. Jurisdiction over the administration of trust estates and for the determination of taxes contingent upon death may be conferred by law. Until otherwise provided by law, each county shall constitute a probate court district and there shall be one or more probate judges in each district. Each judge of the probate court in any district shall be a resident of such district at the time of his selection and during his continuance in office.

#### SECTION 7.

Justices of the supreme court and judges of the district and probate court shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all justices and judges, which shall not be diminished during their term of office, shall be prescribed by law, and they shall receive no other fee or reward for their services except that the legislature may authorize judges of the probate court to retain fees for certified copies of instruments.

#### SECTION 8.

The term of office of all supreme court justices and all judges shall be six years and until their successors are qualified, and they shall be elected by the electors of the state, district, county, municipality, or other territory wherein they are to serve. Where more than one position on the same court is to be filled at an election, and an incumbent is a candidate to succeed himself, each candidate shall specify and the official ballot shall show, the position for which he is a candidate.

#### SECTION 9.

The legislature may, in partial modification of Section 8, provide that a vacancy in the office of justice of the supreme court shall be filled by appointment by the governor from a list of three persons nominated by a nonpartisan judicial commission created by law. A person so appointed shall serve until his successor is elected for a six-year term at the first general election held more than one year after the occurrence of the vacancy. When a justice once has been elected and is a candidate for re-election the vote shall be on the question whether he shall be continued in office.

#### SECTION 10.

When a justice or judge attains the age of 67 years during his term of office for which elected, such term is hereby extended until the date of his compulsory retirement under section 12.

#### SECTION 11.

Justices of the supreme court and judges of the district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the United States and shall not hold any other office under this state. The term of office of any such



justice or judge shall terminate at the time he files as a candidate for an elective office of the United States or for a non-judicial office of this state.

#### SECTION 12.

Supreme court justices, district and probate court judges shall be retired upon reaching the age of seventy years. When the administrative council certifies to the governor that it appears that any such justice or judge is so incapacitated as substantially to prevent him from performing his judicial duties, the governor shall appoint a commission of three persons to inquire into the circumstances; and on their recommendation the governor may retire such justice or judge from office. Retirement allowances for a justice or judge retiring hereunder who has held judicial office continually for ten or more years immediately preceding his retirement shall be provided by law.

#### SECTION 13.

If the office of a justice or judge becomes vacant, except as otherwise provided by section 9, the governor shall appoint a qualified person to fill the vacancy to hold office until his successor is elected and qualified. This successor shall be elected at the first general election held more than one year after the occurrence of the vacancy and his term of office shall be six years and until his successor is qualified.

#### SECTION 14.

The legislature shall establish an administrative council which shall consist of the chief justice of the supreme court as chairman, and representatives of the other courts in which the judicial power of the state is vested, the legal profession, and the public. It shall formulate

policies for the efficient administration of the court system of the state and cause such policies to be executed by its chairman. No action shall be taken hereunder which interferes with the exercise of the judicial functions of a judge in any case or proceeding.

#### SECTION 15.

The legislature may confer jurisdiction over cases and proceedings relating to the care or welfare of minors upon any court inferior to the supreme court.

#### SECTION 16.

##### SCHEDULE

(a) All justices of the peace shall continue in office each for the remainder of his term which remains unexpired at the time this Article goes into effect.

(b) All probate judges in office at the time this Article takes effect shall be deemed learned in the law for the purpose of continuance in, and re-election to, that office.

(c) The provisions of section 12 shall not apply to any supreme court justice or judge in office at the time this Article takes effect for the term for which he has been elected or for terms for which he may thereafter be elected.

(d) All municipal courts in existence at the time this article takes effect shall continue in existence until otherwise provided by law.

(e) Salary schedules, in effect when this Article is adopted, for the compensation of judges, court commissioners, clerks of court, and other court employees, shall remain in effect until otherwise provided by law.

(f) Statutory provisions fixing the retirement compensation of judges, in effect when this Article is adopted, shall remain in effect until otherwise provided by law.

(g) The office of court commissioner in any county at the time this Article takes effect shall continue in existence until otherwise provided by law.



PRELIMINARY REPORT ON REVISION  
of  
JUDICIARY ARTICLE OF MINNESOTA STATE CONSTITUTION

by  
Judiciary Committee of Minnesota  
Constitutional Commission

March 20, 1948

During the 1947 session, the legislature of this state created the Minnesota Constitutional Commission and charged it with the following duties:

"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."

One of the committees created by the Commission was the undersigned Judiciary Committee which was given the responsibility of preparing a draft of Article VI of our Constitution. This is the article that provides for the judicial system of this state. In the following pages is set forth a tentative draft of this article as prepared by the committee. Although this draft does not represent the final judgment of the Committee, it is now submitted in order to provide a basis for obtaining suggestions from members of the Minnesota Bench and Bar and from other persons who are interested.

Not since 1857, when our Constitution was adopted, have Minnesota citizens been given a more favorable opportunity for improving the administration of justice.

The proposed revision presents no arbitrary or revolutionary changes. Your Committee has endeavored to provide an evolutionary plan of sufficient elas-



ticity to allow, in the light of practical experience, for gradual changes through legislative action. Care, however, has been taken to preserve the independence of the judiciary as one of the three coordinate branches of our government.

The Committee members express to Judge Maynard E. Pirsig their sincere thanks for his assistance as committee consultant. We are also grateful to Mr. William B. Henderson, Revisor of Statutes, and Mr. Duncan L. Kennedy, his assistant, for their cooperation and suggestions.

In June, the Judiciary Committee must submit its final recommendations to the Constitutional Commission as a whole. Although the time is short, it is the desire of Committee members to obtain suggestions from all persons interested. Your suggestions for the improvement of the tentative draft, both as to substance and wording, should be sent at the earliest possible moment - and not later than May 15, 1948 - to the Judiciary Committee chairman, Leroy E. Matson, State Supreme Court, 219 State Capitol, St. Paul 1, Minnesota. Any member of the Committee will be glad to receive your suggestions.

Judiciary Committee

Senator A. R. Johanson

Senator Ancher Nelsen

Rep. Robert Sheran

Rep. Joseph Prifrel, Jr.

Donald D. Harries

Ludwig I. Roe

William D. Gunn,  
Secretary

Leroy E. Matson,  
Chairman

Judge Maynard E. Pirsig,  
Committee Consultant

TENTATIVE DRAFT OF PROPOSED AMENDMENT OF  
ARTICLE VI OF MINNESOTA STATE CONSTITUTION<sup>1</sup>

This draft is strictly tentative and does not represent the final recommendations of the Judiciary Committee of the State Constitutional Commission. Although it is not in final form, it represents substantially the conclusions of the Committee at this time. The present draft is now submitted as a basis for obtaining suggestions from members of the Minnesota Bench and Bar and other interested persons. The annotations or comments accompanying this draft have been prepared by Judge Maynard E. Pirsig.

Introductory Comment:

Several general characteristics of the Committee's draft may be noted:

- (1) It provides a more coordinated and interrelated judicial branch of government, with means provided by which the responsibility of the courts for effective and efficient administration of justice can be better met.
- (2) Most of the major changes incorporated depend upon legislative action which can be adapted and changed as experience indicates.
- (3) The present judicial system is retained in practically all its aspects.
- (4) Obsolete material has been eliminated and what remains has been more carefully stated.
- (5) Practically all of the changes incorporated or authorized are in actual operation in one or more of the other states or in the federal judicial system.

SECTION 1.

The judicial power of the state is hereby vested in the supreme court, a district court, a court of probate, magistrates subject to section 8, and such other courts inferior to the supreme court as the legislature may establish.

Comment:

In providing for "a court of probate" instead of "courts of probate", this section follows the example of the district court of the state and the spirit of the decision in 188 Minn. 408.

1. A copy of this draft will be found in the April issue of the Minnesota Law Review.

This section does not, as do the present provisions, require a two-thirds vote of the legislature to create new courts. Such a restriction seems unnecessary today.

## SECTION 2.

The supreme court shall consist of a chief justice and not less than six nor more than ten associate justices as provided by law. It shall have appellate jurisdiction in all cases and such original jurisdiction as is provided by law. Except as limited by law, the court may sit in divisions of three or more members in any civil case where the amount in controversy does not exceed \$1,000, exclusive of interest and costs.

After public notice and opportunity for hearing thereon, it may prescribe rules of practice, procedure, and evidence for all courts, which rules may not change any substantive right. It may delegate to other courts appropriate rule-making power as to the practice and procedure therein.

(The Committee is in doubt whether the rule-making power conferred upon the court should apply to evidence, and desires the reaction of the Bench and Bar and others interested.)

If the chief justice is unable to serve or there is a vacancy in the office, the duties of the office shall be discharged by the associate justice senior in service, or if senior associate justices are equal in length of service then by the elder.

The supreme court shall appoint, to serve at its pleasure, a clerk, a reporter, the librarian of the state law library which shall be under the jurisdiction of the court, and such other employees as it may deem necessary.

### Comment:

The variable number of justices permits adjustment to the long term trends of business of the court. Temporary needs could be met under Section 15 by assignment from the district court.

Original jurisdiction of the court is not limited to the extraordinary writs but would depend upon legislative action. The technical problem of distinguishing between appellate and original jurisdiction would be eliminated. Little original jurisdiction is to be contemplated since the court would continue to be essentially a reviewing court of last resort.



The right to sit in divisions exists in several states. The legislature could provide under what conditions a full bench should be required to sit in cases under \$1,000 in amount.

The law library would be removed from the anomalous position it is in under the present provisions.

### SECTION 3.

The district court shall be divided into districts with one or more judges in each district. Except as otherwise provided by law, the number and boundaries thereof may be changed by the supreme court as convenience and the efficient administration of justice require, but the office of a judge of the district court may not be vacated during his term. Each judge shall exercise all the powers of the district court. Any person selected as a judge of the district court in any district shall be a resident of such district at the time of selection and shall remain a resident thereof during his continuance as such judge. The district court in each district shall appoint a clerk of the district court for each county of the district to serve at its pleasure. His duties shall be prescribed by law, or, subject thereto, by the supreme court under rules of general application. His compensation shall be fixed by law.

#### Comment:

The number and boundaries of judicial districts involves primarily a problem of the efficient distribution of the judicial business of the state. What changes, if any, should be made in any particular district seems more a question for the courts than for a legislative body. In practical operation no change would be made in the present districts until the wishes of the local bar and the judges affected and others interested had been submitted.

The function of clerks of court are essentially clerical and recording in nature. Few, if any, questions of public policy are involved. At the same time, what they do may aid or impede the functioning of the courts to a very substantial degree. Appointment by the court rather than election is thus indicated.

### SECTION 4.

The district court shall have original jurisdiction in all civil and criminal cases, and shall have appellate jurisdiction as may be prescribed by law.



The legislature may limit the exercise of this jurisdiction to the extent that like jurisdiction is conferred upon any other court by this constitution or by law.

Comment:

The last sentence allows greater flexibility in avoiding overlapping functions of the court, as, for example, between a district and a municipal court. Otherwise this section introduces little change.

SECTION 5.

A majority of the judges in any district having three or more judges may provide that the court shall sit in divisions consisting of one or more judges for the performance of designated classes of judicial business.

Comment:

If the judges in the larger counties think they can carry out their judicial duties better by functioning in divisions, this section would permit them to do so. They might create divisions for juvenile cases, for criminal cases, for domestic relations cases, for mechanic's liens cases, etc.

SECTION 6.

The legislature may provide for the appointment and compensation of a court commissioner in any county, the appointment to be made by the district court of the district in which the county is located. The court commissioner shall serve at the pleasure of the district court and shall have the jurisdiction and powers prescribed by the court, which shall never exceed the jurisdiction and powers of a judge of the district court at chambers. A judge of a court of probate, with his consent, may be appointed court commissioner.

Comment:

The court commissioner, exercising some of the functions of the district court but being no part of it, is an anomaly for which little explanation has been found. The proposed section makes him an officer of the court in which capacity he will serve a very useful function.

SECTION 7.

(a) The probate court shall have one or more judges in each county. It shall have jurisdiction of the administration of the estates of deceased persons,

and all guardianship and incompetency proceedings. For the complete determination of all matters and controversies relating thereto, it shall have such additional jurisdiction, including trial by jury, as may be prescribed by law. Jurisdiction over the administration of trust estates and for the determination of taxes contingent upon death may be conferred by law.

(b) Each judge of the court of probate in any county shall be a resident of such county at the time of his selection and during his continuance in office.

(c) The judge or judges of the court of probate of any county shall select the clerk of the court of probate for such county to serve at the court's pleasure and under its direction. His powers and duties shall be prescribed by law, or, subject thereto, by the supreme court under rules of general application. His compensation shall be fixed by law.

(d) The legislature may provide, without vacating the office of any judge, that in any county containing a city of more than 100,000 population as determined by the United States Census the district court for such county shall have the jurisdiction, exercise the powers, and perform the duties conferred upon the court of probate for such county by this section.

(The Committee is in doubt whether subdivision (d) of section 7 should be included or whether it should be extended to all counties. Again the reaction of the Bench and Bar to this provision is desired.)

Comment:

The probate court is the one court in this state that exists in every county and is continuously functioning. The proposed revision of the Committee undertakes to develop this court into one of greater importance, prestige, and usefulness, and to enable it to be used for types of cases best dealt with on a local level and by a judge who devotes his time and talents to their proper disposition.

The jurisdiction conferred by the constitution itself is not changed but the legislature is authorized to add to this other powers which the court does not now have. Under subdivision (a) of Section 7, collateral civil jurisdiction may be conferred to enable the court to make a complete disposition of all the issues that arise in litigation before it. This would include such matters as settlement of claims against estates and administration of trust estates.

Section 8 permits the legislature to give probate courts jurisdiction in minor civil and criminal cases either in place of or along with magistrates. Such jurisdiction is conferred on probate courts in numerous other states.

Under Section 16, the probate court may be used, as it now is through the juvenile court act, for cases involving the care and welfare of minors and possibly (see note to the section) for domestic relations cases.

In keeping with the increased importance of these courts, all probate judges are required by Section 10 to be lawyers except those now in office who would be retained under Section 18(c). Section 7 (a) also permits the legislature to provide for more than one judge in any county where more are needed. These changes also make possible the elimination of the wasteful practice of trials de novo. See Section 9.

The extent to which these changes should be made may differ with the different counties. This would be particularly true as between the large urban centers and the rural counties. The proposed revision does not require that the changes made apply alike to all counties.

Under Section 7, subdivision (d) the question raised is whether, with both the district court and probate court in continuous operation in the large counties, the legislature should not be permitted to consider whether it might not be more economical and efficient to permit the two to function as one court. If this were done, no doubt a division of the district court dealing with probate matters would be created under Section 5.

#### SECTION 8.

(a) One magistrate or more shall be selected for each county as provided by law. Magistrates shall have such jurisdiction as is provided by law, but such jurisdiction shall not extend to civil cases where the amount in controversy exceeds \$500, cases of unlawful detainer, and criminal cases where the punishment for the offense may exceed 90 days in jail or a fine of \$100. Magistrates shall not be deemed judges as that term is used in this article.

(b) In lieu of magistrates or in addition thereto, the legislature may provide that such jurisdiction shall be exercised:

(1) By the probate court of the county or,

(2) If the powers, duties and jurisdiction of the probate court of the county are exercised by the district court under the provision of section 7(d) of this article, by a county court created by law with jurisdiction corresponding to that of a magistrate, or,



(3) By a municipal court of a municipality within the county in which a majority of the inhabitants of the county are resident as determined by the United States Census.

In the exercise of jurisdiction so conferred, such probate, county, or municipal court may sit in any convenient place in the county.

Comment:

At the present time, with a few exceptions, the justice of the peace and the fee paid municipal court judges, neither of whom need be legally trained, have provided the principal tribunals for the disposition of small civil and criminal cases. They alone have been the poor man's courts. The abuses of this system have been notorious and spring from the fact that the justice of the peace and the municipal court judge need not have any knowledge of law and that their compensation is dependent upon fees paid only when cases are brought before them. The unscrupulous constable or claimant brings his cases only before those who will decide in his favor. The remedy is to require the justice or judge to be legally trained and to remove the fee as a basis of compensation. (See Section 10.)

Changes in other states have followed two lines. The substitution of magistrates on a salary basis has been one remedy. The other has been to set up local courts on a county level. The proposed section 8 requires the use of magistrates but authorizes the legislature to substitute or add a county court, using for this purpose the probate court, a municipal court of a municipality containing most of the population of the county or a new court set up for the purpose. Precedents for what the Committee proposes or variants thereof may be found in a number of states including Missouri, New Jersey, Wisconsin, Indiana, New York, Massachusetts, and others.

An objection sometimes voiced against county courts of this character is that they are too far distant from the local community in which the litigation arises. Section 8 avoids this difficulty by permitting the court to sit in any convenient place in the county and by authorizing magistrates to be created in addition to the court itself.

SECTION 9.

The legislature may provide for an appeal from any probate court, or other court of limited jurisdiction, to the district court or to an appellate division thereof, or to the supreme court. There shall be no trial de novo upon such appeal except as provided by law in special cases.

Comment:

Trials de novo are productive of delay and wasteful of the public's and litigant's money. It exists because of distrust



of the inferior court judge. With the provisions that the judges of these courts shall be lawyers and paid by salary, (See Section 10) the elimination of the double trial becomes feasible.

A simple method of review of legal questions passed on by the lower courts should be provided. The use of the district court for this purpose is authorized by the section.

#### SECTION 10.

Judges and magistrates shall be learned in the law. The legislature shall prescribe their compensation, which shall not be diminished during their term of office. They shall receive no other fee or reward for their services.

#### SECTION 11.

(a) The term of office of all judges shall be six years, and until their successors are qualified and they shall be elected by the electors of the state, district, county, municipality or other territory wherein they are to serve. Where more than one position on the same court is to be filled at an election, each candidate shall specify, and the official ballot shall show, the position for which he is a candidate.

#### Comment:

The method of selection provided in the second sentence has been in successful operation in Ohio. Where several incumbents are running for re-election, each should stand or fall on the basis of his own record. The present system does not permit this since opposing candidates run against the field.

(b) In lieu of the foregoing provisions for the election of judges, the legislature may provide that the chief justice and the associate justices of the supreme court, and any judge of the district court or of any other court shall be appointed by the governor. Any such appointment shall be made from a list of three persons qualified for the position nominated by a nonpartisan judicial commission as provided by law, and shall be for a term of six years and until his successor is qualified. If a judge is a candidate for re-election hereunder, his name shall be placed on the official ballot without any opposing candidates, the question being only "Shall he be retained in office?"

Comment:

While judges in this state are now elected, the usual practice has been that judges first ascend the bench by appointment by the governor on a vacancy occurring. The voters, with some exceptions, have on succeeding elections returned the judge to the bench.

This subdivision authorizes the legislature to put this practice on a formal legal basis with the provision added that the governor shall make his appointment from recommendations received from a nonpartisan commission. This method of selection has been in operation in Missouri since 1941. The electorate there has twice approved it, once by adopting it as a constitutional amendment and again by refusing to repeal it. It is also in operation in California in modified form. It is the method of selection recommended by the American Bar Association. For a description of the plan and its successful operation in Missouri, see article by Justice Douglas of the Missouri Supreme Court entitled, "'Missouri Plan' Works Well in Actual Results" in 33 Am. Bar Assn. Jr. 1169 (1947).

(c) When a judge attains the age of 67 years during his term of office for which selected, such term is hereby extended until the date of his compulsory retirement under section 13.

SECTION 12.

Judges of the supreme court and the district court shall hold no office under the United States nor any other office under this state. The term of office of any judge of either of said courts who files as a candidate for an elective office of the Federal government, or for a nonjudicial office under this constitution, shall thereupon immediately terminate.

SECTION 13.

A justice, judge or magistrate shall be retired upon attaining the age of 70 years. When the supreme court certifies to the governor that it appears that any judge is so incapacitated as substantially to prevent him from performing his judicial duties, the governor shall appoint a commission of three persons to inquire into the circumstances; and, on their recommendation, the governor may retire the judge from office. Retirement allowances for a judge or justice retired hereunder who has held judicial office continuously for ten or more years immediately preceding

his retirement shall be provided by law.

Comment:

The source of this section is the recent constitution adopted in New Jersey. See its judiciary article, Section VI, subd. 3 and 5. New York also has a compulsory retirement age of 70 years. This age is also the most commonly accepted one in voluntary retirement plans.

SECTION 14.

If the office of a judge becomes vacant, the governor shall appoint some qualified person to fill such vacancy, who shall hold office until his successor is elected and qualified. Such successor shall be elected at the first election occurring more than one year after the vacancy occurred for a term of six years and until his successor is qualified. If the legislature provides for the appointment of such judge in the manner prescribed in section 11, subdivision (b), this section shall be inoperative.

Comment:

This section increases the spread between appointment and the appointee's subsequent candidacy for election from 30 days to one year. The 30-day period has proved too short. Complications arise when a vacancy occurs after the primary election but more than 30 days prior to the final election. In addition, the short period does not give sufficient time to enable observation of the competence developed by the appointee prior to the election.

The provision that the election shall be for the full term of office incorporates the judicial interpretation given to the present provisions. See, *Enger v. Holm*, 213 Minn. 154, 6 N. W. (2d) 101.

SECTION 15.

The chief justice shall be the administrative head of all the courts. He shall appoint an administrative director to serve at his pleasure. He may temporarily assign a judge of the district court to a district other than his own or a judge of the court of probate to a county other than his own as need and the public interest require. He may temporarily assign a judge of the district court to act as a justice of the supreme court when necessary. When a majority or all of the justices of the supreme court are disqualified from sitting in any case the



governor shall assign judges of the district court to sit in such case instead of the disqualified justices, unless the governor be interested in the result of such case, and in that event the lieutenant governor shall assign such judges. Any judge assigned as provided in this section shall have all the powers and perform all the duties of a judge of the district, county or court to which he is assigned. No action shall be taken hereunder which interferes with the exercise of the judicial functions of a judge in any case or proceeding.

Comment:

Recent developments have been in the direction of providing better coordination of the various parts of the judicial system. Rule-making power in the field of procedure, now in force in most states including Minnesota and in the Federal system, is one example. See, Section 2. Administrative responsibility in the highest court and its head is another and is illustrated by the administrative director of the United States courts acting under the supervision of the Conference of Senior Circuit Court Judges with the Chief Justice of the U. S. Supreme Court as its chairman. See, U. S. Code, Tit. 28, Chap. 13 A. A number of states provide for temporary assignment of judges who are idle for the moment to serve in another county, district or court where the judges for the time being are overloaded with work. Leading examples are California, Michigan, New York and New Jersey. The first two sentences of the proposed section appear in Section VII of the judiciary article of the New Jersey constitution recently adopted. For text of the New Jersey article see 31. Jr. of Am. Judicature Soc. 142 (1948). See, also English, New Jersey Reorganizes Its Judicial System, 34 Am. Bar. Assn. Jr. 11 (1948)

SECTION 16.

The legislature may confer jurisdiction over cases and proceedings relating to domestic relations and the care or welfare of minors upon the courts of probate or the district court of any county or upon a court created for such purposes.

(The Committee is in doubt whether this section should include cases pertaining to domestic relations. Again the reaction of all interested parties is desired.)

SECTION 17.

No judicial action taken by any court shall fail for want of jurisdiction over the subject matter. Any case or proceeding which is not within the jurisdiction



of the court in which it is pending shall on application be transferred to the proper court, or may be so transferred on the court's own motion.

Comment:

Jurisdiction over the subject matter involves the distribution of judicial business among the several courts. Whether a particular case comes within the class of business of the court in which it is commenced is not a question that goes to the merits of the case. Yet the present rules punish a party who mistakenly brings his action in the wrong court by denying all validity to the steps he and the court have taken and nullifying any judgment he may have obtained. The necessities of the problem would seem to require only that the case be transferred to the proper court and that, if no one raises the objection, the resulting judgment should stand.

Some plans of court reorganization have sought to avoid the effect of the present rules by providing for a single court for the state as a whole with divisions thereof to exercise the various judicial functions. The proposed section seems equally effective and does not involve a major change in the organization of the courts we now have.

SECTION 18.

SCHEDULE

(a) All justices of the peace shall constitute magistrates each for the period of his term which remains unexpired at the time this Article goes into effect.

(b) All clerks of court shall constitute clerks of their respective courts each for the period of his term which remains unexpired at the time this Article takes effect.

(c) All probate judges shall constitute probate judges of their respective counties each for the period of his term which remains unexpired at the time this Article takes effect. Thereafter they shall be eligible for re-election or reappointment as the case may be without regard to the provisions of this Article.

(d) All statutes relating to practice, procedure and evidence and in force at the time this Article takes effect shall remain in force as rules of the supreme court subject to the provisions of this Article.

(e) The provisions of section 13 shall not apply to any judge in office at the time this Article takes effect and during his continuance in such office.

(The Committee is in doubt whether the application of subdivision (e) of section 18 should be limited to those incumbents who have reached the age of 60 (or 65) years at the time when this Article is adopted. The reaction of the Bench and Bar is again desired.)

(f) All municipal courts in existence at the time this Article takes effect shall continue in existence until otherwise provided by law. All municipal court judges shall continue in office each for the period of his term which remains unexpired at the time this Article takes effect. They shall be eligible for re-election or reappointment as the case may be without regard to the provisions of this Article.

(g) Salary schedules, in effect when this Article is adopted, for the compensation of judges, court commissioners, clerks of court, and other court employees, shall remain in effect until otherwise provided by law. Any judge, court commissioner, or clerk of court, whose compensation at the time of the adoption of this Article is derived in part from fees, shall continue to receive such fees until July 1 of the year in which the second regular session of the legislature is held subsequent to the adoption of this Article.

(h) Statutory provisions fixing the retirement compensation of judges, in effect when this Article is adopted, shall remain in effect until otherwise provided by law.

(i) All court commissioners in office when this Article is adopted shall continue in office for the remainder of any term for which they have been selected, and if heretofore appointed to serve at the pleasure of any court, they shall continue so to serve until they, or their successors, receive a new appointment hereunder.

FINAL REPORT ON REVISION  
of  
BILL OF RIGHTS OF THE MINNESOTA STATE CONSTITUTION  
by  
Judiciary Committee of Minnesota  
Constitutional Commission

June 29, 1948

The 1947 session of the legislature created the Minnesota Constitutional Commission and charged it with the duty of recommending what amendments, if any, should be made of our State Constitution in the interest of the public welfare.

One of the committees created by the Commission was the undersigned Judiciary Committee which was given the task of making a study of the Bill of Rights (Article I) and of the Judiciary Article (Article VI) of our Constitution. The Judiciary Committee has already submitted its report for the amendment of Article VI, and now presents its recommendations to the Commission for the revision of certain sections of the Bill of Rights. Proposed changes are indicated by words or sentences which are underscored. A comment by way of explanation follows each proposed change.

The committee has been asked to state that 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. Since the commission desires to begin consideration of this and other committee reports at an early date, comments should be received no later than July 23, 1948.

Judiciary Committee

Senator A. R. Johanson

Senator Anchor Nelsen

Rep. Robert J. Sheran

Rep. Joseph Prifrel, Jr.

Donald D. Harries

Ludwig I. Roe

William D. Gunn, Secretary

Leroy E. Matson, Chairman

Maynard E. Pirsig  
Committee Consultant



FINAL DRAFT OF PROPOSED AMENDMENT OF  
BILL OF RIGHTS, ARTICLE I, OF THE  
CONSTITUTION OF MINNESOTA

(Proposed changes are indicated by words or sentences which are underscored)

Sec. 1. OBJECT OF GOVERNMENT. Government is instituted for the security, benefit, and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform such government, whenever the public good may require it.

Sec. 2. RIGHTS AND PRIVILEGES. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the State otherwise than the punishment of crime, whereof the party shall have been duly convicted. The legislature shall make no law abridging the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Comment: The addition of the underscored sentence involves a fundamental American Bill of Rights provision found in the Federal Constitution as well as in practically all other state constitutions.

Sec. 3. LIBERTY OF THE PRESS. The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

Sec. 4. TRIAL BY JURY. In all cases punishable by imprisonment or a fine in excess of \$50.00 including such as may arise under municipal ordinances and in suits at common law where the value in controversy exceeds \$100.00, the right of trial by jury shall be preserved, but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

Comment: The amendment as adopted makes two significant changes:



(1) Under the present constitutional provision a person charged with a violation of a municipal ordinance is not entitled to a jury trial. Under the amendment he is entitled to a jury trial in instances where he may be punished by imprisonment or a fine in excess of \$50.00.

(2) Under the present constitution, a jury trial may be had in all cases at common law regardless of the value in controversy. The amendment limits this right to cases where the value in controversy exceeds \$100.00.

Sec. 5. NO EXCESSIVE BAIL OR UNUSUAL PUNISHMENTS. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

Sec. 6. RIGHTS OF ACCUSED IN CRIMINAL PROSECUTIONS. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense.

Sec. 7. DUE PROCESS; PROSECUTIONS; SECOND JEOPARDY; SELF-INCRIMINATION; BAIL; HABEAS CORPUS. No person shall be held to answer for a criminal offense without due process of law, and no person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended unless when in case of rebellion or invasion the public safety may require.

Sec. 8. REDRESS OF INJURIES OR WRONGS. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformable to the laws.

Sec. 9. TREASON DEFINED. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 10. RIGHT AGAINST UNREASONABLE SEARCHES. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized. Evidence obtained as a result of improper searches and seizures shall not be admissible as evidence in any criminal proceedings involving any person whose rights have been offended by reason thereof.

Comment: Although our present constitution forbids unreasonable searches and seizures, evidence obtained as a result thereof is admissible in criminal proceedings. The amendment is designed to prevent the use of such evidence as against the person whose rights have been violated by reason of the improper search and seizure.

Sec. 11. PROHIBITS EX POST FACTO LAW, OR LAWS IMPAIRING CONTRACTS. No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 12. IMPRISONMENT FOR DEBT; PROPERTY EXEMPTION. No person shall be imprisoned for debt in this state, but this shall not prevent the legislature

from providing for imprisonment, or holding to bail, persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. The amount of such exemption shall be determined by law. Provided, however, that all property so exempted shall be liable to seizure and sale for any debts incurred to any person for work done or materials furnished in the construction, repair or improvement of the same, and provided further, that such liability to seizure and sale shall also extend to all real property for any debt incurred to any laborer or servant for labor or service performed.

Sec. 13. PRIVATE PROPERTY FOR PUBLIC USE. Private property shall not be taken, destroyed or damaged for public use without just compensation therefor, first paid or secured.

Sec. 14. MILITARY POWER SUBORDINATE. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in times of peace.

~~Sec. 15. LANDS DECLARED ALLODIAL; LEASES, WHEN VOID. All lands within the state are declared to be alledial, and feudal tenures of every description with all their incidents, are prohibited. Leases and grants of agricultural lands for a longer period than twenty-one years hereafter made, in which shall be reserved any rent or service of any kind, shall be void.~~

Comment: This section has been stricken out in its entirety. It serves no useful purpose and can be eliminated without adverse effect.

Sec. ~~(16)~~ 15. FREEDOM OF CONSCIENCE; NO PREFERENCE TO BE GIVEN TO ANY RELIGIOUS ESTABLISHMENT OR MODE OF WORSHIP. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship God according to



the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State, nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

Sec. (~~17~~) 16. NO RELIGIOUS TEST OR PROPERTY QUALIFICATIONS TO BE REQUIRED. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

Sec. (~~18~~) 17. NO LICENSE TO PEDDLE. Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.

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

By  
Committee on Education of the Minnesota Constitutional  
Commission

\* \* \* \* \*

To this committee there was assigned by the Constitutional Commission the task of studying those parts of the constitution relating to the system of public education in the state, principally Article VIII. This report is the presentation that will be made to the full commission for its consideration. The recommendations of the committee do not embody fundamental changes in the present constitutional policies. However, they do provide a considerable revision and rearrangement of the contents of this article.

**GENERAL COMMENT:**

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

1. That the educational trust funds be retained.
2. That the sections containing constitutional provisions on state school lands be combined into a single revised section, eliminating obsolete material.
3. That the proceeds arising from the disposition of lands and mineral resources situated beneath waters owned by the state and beneath navigable lakes and rivers shall be allocated to a trust fund for the use of schools.
4. That those provisions relating to the investment of state trust funds be placed in a single revised section eliminating obsolete and contradictory provisions.

The following changes in the constitution are being submitted by the Education Committee to the full commission for consideration and final action. It should be understood that these are recommendations to the commission and do not necessarily represent the final action that the commission will take. The Committee has been asked to state that 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. Since the commission desires to begin consideration of this and other committee reports at an early date, comments should be received no later than July 14, 1948.

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

EDUCATION COMMITTEE

Senator Harry L. Wahlstrand,  
Chairman

Senator Elmer Peterson

Senator Donald O. Wright

Rep. E. B. Herseth

Professor M. G. Neale

Dr. Charles J. Turck

Dr. C. L. Roholt

Mrs. Mabeth Hurd Paige



TENTATIVE DRAFT OF PROPOSED  
ARTICLE VIII OF THE MINNESOTA STATE CONSTITUTION

Sec. 1. As a basis for a sound republican form of government, the legislature shall establish and shall provide for the maintenance and support of a uniform system of public education with equal opportunities for all.

**Comment:**

The committee has recommended the consolidation of the present Section 1 of Article VIII with the first paragraph of Section 3 of Article VIII. This section is intended as a statement of educational policy for the state. The committee believes "a uniform system of public education" better describes what the state is seeking to achieve through its system of schools, namely, a comprehensive educational program providing various types of educational facilities, including its institutions for the training of teachers.

The reference in the first paragraph of the present Section 3 of Article VIII of the constitution to "public schools in each township of the state" has been eliminated for the following reason: The township does not now constitute in and of itself a unit of school attendance or administration in Minnesota.

Sec. 2. In no case shall any public moneys or property be appropriated, or used directly or indirectly, for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.

**Comment:**

The committee has continued this section (second paragraph of Section 3, Article VIII) with slight changes in wording to clarify and strengthen its meaning.

Sec. 3. The location of the University of Minnesota, as established by existing laws is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises and endowments, heretofore granted or conferred are hereby perpetuated unto the said university, and all lands which may be granted hereafter by Congress, or other donations for said university purposes, shall vest in the institution referred to in this section.

**Comment:**

This section is continued as it is presently in the Constitution (Sec. 4, Art. VIII). While the committee discussed at some length the method of selecting the Board of Regents it was felt that the present system, that is, election by the legislature, has served the interests of the people and of the university well, and should be continued.

Sec. 4. Lands within the state as are, or hereafter may be, granted by the United States for the use of schools, for the University of Minnesota, for internal improvements, or for any purpose, shall be held until appraised, and sold or exchanged, all as is, or hereafter may be, provided by law.

All minerals on, in, or under lands which lie beneath waters owned by the state and beneath navigable lakes and rivers belong to the state. Neither the title of the state to such minerals nor its right to explore for, mine or remove such minerals shall be affected by the drying up of any such waters, lakes or rivers.

Any public land of the state may be exchanged for land of the United States, or privately owned land. Land so acquired shall be subject to any trust to which the land exchanged therefor was subject. The state shall reserve all mineral and water power rights in land so exchanged. No such exchange shall be made except upon written approval of the governor, attorney general and the state auditor.

**Comment:**

The consolidated section on public lands combines parts of the present constitution, including section 32(b) of Article IV and Sections 2 and 8 of Article VIII, into a concise provision. References to the time and place of sale and the valuation of these lands are strictly statutory and should be left to the legislature.

The committee believes that a heritage of the state that may prove to be exceedingly valuable lies beneath the public waters and navigable lakes and rivers of the state. In order to safeguard these valuable lands for posterity this committee is recommending that the proceeds from the disposition of lands and minerals under such waters shall constitute a trust fund for the support of public education.

Sec. 5. The proceeds arising from the use, sale, or other disposition of all lands (including swamp lands) as are, or hereafter may be, granted to the state, for the use of schools; for the University of Minnesota; or for internal improvements, shall remain perpetual trust funds. The proceeds arising from the use, sale, or other disposition of lands situate beneath waters owned by the state, and beneath navigable lakes and rivers shall remain perpetual trust funds. The principal of the proceeds of all the above lands may be invested only in bonds of the United States, the State of Minnesota, and its political subdivisions and bonds of other states as may be provided by law.

The income arising from the investment of the principal of these funds shall be appropriated as follows: from the public waters fund, the school fund and the swamp land fund to the public schools; from the University fund to the University of Minnesota; and from the internal improvements fund as is, or hereafter may be, provided by law.

**Comment:**

A short, clear statement encompassing the disposition of present constitutionally established trust funds was the aim of the committee.

Material considered by the committee to be best left to statute--assessed value against which loans may be made to local governments, the interest rate and duration of such loans are examples--have been recommended for elimination from the constitution entirely. Variables such as interest rates and assessed values, in the eyes of the committee, should not be frozen by constitutional provisions, but more appropriately be set by statute thus making it possible to meet periodic economic fluctuations.

The constitutional provision requiring that the endowment school fund be distributed "in proportion to the number of scholars in each township between the ages of 5 and 21" has been eliminated. The proposed draft would leave to the legislature the method of distribution to the schools of the income from this fund as is the distribution of other funds for schools.

The committee has eliminated the possibility of the investment of the trust funds in farm mortgages and has recommended the investment of such funds be confined to federal, state and local bonds.



The distribution of the income from the swamp land fund has been changed from one-half to schools and one-half to educational and charitable institutions of the state to the schools in its entirety. This recommendation of the committee is made for the following reasons:

1. The amount distributed to any one educational or charitable institution is relatively small, with the exception of the University, which received \$78,499.42 in the year ending 1947 (June 30). All of the amounts are small in relation to the annual cost of operation of these institutions. (See table attached).
2. The present method of allocation of the income from this fund as prescribed in the constitution results in an unnecessarily complicated system.

**DISTRIBUTION OF SWAMP LAND CURRENT INCOME  
FOR THE FISCAL YEAR ENDING JUNE 30, 1947**

	<u>Pro Rata-Share</u>	<u>Total authorized appropriation available for expenditure for year ending June 30, 1947</u>
Anoka	5,380.32	444,667.02
Fergus Falls	8,353.66	731,847.10
Hastings	5,114.89	422,050.22
Moose Lake	5,004.56	440,935.41
Rochester	7,543.10	633,198.78
St. Peter	11,963.17	966,037.20
Willmar	5,066.67	418,813.94
Cambridge - Colony for Epileptics	4,700.55	405,493.12
Braille and Sight Saving School	1,739.56	138,699.64
Gillette Hospital for Crippled Children	4,187.05	375,256.90
School for the Deaf	2,982.79	250,645.43
School for Feeble-minded	11,916.88	1,011,602.18
State Public School	3,930.49	321,511.23
State Prison	3,973.13	609,984.43
Reformatory for Men	7,578.40	599,624.35
State Training School for Boys	3,861.44	313,332.34
Reformatory for Women	698.10	58,764.30
Home School for Girls	2,752.85	222,348.92
Sanatorium for Consumptives	5,791.19	505,105.66
	<hr/> 102,537.80	<hr/> 8,869,923.17
State Teachers Colleges		
Bemidji	2,143.87	285,442.70
Mankato	2,185.35	362,127.96
Moorhead	2,430.71	314,701.32
St. Cloud	3,270.21	457,966.23
Winona	1,830.03	268,337.15
	<hr/> 11,860.17	<hr/> 1,688,575.36
University of Minnesota	78,499.42	17,132,972.66
Including Duluth Branch		
(General University Support Account)		
Does not include student fees and service enterprise income)		

**NOTE:** The division of the one-half of the current income of the swamp land fund is disbursed to the educational and charitable institutions of the state on the basis of the net cost of operation of each institution to the taxpayers. This is computed on the following basis: Actual disbursement for the 12 month period less any income from outside sources equals the net cost to the taxpayers. Based on these net costs, the pro rata share of the swamp land fund is allocated to each institution.

REPORTS AND MATERIAL CONSIDERED BY THE EDUCATION COMMITTEE--  
APPEARANCES BEFORE THE COMMITTEE.

I. Education Committee Report No. I - State Constitutional Provisions for Education, February 17, 1948

II. Letters and Reports

March 12, 1948 - University Provisions in the Minnesota Constitution - Statement prepared by President James L. Morrill of the University of Minnesota

March 18, 1948 - Letter from C. R. Sattgast, President of Bemidji State Teachers College, commenting on educational provisions in the state constitution.

March 24, 1948 - Letter from Dean M. Schweickhard, Commissioner of Education - suggestions for revision of education article of the state constitution

April 10, 1948 - Letter from Donald E. Strout, President of Minnesota Library Association, commenting on declaratory policy on libraries for the constitution

April 19, 1948 - Memo from John W. Headley, President of the St. Cloud State Teachers College - Summary of the discussion before the education committee including draft of a proposed section on education.

May 6, 1948 - Letter from President Charles J. Turck of Macalester College enclosing a proposed draft of a constitutional section dealing with minerals under public waters

Territorial laws 1851, Chapter 3 - An act to incorporate the University of Minnesota at the Falls of St. Anthony.

Minnesota Permanent School Fund Reaches \$100,000,000 - May 11, 1944, Julius A. Schmahl, State Treasurer

III. Appearances

Mr. Charles Foster, Secretary, Minnesota Board of Investment  
Pres. John W. Headley, St. Cloud Teachers College  
Pres. James L. Morrill, University of Minnesota  
Mr. Dean M. Schweickhard, Minnesota Commissioner of Education

*Const. Commission File Copy*

CONSTITUTIONAL COMMISSION OF MINNESOTA  
236 State Capitol  
St. Paul 1

LOCAL GOVERNMENT COMMITTEE REPORT NO. 3

FINAL REPORT ON THE REVISION OF THE LOCAL GOVERNMENT  
ARTICLE OF THE MINNESOTA STATE CONSTITUTION

By

Committee on Local Government of the  
Constitutional Commission of Minnesota

July 19, 1948

To this Committee there was assigned by the Constitutional Commission of Minnesota the task of studying those parts of the constitution relating to local government, namely Sections 33 and 36 of Article IV and Article XI.

This report is the presentation that will be made to the full commission for its consideration. The Committee has sought to draft an article on local government devoted to fundamentals and omitting details. The recommendations made include some substantial changes in the constitutional provisions on this subject.

GENERAL COMMENT

1. The constitutional provisions with relation to the organization and classification of local governments have been revised with a view to limiting the amount of special legislation.
2. Special legislation affecting individual local governments may be enacted by the legislature but such acts will not become effective in the locality until the voters of that local government ratify the proposition.
3. In accordance with law, counties, as well as cities, may adopt home rule charters for their government.
4. The details of home rule charter procedure have been left to legislative action. The power to submit and adopt home rule charters is declared to be a continuing one.



5. The consolidation of cities and counties is provided for.

The changes suggested by this committee are being submitted to the full commission for consideration and final action. The commission has informed this committee that it will welcome comments in writing from interested citizens and 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.

The committee members wish to express their appreciation to the individuals who submitted briefs and who made appearances before it for their assistance and suggestions.

LOCAL GOVERNMENT COMMITTEE

Rep. Frank B. Johnson

Rep. Thomas N. Christie

Rep. A. B. Anderson

Sen. Charles Orr

Prof. William Anderson

Mr. Clifford Russell

Senator William E. Dahlquist  
Chairman

## FINAL DRAFT OF PROPOSED ARTICLE ON LOCAL GOVERNMENT

Section 1. Definitions. As used in this article, local government includes every county, city, village, town, school district, and political subdivision of any other type.

A law that applies to less than all the members of any class of any type of local government, or a law that provides for a variation in any right, power, privilege, immunity, duty, obligation, or form of organization between members of any class of any type of local government, is a special law.

A home rule charter means a charter adopted under the provisions of Sections 5, 7 or 8 of this article.

Comment: The committee defines a "special law" to aid in differentiating between such laws and "general laws." "Home rule charter" has been defined in order to differentiate between charters granted by the legislature and charters adopted through charter commission proceedings.

Section 2. Creation of Local Governments. The legislature may provide by general law for the creation, organization, administration, consolidation, and division of local governments and the functions thereof, for the change of boundaries and the transfer of county seats. No county, city, village, town, or school district, shall be established, organized, reorganized, consolidated, divided, or the boundaries changed or county seats transferred unless approved by a majority of the voters of each local government affected voting upon the question. A general law hereafter enacted shall prevail over the provisions of a home rule charter only if the law so expressly states.

Comment: This section is intended as a limitation upon special acts of the legislature in establishing or consolidating local governments. Similar restrictions affecting counties are found in the present constitution (Article XI, Sec. 1). All of these actions require a vote of the citizens con-

cerned before actions can become effective. By providing that a general law prevails over a home rule charter only if the law so states, a source of frequent litigation may be avoided.

Section 3. **Classification of Local Governments.** For the purpose of legislation the legislature may classify any type of local government, but the maximum number of such classes shall be: counties, six (6); cities, four (4); villages, three (3), towns, three (3); school districts, six (6). There shall not be less than three local governments of any type in a class at the time of the passage of the law. The legislature may provide by general law for the transition of local governments from one class to another.

**Comment:** The committee has limited the classification of local governments as an inducement to the enactment of general legislation for whole classes of local governments, thus restricting special legislation. Classifications similar to those of cities now found in Section 36 of Article IV are extended to counties, villages, towns and school districts.

Section 4. **Local Acceptance Required for Special Laws.** The legislature may enact special laws for any local government and may amend or extend any such law. Any such law may designate by name the local government to which the law applies. Before any such law, or any amendment or extension thereof, becomes effective in any local government, it must be approved by a majority of the voters of that local government voting on the question. Any special law may be repealed without local approval.

**Comment:** This section permits the use of the name of the city or county in special legislation. For example, laws enacted under the guise of general legislation yet restricted to "a county with a population of more than 10,000 but less than 15,000 according to the 1940 Federal census and containing more than twenty-six full and fractional Congressional townships" would no longer be needed. However, before any such special law may become effective the local citizens concerned must approve.



Section 5. City and County Home Rule Charters. Any city or village may adopt a home rule charter for its government as a city and any county may adopt a home rule charter for its government as a county in accordance with this constitution and the laws of the state. Any such charter shall provide, among other things, for the form of the government, for the election of the principal governing body and for the performance of all duties imposed upon the local government by this constitution and the laws of the state.

Comment: By the use of home rule charters, counties and cities will be in a position to solve their own governmental problems and avoid appeals to the legislature for special legislation.

Section 6. Charter Commissions. The legislature shall provide by law for charter commissions. Such law may require that commission members shall be freeholders and may permit any member to hold any other elective or appointive office other than judicial. Such law shall specify the manner of presenting a home rule charter or an amendment thereof to the governing body and of submitting it to the voters, shall fix the majority vote required for adoption and shall require that amendments be submitted upon petition of five per cent of the voters of the city or county as defined by law. The power to submit a home rule charter, or amendment, is a continuing one and is not exhausted by the original submission. A county or city may repeal its home rule charter and adopt a statutory form of local government upon the same majority vote as fixed by law for the adoption of a home rule charter.

Comment: In drafting provisions governing charter commissions, the committee has set forth only a general procedure, omitting details which it feels are better left to statute. This section would permit elected officials to sit as members of charter commissions if the legislature should so decide. It eliminates the present differences in the vote necessary to adopt or amend a charter, leaving provisions on the majority vote requirement in each instance to the legislature. The section provides that the power of charter commissions to submit a charter is a continuing one, not limited to the original submission.

Section 7. Consolidation of County-City Governments. The legislature may provide by law for the consolidation of a county and a city under a home rule charter. The county charter commission shall present such charter to the county governing board for submission to the voters, and such charter shall become effective upon approval of the majority of the voters voting on the question in the city and a majority of the voters voting on the question in the remainder of the county.

Comment: By providing for the consolidation of counties and cities into single units of government, a method of reducing overlapping governmental functions and the consequent high cost of operation is offered.

Section 8. City-Counties. The legislature may provide by law for the organization of any city of more than 50,000 inhabitants as a city-county under a home rule charter. Such law shall provide for the division of county property, debts and records between the city-county and the remainder of the county, and for the government of the remainder of the county either as a separate county, or as a part of an adjacent county. A city-county charter shall be presented and submitted in the manner provided for the submission of a city home rule charter and shall become effective upon approval of a majority of the voters of the county voting on the question. A city-county shall have the powers and duties of a city and of a county.

Comment: The present constitution (Article XI, Sec. 2) makes provision for the organization of separate city-counties by legislative action. The section proposed by the committee provides that a city-county would be permitted to organize under a home rule charter.

MATERIAL AND REPORTS CONSIDERED BY THE LOCAL GOVERNMENT  
COMMITTEE-APPEARANCES BEFORE THE COMMITTEE

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I. RESEARCH REPORTS PREPARED FOR THE USE OF THE LOCAL GOVERNMENT COMMITTEE

Local Government Report No. 1 - Extracts: Constitutional Provisions on County Consolidation, City-County Consolidation, City-County Separation.  
January 22, 1948

Local Government Report No. 2 - (A) Constitutional Provisions on Local Government Options for Governmental Organization, Areas and Powers.  
(B) Formation of New Counties. March 3, 1948

II. LETTERS AND MEMORANDA

Dec. 11, 1947	Memorandum from William Anderson, Professor of Political Science, University of Minnesota - <u>Preliminary Memorandum Concerning Local Government Provisions in the Minnesota Constitution</u>
Jan. 20, 1948	Letter from Mr. Harry R. Reed, Governmental Research Bureau, Inc., Duluth, Minnesota, to Representative A. B. Anderson commenting on Professor Anderson's Memorandum dated Dec. 11, 1947
Jan. 21, 1948	Summary of remarks by Edward W. Weidner, Assistant Professor of Political Science, University of Minnesota, <u>Recommendations Concerning Local Government in Minnesota</u>
Jan. 22, 1948	Summary of remarks by Mr. C. C. Ludwig, Executive Secretary of the League of Minnesota Municipalities - <u>Some Suggestions about Constitutional Provisions on Local Government</u>
Feb. 25, 1948	Memorandum from Harry R. Reed, Governmental Research Bureau of Duluth, Minnesota, <u>Suggested Amendments to the Minnesota Constitution Affecting Local Government</u>
Feb. 26, 1948	Letter from Mr. Hugh H. Barber, attorney, Minneapolis, Minnesota, discussing constitutional limitations on indebtedness of local governments
March 24, 1948	Letter from Mr. John Iglauer, Assistant to Director, Michigan Municipal League to Mr. C. C. Ludwig, Executive Secretary of the League of Minnesota Municipalities, discussing the method of selection of members of charter commissions



April 27, 1948	Letter from Mr. Orville C. Peterson, attorney for League of Minnesota Municipalities to Professor William Anderson commenting on draft of the local government article
May 24, 1948	Letter from Charles B. Howard, attorney, Minneapolis, Minnesota, commenting on committee draft prepared May 14, 1948
May 25, 1948	Letter from Senator Wm. E. Dahlquist commenting on proposed draft of local government article dated May 14, 1948
May 28, 1948	Letter from Mr. Orville C. Peterson, attorney for League of Minnesota Municipalities commenting on proposed draft of local government article dated May 14, 1948

Minnesota Municipalities - Vol. 23, No. 12  
December 1938.

Congestion in Minnesota Legislature Caused by Requirements of Local Government, Horace A. Read, Professor of Law, University of Minnesota. (pg. 405.)

Municipal Home Rule in Minnesota, William Anderson, Professor of Political Science, University of Minnesota. (pg. 408)

Study of Michigan Constitution on Local Government and Recommendations for Changes.

### III. APPEARANCES BEFORE THE COMMITTEE

Mr. Hugh H. Barber, Attorney at Law, Minneapolis, Minnesota

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

Mr. Orville C. Peterson, Attorney for League of Minnesota Municipalities

Mr. John W. McConneloug, Chairman of the St. Paul City Charter Commission

Professor Edward Weidner, University of Minnesota

Mr. Charles B. Howard, Attorney at Law, Minneapolis, Minnesota

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417 Essex Building

July 14, 1948

Mr. Thomas L. Culhane  
Director of Research  
The Constitutional Commission of Minnesota  
236 State Capitol  
St. Paul, Minnesota

Dear Mr. Culhane:

The League of Women Voters is glad to accept the responsibility for distributing the transcriptions on the reports of the Committees of the Constitutional Commission to radio stations outside the Twin Cities area through our local Leagues. We appreciate having these without cost.

It will facilitate planning for a state-wide schedule if you will let us know how many discs there will be in the series, at what time intervals, and the length of each broadcast. Ten of the stations listed are in League communities. We will use our influence to have the others use them also.

The transcriptions should be sent directly to our state office.

Sincerely yours,

Mrs. Malcolm Hargraves  
President

# The Constitutional Commission of Minnesota

236 State Capitol

Saint Paul

Minnesota

**Supreme Court:**

Hon. Leroy E. Matson

**Senators:**

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

July 6, 1948

**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

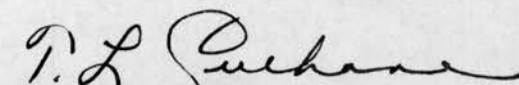
Mrs. Malcom Hargraves  
President  
Minnesota League of Women Voters  
Rochester, Minnesota.

Dear Mrs. Hargraves:

Mr. Jon Bjornson, who has been working with us in the development of the educational program of the Constitutional Commission has made arrangements with the Twin City radio stations to turn over to the League each of the transcriptions after they are finished with them in the Twin Cities. This will be without charge to the League. However, it will be assumed that the League will set up the round robin schedule for the rest of the stations in Minnesota and that the League will pay the postage for this schedule. The first of these releases will be available to the League by the end of next week. Should we instruct the Twin City radio stations to send these transcriptions directly to your state office here in Minneapolis to get them started on this schedule?

For your convenience we are sending you a list of the radio stations outside of the Twin Cities area.

Yours very truly

  
Thomas L. Culhane  
Director of Research  
r

TLC'L  
enc



RADIO STATIONS OUTSIDE TWIN CITIESSTATIONLOCATION

KATE	Albert Lea, Minnesota
KBUN	✓ Bemidji, Minnesota ✓
KLIZ	X Brainerd, Minnesota
KDAL	X Duluth 2, Minnesota ✓
WEBC	Duluth 2, Minnesota
KGDE	✓ Fergus Falls, Minnesota ✓
WMFG	Hibbing, Minnesota ✓
KYSM	X Mankato, Minnesota ✓
KMHL	Marshall, Minnesota
KVOX	Moorhead, Minnesota
WCAL	Northfield, Minnesota ✓
KROC	X Rochester, Minnesota ✓
KFAM	X St. Cloud, Minnesota ✓ X
WHLB	Virginia, Minnesota
KWLM	Willmar, Minnesota
KWNO	Winona, Minnesota
KWOA	✓ Worthington, Minnesota ✓

August 9, 1948

FINAL REPORT ON THE REVISION  
of the  
ARTICLES AND SECTIONS OF THE MINNESOTA CONSTITUTION  
ASSIGNED TO THE STEERING COMMITTEE

The Steering Committee is one of the committees established by the Constitutional Commission. To this committee were assigned the following articles and sections of the constitution: The Preamble; Article II, Sections 1 and 2 (Names and Boundaries); Article III (Distribution of the Powers of Government); Article XIV (Amendment of the Constitution) and Article XV, Sections 1, 4 and 5 (Miscellaneous).

**General Comment:**

1. The committee proposes that two-thirds of each house of the legislature instead of a majority as at present be required to propose constitutional amendments but that only a majority of the people voting on the question be required to adopt amendments.

2. The submission to the people of the question of calling a constitutional convention is made mandatory not later "than the year 1960 and every twenty years thereafter."

3. The submission to the people of any proposed constitution or amendments adopted by a constitutional convention is made mandatory.

4. Minor changes are made in certain other sections to eliminate obsolete material or to bring them into conformity with other committee reports.

The changes suggested by this committee are being submitted to the full commission for consideration and final action. The commission will welcome comments 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.

STEERING COMMITTEE

Senator G. T. Mullin  
Senator Gordon Rosenmeier  
Rep. Harold R. Lundeen  
Rep. Howard W. Rundquist  
Judge Leroy E. Matson  
Dr. Lloyd M. Short, Chairman  
Mr. Earl L. Berg, Secretary

## PROPOSED DRAFT OF MISCELLANEOUS ARTICLES OF THE CONSTITUTION

### PREAMBLE

We, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution.

#### Comment:

The committee recommends no changes.

### Article II - Section I. Names and Boundaries

This State shall be called and known by the name of the State of Minnesota, and shall consist of and have jurisdiction over the territory embraced in the following boundaries, to-wit: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and (British-Possessions) Canada crosses the same; thence up the main channel of said river to that of the Bois des Sioux River; thence up the main channel of said river to Lake Traverse, thence up the center of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone lake; thence through its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi river; thence up the main channel of said river and following the boundary line of the State of Wisconsin until the same intersects the St. Louis river; thence down the said river to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and (British-Possessions) Canada; thence up Pigeon river and following said dividing line to the place of beginning.

#### Comment:

The committee believes that the term "Canada" better describes our neighbor nation than the term "British Possessions"



**Article II - Section 2. Jurisdiction on Bordering Rivers**

The State of Minnesota shall have concurrent jurisdiction on the Mississippi and on all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any other state or states now or hereafter to be formed by the same; and said rivers and waters, and navigable waters leading into the same, shall be common highways and forever free, as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor.

**Comment:**

The committee recommends no changes.

**Article III - Section I. Division of Powers**

The powers of government shall be divided into three distinct departments--legislative, executive, and judicial; and no person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this constitution.

**Comment:**

The committee recommends no changes.

**Article XIV - Section I. Amendments**

Whenever (~~a majority~~) two-thirds of both houses of the legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection at any general or special election, and if it shall appear, in a manner to be provided by law, that a majority of all the electors voting (~~at-said-eleetien~~) thereon shall have voted for and ratified such alterations or amendments, the same shall be valid

to all intents and purposes as a part of this Constitution. ~~(If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately. As amended Nov. 8, 1898.)~~ No single proposal for the amendment or alteration of the Constitution submitted to the voters shall combine more than one general subject and the voters shall vote for or against each proposal submitted separately.

Comment:

The committee believes that more than a bare majority of the legislature should be required to propose amendments to the constitution, and that the legislature should be authorized to submit amendments to the people at either a general or a special election. The popular vote requirement on proposed amendments has been changed from a majority of those voting at the election to a majority of those voting on the question. This latter change, if adopted, would restore a provision of the original constitution, and it takes account of the fact that, on the average, approximately one-third of the voters at a general election fail to vote on constitutional amendments, thus in effect defeating such amendments by inaction.

Article XIV - Section 2. Constitutional Convention

~~Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this Constitution, they shall recommend to the electors to vote at the next general election for members of the legislature, for or against a convention, and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.~~

At a general election to be held not later than the year nineteen hundred sixty and in each twentieth year after 1960, and at such other times as may be provided by vote of two-thirds of both Houses of the Legislature the question of calling a convention to revise this Constitution shall be submitted

to the electors. If a majority of such electors voting upon the question shall decide in favor of calling a convention for such purpose, the legislature shall, at their next session provide by law for calling the same. The convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner and shall meet within three months after their election for the purpose aforesaid. Any proposed Constitution, or constitutional amendment, adopted by a constitutional convention shall be submitted to a vote of the electors of the state at such time, in such manner, and contain such separate and alternative propositions, and on such official ballot as may be provided by the convention, at a general or special election not less than sixty days nor more than six months after the adjournment of the convention. Upon the approval of the Constitution, or constitutional amendments, by majority of the voters voting thereon, the same shall take effect. The result of the election shall be proclaimed by the Governor.

**Comment:**

The committee suggests that Minnesota, like such other states as Iowa, Michigan, Missouri and New York, require her legislature to submit to the people at periodic intervals the question of calling a constitutional convention. The experience in these other states indicates that such provisions do not result in frequent conventions, but the power of the people is there if they wish to exercise it. Our present constitution makes no provision for submitting the work of a convention to the people, though Section 8 of the schedule directed that the original constitution be so submitted. The committee feels that such a provision should be added and that a new constitution or constitutional amendments proposed by a convention should be adopted by a majority vote of those voting on the question.

**Article XV - Section 1. Seat of Government**

The seat of government of the State shall be at the city of St. Paul, but the legislature, ~~(at their first or any future session,)~~ may provide by law for a change of the seat of government by a vote of the people. ~~(or may locate the same upon the land granted by Congress for a seat of government to the State, and in the event of the seat of government being removed from the city of~~



~~St. Paul to any other place in the State, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts, to be organized by the legislature of the State, and of which institution the Minnesota Historical Society shall always be a department.)~~

Comment:

The land granted by the Federal Government for a capitol has long since been disposed of. If the capitol were to be moved from St Paul, the committee believes that the legislature ought not to be restricted in disposing of the land and buildings.

Article XV - Section 4. State Seal

There shall be a seal of the State, which shall be kept by the secretary of state, or other officer designated by law, and be used by him officially, and shall be called the great seal of the State of Minnesota, and shall be attached to all the official acts of the governor (his signature to acts and resolves of the legislature excepted) requiring authentication. The legislature shall provide for an appropriate device and motto for said seal.

Comment:

The change recommended in this section is based upon the action of the executive committee in eliminating from the constitution the office of secretary of state.

Article XV - Section 5. State Prison Location

~~The territorial prison, as located under existing laws, shall, after the adoption of this Constitution, be and remain one of the state prisons of the State of Minnesota.~~

Comment:

The Committee recommends the elimination of this section as an obsolete section. The territorial prison, later the state prison, was moved many years ago from Stillwater to Bayport.

Schedule:

Comment:

The schedule of the present constitution contains sections which were intended to provide a transition between

Minnesota's status as a territory and the adoption of her first constitution as a state of the Union. A similar schedule would be necessary if a new or extensively revised constitution were to be adopted. If, on the contrary, a series of amendments are to be proposed to the people by the legislature embodying all or some of the recommendations of this Commission, separate schedules containing provisions for placing them into effect will be necessary in some instances. An example will be found in the report of the Judiciary Committee of this commission on Article VI (Judiciary). No attempt has been made by the Steering Committee to draft such schedules.

FINAL REPORT ON THE REVISION OF THE ARTICLES OF THE MINNESOTA  
CONSTITUTION RELATING TO THE SECTIONS ON TAXATION AND FINANCE

This is the second and final report of the Committee on Taxation and Finance. It includes the committee's recommendation on dedicated revenues, trust funds, taconite taxation, highway and aviation taxes, forestry operation, and obsolete sections.

The Committee wishes in this preliminary statement to draw particular attention to its recommendations with reference to the sections dealing with the dedication of revenues and trust funds.

The purpose for which your committee on Taxation and Finance has provided the proposed changes in the Constitution of the state of Minnesota is to make possible a sound and comprehensive budgeting of state revenues. To accomplish this purpose we believe the provisions making the change to be an absolute prerequisite.

Attention is called to several points as to which there appears to be considerable public misconception.

The section on trust funds as presented in this report relates only to future increments in principal. There is no intent to abolish the presently existing permanent trust funds. The income from these funds would continue to be allocated to the University, the public schools, and state institutions.

The earnings or receipts of the University of Minnesota, which arise out of tuition fees, dormitory rental, laboratory fees, etc. are specifically excluded from the interpretation of the words "state revenues". This paragraph is intended to dispose conclusively of a question which might otherwise require litigation. Your committee arrived at the conclusion that to include receipts



and revenues from the University of Minnesota in the fund which would be required to be channeled into the general revenue fund would increase the administrative costs to both the University and the state unnecessarily. In a word, it would greatly complicate the problems of University finance - to no useful purpose.

As regards the matching of federal grants and aids, the Committee is of the opinion that it is not true that any act of Congress requires dedication of revenue. For instance federal provision for grants-in-aid to the various states in defraying the costs of highway construction, for conservation of wild life and many other aids which can be cited simply require that before the aids are paid by the U. S. Treasury to any given state that state must have appropriated funds to match the grant. This is customarily done by inclusion of the necessary amount at each legislative session. Are we to assume that the Legislature will not make such appropriations? The answer is "No". The funds so appropriated are sure to be as much a normal part of the budget as any other necessary item - such as the salaries of elected officials, or the essential operating expenses of the state.

The Committee believes it is contrary to sound principles of constitutional government to place in the hands of administrative officials the power to expend any portion of state revenues, whether from special taxes or other sources, otherwise than by authority of legislative appropriation. Neither should the Constitution permit any legislature to abrogate for itself or its successors its responsibility periodically to determine and balance the needs of public service through the device of automatically repeating appropriations. This is true whether the appropriation be made from the general fund or any other specific revenue.

No administrative officer, whether appointive or elective, and no specially interested group or interest in the state should be relieved of the requirement to present its program and to justify its needs to the elected

representatives of the people at large, and to do so at least biennially. The dedication of revenues by any method is a violation of the legal machinery for effective popular control of government. It can lead only to the production of bureaucratic and arbitrary power and invariably results in building up of vested interest and special privilege free from responsibility to the people who pay the bills.

In periods of exceptionally high general prosperity the effect of dedication of revenues is to create huge surpluses in various funds, which necessarily brings about a demand to increase the level of cost of operation of the favored department and to encourage extravagance by a privileged department or activity.

Conversely, when the yield of a dedicated tax revenue shrinks during a period of recession or depression such department or the pressure groups specially interested therein quite humanly and inevitably seek exemption from the general necessity for economy, regardless of the needs of other state services. Great pressure is then brought upon the Legislature to increase the existing rate of the dedicated revenue or to levy new taxes and make further dedication of the new taxes. This obviously occurs at a time when it most seriously handicaps and impairs all economic activity in the state, for we know that oppressive taxation is a deterrent to a sound economy.

It is a false assumption to suppose that members of the Legislature, elected by the people, are less interested than others in, or less concerned for, the effective maintenance of public education or the building of good roads. They at the same time (more than the general public) are also constantly aware of the necessity of providing for new and additional services of the state and the necessity of providing the funds therefor. They must do so within the practical limits of taxation which the community can bear. At the present time many important but less conspicuous services are starved as a result of direct

allocations made either pursuant to provisions of the constitution or by acts of earlier legislatures. In passing, it can be honestly stated that excess funds exist in dedicated revenues which cannot be diverted for other much needed services - such as, for instance, a new approach to the mental hygiene problem of this state.

We are presently operating the departments of state in a period of abnormally high tax yield. What is to be expected when the yield decreases and the income of the state shrinks? Must the institutions for the insane and feeble minded, public health service, the newly established youth conservation program, and others be sacrificed? We do not believe that the public generally desires any such result.

Unless the legislature is vested with power to balance the needs of all tax-supported services, it cannot discharge the responsibilities resting upon it.

A majority of the committee believe that this is essential for the improvement of the financial structure and management of the state, and of the many worthy causes now carried on by the state.

Senator Gerald T. Mullin

Rep. Claude Allen

Mr. Earl L. Berg

Mr. Charles Lesley Ames

Mr. Lyle W. Hines

\* \* \* \* \*

#### MINORITY REPORT OF COMMITTEE ON TAXATION AND FINANCE

We dissent to Section 9 of the majority report. It is our opinion that all permanent trust funds should be consolidated into one central fund to be held inviolable and to be subject to increase by adding to the principal thereof the net proceeds derived from all school, University, swamp and internal



improvement lands and the net revenue from royalty taxes on iron ore from such lands. All net income by way of interest earned on the trust fund principal should be devoted to the support of education.

It would now be a breach of good faith to divert from the purposes of education the net proceeds derived, and to be derived, from lands expressly granted by the United States to this state for the support of education. The benefit which the Federal government thereby conferred upon the people of Minnesota was not intended as a temporary relief from any current burden of taxation but as a backlog of educational security for the future. Although the current income from the trust funds may not be large in proportion to the total needs of our educational program, nevertheless, it does provide a minimum reserve that is by no means to be scorned. The fact that the trust fund dollar, in common with other dollars, is shrinking in purchasing power provides no justification for its immediate spending. Even shrinking dollars are worth saving in terms of future stability. It should also be noted that the iron ore royalty taxes pertain to an exhaustible natural resource that is being rapidly depleted. Some measure of lasting benefit from this natural resource may be preserved for future generations if the net revenue from the royalty taxes is set aside as part of a permanent trust fund. Concern for the future is the mark of an advanced society. This concern for the future is obviously compatible with a sound budgetary policy. All current income from the permanent trust funds can be taken into consideration in the making of the biennial appropriations for education.

We dissent to Section 10 of the majority report in so far as its purports to prevent the legislature from dedicating the net revenue from certain license fees and user taxes to the maintenance and improvement of the functional use or privilege for the benefit of which they were levied and to which such license fees and user taxes are closely related. For example, the automobile owner is naturally willing to bear a special tax load in the form of a gasoline tax when

the proceeds are devoted to the maintenance and improvement of the highways of which he is the user. Likewise the sportsmen are willing to pay high license fees when such fees are devoted to the restoration and perpetuation of our game and fish resources. He who is particularly benefited by his enjoyment of a certain use or privilege not normally enjoyed by the public as a whole, should bear the tax load reasonably necessary for the preservation and development of such use or privilege, but a tax so paid should not be diverted to activities which have no relation to the purpose for which it was levied. The expenditure of the fund or funds derived from functional use taxes and license fees may, as with other public moneys, be controlled and regulated by legislative action in connection with the regular biennial appropriations and may thus be subjected to budgetary control.

We concur with Section 11 of the majority report.

Judge Leroy E. Matson

Representative Stanley Holmquist

FINAL REPORT OF THE  
COMMITTEE ON TAXATION AND FINANCE

OCCUPATION TAX - TACONITE TAX (Article IX - Section 1 (a))

Section 8

Every person engaged in the business of mining or producing ores in this state shall pay to the state, in addition to other taxes provided by law, an occupation tax on the valuation of all ores mined or produced. The method of determining the valuation of such ores, the rate of tax and the time of payment thereof shall be provided by law.

No change shall be made in the rates or method of taxation of: taconite, the occupation or business of producing taconite, the production of concentrate therefrom, the concentrate so produced, or the machinery, equipment, tools, supplies and buildings directly used in such mining or production, as now are, or hereafter may be provided by law, except by a two-thirds vote of each house of the legislature. This section shall apply to the taxation of iron-sulphides.

Comment:

The occupation tax on iron ore has been retained, but the dedication of this revenue to certain trust funds has been eliminated. The tax protection extended to the taconite industry has been based upon a number of factors considered by this committee:

(1) The high grade ores are now rapidly facing exhaustion while unlimited amounts of taconite are available. If the industry can be encouraged to make the necessary investments it is believed that the State of Minnesota and its people will gain immeasurable benefits.

(2) It is a new industry requiring tremendous capital investment in processing plants before any earnings can be realized.

Section 9 - TRUST FUNDS

All permanent trust funds presently existing shall remain inviolable as to principal, and the income shall continue to be devoted to the purposes provided in Section 12 of this article, but there shall be no further addition to the principle from the revenues of the State to such trust funds.



**Comment:**

This section as now presented relates only to future increments. There is no intention to abolish the existing permanent trust funds. The income from these funds would continue to be allocated to the public schools, the University and the state institutions.

**Section 10 - ALL INCOME TO BE DEPOSITED IN GENERAL REVENUE FUND**

All revenue receipts from taxes, licenses, fees, fines, interest, service charges, and department earnings shall be deposited in a general revenue fund and no money shall be withdrawn from this fund except in accordance with appropriations made by law, nor shall any obligation for the payment of money be incurred except as authorized by law. The Legislature may authorize bond, sinking, trust, agency, working capital and revolving funds not subject to the above restrictions.

**Comment:**

This provision will place state financing on a sound basis and leave to the Legislature, the elected representatives of the people, the control of expenditure of the money the citizens pay in taxes. The committee does not intend that the legislature use this section to deprive any worthwhile activity of funds but intends that it be used to assure the citizens that all funds will be used efficiently for the purpose for which they are intended.

**Section 11 - UNIVERSITY REVENUES; SHARED TAXES**

For the purposes of this Article the word 'revenue' shall not be interpreted to include any fees payable to or received by the University of Minnesota, nor shall the sharing of taxes collected by the state on behalf of local governments be interpreted as dedications of state revenues.

**Section 12 - INVESTMENT OF TRUST FUND PRINCIPAL; DIVISION OF INCOME**

The principal of all permanent trust funds may be invested only in bonds of the United States, the State of Minnesota and its political sub-divisions and bonds of other states as may be provided by law.

The income arising from the investment of these funds shall be appropriated as follows: From the school fund to the public schools; from the

university fund to the University of Minnesota; from the swamp land fund -  $\frac{1}{2}$  to public schools and  $\frac{1}{2}$  to the educational and charitable institutions of the State; from the internal improvement fund as provided by law.

**Comment:**

The above section is intended to replace part of Article IV, Section 32 (b); Article VIII, Sections 2, 5, and 6 and Article IX, Section 12. The distribution of the income from the trust funds is not changed from the present provisions in the constitution except that for internal improvement fund. The streamlining of these sections on the investment of trust funds follows to some extent the provisions found in section 5 of the Education Committee Report No. 2.

**Section 13 - FOREST LANDS** (Present Article VIII, Section 7)

Public lands deemed suitable for forest purposes may be set apart and managed as state forests and any revenue derived therefrom shall be used as follows: If derived from lands held in trust for any purpose, the net revenue, after deduction of the reasonable cost of administration, production, maintenance, operation and reforestation shall be used for the purposes of the applicable trust; revenues from lands not held in trust shall be disposed of as provided by law.

**Comment:**

The changes recommended in Article VIII, Section 7 by the Committee are based on the belief that increases in capital received by trust funds should bear their own cost of collection. The committee does not believe that the general revenue fund should pay the cost of the collection of the trust fund increments to principle.

**Article 11, Section 3 - ACCEPTANCE OF PROPOSITIONS IN ENABLING ACT**

The propositions contained in the act of Congress entitled, "An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states," are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the

soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States without the consent of the Congress of the United States, and in no case shall non-resident proprietors be taxed higher than residents.

**Comment:**

The committee is recommending the change indicated to permit the levying of a tax on federal property if permitted by Congress. The federal government is now paying a certain amount to the state and its political subdivisions in return for government services extended to federal housing projects and some national forests.

**Article XI - Section 5 - LOCAL TAXATION MAY BE AUTHORIZED**

(~~Any county and township~~) Local governments shall have such powers of local taxation as may be prescribed by law.

**Comment:**

The committee is recommending the change to clearly establish that the power of taxation exercised by all local governments is subject to control of the legislature.

**Article XVI, Section 3 - MOTOR VEHICLE TAX**

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.



**Comment:**

The Taxation and Finance Committee is in accord with the Highway and Airports Committee recommendations as outlined in that Committee's Report No. 3. However, this committee is recommending the elimination of the last sentence requiring the dedication of such revenues in accordance with this Committee's action in Section 10 above.

**Article XVII, Section 1 - PREVENTION OF FOREST FIRES, ASSESSMENTS**

The state and (or) any of its political subdivisions, if and whenever authorized by the legislature, may contract debts and pledge the public credit for and engage in any work reasonably tending to prevent or abate forest fires, including the compulsory clearing and improvement of wild lands (whether belonging to the public or privately owned) and the assessment against such lands of the value of all benefits so conferred and the payment of damages so sustained in excess of such benefits. Added Nov. 4. 1924.

**Comment:**

The Committee recommends no change in this section.

**Section 2 - REPEAL OF INCONSISTENT PROVISIONS**

~~Any and all provisions of the constitution of the state of Minnesota inconsistent with the provisions of this article, are hereby repealed, so far, but only so far, as the same prohibit or limit the power of the legislature to enact laws authorizing or permitting the doing of the things hereinbefore authorized.~~

**Comment:**

The committee believes Section 2 serves no useful purpose and should be eliminated.

**Article XIX - Section 2 - AERONAUTICS APPROPRIATIONS; SALE OF BONDS**

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 3 of Article\_\_\_\_\_of the Constitution shall not apply to the provisions of this section, and the purposes for which the credit of the state may be given or loaned as herein provided are declared to be public purposes.

**Comment:**

The change recommended by the Committee is solely to provide the proper reference in this new proposal

**Section 3 - TAXATION OF MOTOR FUEL**

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 the state.

**Section 4 - USE TAX**

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.

Comment:

The Tax and Finance Committee concurs with the recommendation of the Highways and Airports Committee that due to the recency of the adoption of this Article and the limited amount of experience with its operation, that it be retained in its present form.

Article IV - Section 3.2 (b) - INTERNAL IMPROVEMENT LANDS; INVESTMENT OF PROCEEDS IN BONDS

~~All lands donated to the State of Minnesota for the purpose of internal improvement under the eighth section of the act of Congress, approved September fourth, eighteen hundred and forty one, being "An act to appropriate the proceeds of the sale of the public lands, and to grant pro-emption rights," shall be appraised and sold, in the same manner and by the same officers, and the minimum price shall be the same as is provided by law for the appraisement and sale of the school lands, under the provisions of title one (1), chapter thirty eight, of the General Statutes, except the modifications hereinafter mentioned. All moneys derived from the sales of said lands shall be invested in the bonds of the United States, or of the State of Minnesota issued since 1860; and the moneys so invested shall constitute the Internal Improvement Land Fund of the State. All moneys received by the county treasurer under the provisions of title one (1), chapter thirty eight (38), aforesaid, derived from the sale of internal improvement lands, shall be held at all times subject to the order and direction of the state treasurer, for the benefit of the fund to which it belongs; and on the fifteenth day of June in each year, and at such other times as he may be requested so to do by the state treasurer, he shall pay over to the said state treasurer all moneys received on account of such fund.~~

~~The bonds purchased in accordance with this amendment shall be transferable only upon the order of the governor, and on each bond shall be written~~



"Minnesota-Internal-Improvement-Land-Fund-of-the-State,-transferable-only-on-the order-of-the-governor."

Principal-not-to-be-reduced.--The-principal-sum-from-all-sales-of-internal improvement-lands-shall-not-be-reduced-by-any-charges-or-costs-of-officers,-by-fees, or-by-any-other-means-whatever;-and-section fifty-(50),-of-title-one-(1),-chapter thirty-eight-(38),-of-the-General-Statutes,-shall-not-be-applicable-to-the-provisions-of-this-amendment,-and-wherever-the-words-"school-lands"-are-used-in said-title,-it-shall-read-as-applicable-to-this-amendment,-"Internal-Improvement Lands."

Appropriations-therefrom-to-be-voted-upon-before-valid.--The-moneys belonging-to-the-Internal-Improvement-Land-Fund-shall-not-be-appropriated-for any-purpose-whatever-until-the-enactment-for-that-purpose-shall-have-been-approved by-a-majority-of-the-electors-of-the-State-voting-at-the-annual-general-election following-the-passage-of-the-act.

The-force-of-this-amendment-shall-be-to-authorize-the-sale-of-the-internal improvement-lands,-without-further-legislative-enactment.

Comment:

Section 6 of the Taxation and Finance Report No. 8 is a substitute section replacing the detailed portions of this section. Investment of the proceeds from the sale of these lands covered in section 12 of this report.

Article VIII, Section 2 - REVOLVING FUND (Part of Section)

A-revolving-fund-of-net-over-two-hundred-fifty-thousand-dollars-(\$250,000) may-be-set-apart-from-the-fund-derived-from-the-sale-of-school-and-swamp-lands,-to be-used-in-constructing-roads,-ditches-and-fire-breaks-in,-through-and-around unsold-school-and-swamp-lands-and-in-clearing-such-lands,-such-fund-to-be replenished-as-long-as-needed-from-the-enhanced-value-realized-from-the-sale of-such-lands-so-benefited.

**Comment:**

The paragraph on the revolving fund has been recommended deleted as obsolete. No use is made of this fund. There is at the present time a deficiency of \$90,000 in it and the committee recommends that some provision be made to replace this amount in the trust fund if the committee's recommendations are accepted.

**Article IX, Section 5 - GASOLINE TAX (Part of Section)**

~~...But it may levy an excise tax upon any substance, material, fluid, force or other means or instrumentality, or the business of dealing in, selling or producing any or all thereof, used or useful in producing or generating power for propelling motor or other vehicles used on the public highways of this State, and shall place two-thirds of the proceeds of such tax in the Trunk Highway Fund provided for in Section 2 of said Article 16, and one-third thereof in the State Road and Bridge Fund, and further except in cases where grants of land or other property shall have been made to the State, especially dedicated by the grant to specific purposes, and in such cases the state shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.~~

**Comment:**

The committee is recommending the deletion of this paragraph in Article IX, Section 5 referring to gasoline tax and its dedication to highways. This is based upon the Section 10 above requiring that all revenues from taxes be paid into the general revenue fund.

**Article IX, Section 11 - PUBLICATION OF RECEIPTS AND EXPENDITURES BY TREASURER**

~~There shall be published by the treasurer, in at least one newspaper printed at the seat of government, during the first week in January in each year, and in the next volume of the acts of the legislature, detailed statements of all moneys drawn from the treasury during the preceding year, for what purpose and to whom paid, and by what law authorized; and also of all moneys received, and by what authority and from whom.~~

Comment:

The committee is recommending this section for deletion as it is obsolete to all intents and purposes. The state officials appearing before the committee pointed out it would cost over \$90,000 a year to publish such a report and this report would serve no useful purpose.

Article IX, Section 12 - STATE SCHOOL FUND; INVESTMENT; SAFE KEEPING; ALL STATE FUNDS TO BE DEPOSITED IN NAME OF STATE

~~Suitable laws shall be passed by the legislature for the safe keeping, transfer and disbursement of the State and school funds; and all officers and other persons charged with the same or any part of the same, or the safe keeping thereof, shall be required to give ample security for all moneys and funds of any kind received by them; to make forthwith and keep an accurate entry of each sum received, and of each payment and transfer; and if any of said officers or other persons shall convert to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the State of Minnesota, or shall deposit in banks or with any person or persons, or exchange for other funds or property, any portion of the funds of the State or the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid State and school funds, or either of the same, as shall thus be taken, or loaned, or deposited or exchanged, and shall be a felony, and any failure to pay over, produce or account for the State school funds, or any part of the same entrusted to such officer or persons as by law required on demand, shall be held and be taken to be prima facie evidence of such embezzlement.~~

Comment:

The investment of funds is covered in draft Section 12 above. The prescription of penalties belongs to statutory law.



Article IX, Section 14 (a) SPECIAL PROVISION FOR A LOAN FOR HOSPITAL BUILDING  
FOR INSANE

~~For the purpose of erecting and completing buildings for a hospital for the insane, a deaf, dumb and blind asylum, the state prison, the legislature may by law increase the public debt of the State to an amount not exceeding \$250,000 in addition to the public debt already heretofore authorized by the Constitution; and for that purpose may provide by law for issuing and negotiating the bonds of the State, and appropriate the money only for the purpose aforesaid; which bonds shall be payable in not less than ten nor more than thirty years from the date of the same, at the option of the State.~~

Comment:

This section is obsolete and the committee recommends it be deleted.

Article IX, Section 14 (b) COUNTY, CITY OR TOWNSHIP AID TO RAILROADS LIMITED

~~The legislature shall not authorize any county, township, city, or other municipal corporation to issue bonds or to become indebted in any manner to aid in the construction or equipment of any or all railroads to any amount that shall exceed ten per centum of the value of the taxable property within such county, township, city, or other municipal corporation; the amount of such taxable property to be ascertained and determined by the last assessment of said property made for the purpose of State and county taxation previous to the incurring of such indebtedness.~~

Comment:

The restrictions on local government loans to railroads are now obsolete and the committee is recommending that this section be deleted.

Article IX, Section 16 - STATE ROAD AND BRIDGE FUND

~~For the purpose of lending aid in the construction and improvement of public highways and bridges, there is hereby created a fund, to be known as the~~

~~"State road and bridge fund," said fund shall include all moneys accruing from the income derived from investments in the internal improvement land fund, or that may hereafter accrue to said fund, and shall also include all funds accruing to any State road and bridge fund, however provided.~~

~~The legislature is authorized to add to such fund, for the purpose of constructing or improving roads and bridges of this State, by providing, in its discretion, for an annual tax levy upon the property of this State of not to exceed in any one year one mill on all the taxable property within the State. Provided, that no county shall receive in any year more than three (3) per cent, or less than one-half (1/2) of one (1) per cent of the total fund thus provided and expended during such year.~~

**Comment:**

The committee is recommending the deletion of this section based on its action above in Section 10 providing for the payment of all income into the general revenue fund.

**Article XVI, Section 2 - CREATION AND USE OF SINKING FUND**

~~There is hereby created a fund which shall be known as the trunk highway sinking fund. Said fund shall consist of the proceeds of any tax imposed on motor vehicles as herein authorized. The moneys in said fund shall be used for the payment of the principal and interest of any bonds which may be issued under the authority of this article; and any moneys in excess of such requirements shall be transferred to a fund which is hereby created and which shall be known as the trunk highway fund. The trunk highway fund shall be used solely for the purposes specified in section 1 of this article, and when duly authorized by legislative enactment to reimburse any county for the money expended by it subsequent to February 1st, 1919, in permanently improving any road hereinbefore specifically described, in accordance with plans and specifications therefor approved by the commissioner of highways.~~

Comment:

The committee is recommending the deletion of this Section based on its action in Section 10 above eliminating the dedication of taxes.

Article XVI, Section 4 - SALE OF BONDS; PAYMENT

~~The legislature may provide by law for the issue and sale of the bonds of the state in such amount as may be necessary to carry out the provisions of section 1 of this article, provided, however, that the amount of bonds which may be issued in any one calendar year shall not exceed, in the aggregate, ten million dollars, par value, and provided, further, the total amount of such bonds issued and unpaid shall not at any time exceed seventy-five million dollars, par value. The proceeds of the sale of such bonds shall be paid into the treasury of the state and credited to the trunk-highway fund. Any bonds so issued and sold shall be for a term not exceeding twenty (20) years. They shall not be sold for less than par and accrued interest and shall not bear interest at a greater rate than five per cent per annum. In case the trunk-highway sinking fund shall not be adequate to meet the payment of the principal and interest of the bonds authorized by the legislature as hereinbefore provided, the legislature may provide by law for the taxation of all taxable property of the state in an amount sufficient to meet the deficiency, or it may, in its discretion, appropriate to such sinking fund moneys in the state treasury not otherwise appropriated.~~

Comment:

The committee is recommending the deletion of the section. It believes that the matter covered here is better covered under Section 3 of the Tax and Finance Committee's Report No. 8, and therefore recommend the elimination of this Section.

Article XVIII, Section 1 - FORESTATION AND REFORESTATION; TAXATION

~~Laws may be enacted for the purpose of encouraging and promoting forestation and reforestation of lands in this state, whether owned by private~~



~~persons or the public, including the fixing in advance of a definite and limited annual tax on such lands for a term of years and a yield tax at or after the end of such term upon the timber and other forest products so grown, but the taxation of mineral deposits shall not be affected by this amendment.~~

**Comment:**

The matter found in this section has been rephrased and may be found as Section 4 of the Taxation and Finance Report No. 8 dated July 19, 1948

**Article XVIII, Section 2 - REPEAL OF INCONSISTENT PROVISIONS**

~~Any and all provisions of the constitution of the state of Minnesota, inconsistent with the provisions of this article, are hereby repealed, so far, but only so far, as the same prohibit or limit the power of the legislature to enact laws authorizing or permitting the doing of the things hereinbefore authorized.~~

**Comment:**

This section is recommended for deletion as obsolete.

REPORTS AND MATERIAL CONSIDERED BY THE TAXATION  
AND FINANCE COMMITTEE--APPEARANCES BEFORE THE COMMITTEE

I. Reports Prepared for the Committee

Taxation and Finance Committee Report No. 2 - Obsolete Provisions of the Minnesota Constitution Relating to Taxation and Finance, January 23, 1948

Taxation and Finance Committee Report No. 3 - Constitutional Debt Limits in the States, February 13, 1948

Taxation and Finance Committee Report No. 4 - Land Grants and Trust Funds, March 3, 1948

Taxation and Finance Committee Report No. 5 - Property Exempt from Taxation in the Various States, April 1948

Taxation and Finance Committee Report No. 6 - Estimated Assessed Value of Personal Property and Taxes Payable Thereon in Minnesota - 1948, April 2, 1948

Taxation and Finance Committee Report No. 7 - Dedication of Revenues by State Constitution, July 13, 1948

Taxation and Finance Committee Report No. 8 - Partial Report on Revision of the Articles of the Minnesota Constitution Relating to Tax and Finance, July 19, 1948

Taxation and Finance Committee Report No. 9 - Forestry Provisions of State Constitutions, August 10, 1948

II. Letters

Letter of January 29, 1948, from Julius Schmahl, State Treasurer, commenting on the obsolete sections of the constitution relating to taxation and finance.

Letter of February 10, 1948, from Stafford King, State Auditor, commenting on the obsolete sections of the constitution relating to taxation and finance

Letter of February 11, 1948, from Stafford King, State Auditor, including suggested drafts on taxation and finance sections.

Letter of March 2, 1948, from G. Howard Spaeth, Commissioner of Taxation.

Letter of April 20, 1948, from G. Howard Spaeth, Commissioner of Taxation, commenting on proposed draft to be presented May 7, 1948.

Letter of April 21, 1948, from L. O. Anthony, President, Minnesota Association of City and Village Attorneys, commenting on special assessment section - draft to be presented May 7, 1948

Letter of April 28, 1948, from Orville Peterson, attorney for League of Minnesota Municipalities, commenting on special assessment provisions of draft to be presented May 7, 1948

Letter of April 29, 1948, from J. A. A. Burnquist, Attorney General, commenting on constitutional provisions relating to internal improvements.

Letter of April 29, 1948, from Charles Foster, Secretary, Board of Investment, commenting on trust fund section of committee draft to be presented May 7, 1948

Letter of May 5, 1948 from Professor J. H. Allison, Professor of Forestry, University of Minnesota, commenting on forestry provisions of draft to be presented May 7, 1948, and present constitutional sections relating to forestry.

Letter of May 19, 1948, from League of Minnesota Municipalities - Tentative Resolution No. 5 on Constitutional Vote Requirement for Railroad Rate Changes.

Letter of May 27, 1948, from Chester S. Wilson, Commissioner of Conservation, presenting memorandum discussing drafts on taxation as they relate to forest land taxation, trust fund lands and land exchange, state forests and mining taxation.

Letter of June 5, 1948, from J. W. Clark, Commissioner, Department of Business Research and Development, commenting on taconite taxation.

Letter of June 7, 1948, from E. A. Davis, Director, Mines Experimental Station, University of Minnesota, commenting on taconite taxation.

Letter of June 15, 1948, from E. Ray Cory, President, Minnesota State Automobile Association, commenting on proposal on dedicated revenues.

Letter of June 18, 1948, from Senator A. L. Almen, commenting on proposal on dedicated revenues.

Letter of June 21, 1948, from C. C. Ludwig, Executive Secretary of the League of Minnesota Municipalities, commenting on proposal on dedicated revenues.

Letter of June 21, 1948, from G. W. Price, Manager, Good Roads Association, commenting on proposal on dedicated revenues.

Letter of June 23, 1948, from Louis B. Brechet, Special Assistant Attorney General Highway Department, commenting on proposal on dedicated revenues.

Letter of June 24, 1948, from Dean M. Schweickhard, State Commissioner of Education, commenting on dedicated revenues.

Letter of June 29, 1948, from W. K. Montague, Attorney, Duluth, commenting on draft on taconite taxation.

Letter of June 29, 1948, from Frank D. Blair, Director, Division of Game and Fish, commenting on proposal on dedicated revenues.



Letter of June 30, 1948, from Chester S. Wilson, Commissioner of Conservation commenting on lands beneath public and navigable waters.

Letter of July 2, 1948, from A. E. Floan, Vice President and Secretary, Northwest Airline Inc., commenting on dedication of revenues.

Letter of July 2, 1948, from Frank D. Blair, Director, Division of Game and Fish, commenting on proposed constitutional provision on dedicated funds.

Letter of July 6, 1948, from George Laing, Secretary, Minnesota Division, Izaak Walton League of America, commenting on proposal of dedicated revenues.

Letter of July 30, 1948, from Rep. A. B. Anderson, Duluth, commenting on taconite tax provision.

Letter of August 2, 1948, from A. E. Floan, Vice President and Secretary, Northwest Airlines Inc., commenting on dedication of revenues.

Letter of August 2, 1948, from Senator Gordon Bushnell, Tamarack, commenting on taconite tax provisions.

Letter of August 5, 1948, from Senator C. A. Dahle, Duluth, commenting on taconite and iron-sulphide tax provisions.

Letter of August 10, 1948, from Rudolph Lee, publisher, Long Prairie Leader, commenting on dedication of revenues.

Statement of August 13, 1948, from Mr. R. C. Alderson, attorney, Austin, Minnesota, commenting on dedicated revenues.

Statement of August 13, 1948, from Mr. D. L. Crimmins, president, Redwood County Taxpayers Association, commenting on dedicated revenues.

Statement of August 13, 1948, from Mr. Al Crocker, St. Paul Association of Commerce, commenting on dedicated revenues.

Statement of August 13, 1948, from Mr. Harry R. Reed, Governmental Research Bureau, Duluth, Minnesota, commenting on dedicated revenues.

Statement of August 13, 1948, from Minnesota Taxpayers Association, presented by Mr. J. P. McDonnell, President, commenting on dedication of revenues.

Statement of August 13, 1948, from Mr. Al Murray, Wadena County Taxpayers Association, commenting on dedicated revenues.

Statement of August 13, 1948, from Mr. C. H. Russell, publisher, Mankato Free Press, commenting on dedicated revenues.

Statement of August 13, 1948, from Mr. William A. Syreen, Deerwood, Minnesota, commenting on dedicated revenues.

Statement of August 13, 1948, from Mr. C. M. Woolley, Buffalo, Minnesota commenting on dedicated revenues.

Statement of August 13, 1948, from Mr. Walter R. Youngquist, Savings and Loan Council, Minneapolis and St. Paul, commenting on dedicated revenues.

Letter of August 16, 1948, from Mr. G. Howard Spaeth, Commissioner of Taxation, commenting on Commission action on Taxation and Finance Committee Report No. 8

### III. Memorandum and Reports

Minnesota Permanent School Fund Reaches \$100,000,000, May 11, 1944 - Julius A. Schmahl, State Treasurer, St. Paul, Minnesota

Biennial Report of the Iron Range Resources and Rehabilitation Commission, 1943 - 1945, St. Paul, Minnesota

Should the Railroad Gross Earnings Taxes in Minnesota Be Increased?  
Minnesota Railroads, St. Paul, Minnesota, 1947

State of Minnesota Proposed Biennial Budget, 1947 - 1949, Department of Administration, January 14, 1947

Minnesota Taxation - Exemption of Real Property, November 1, 1947, Charles P. Stone, Special Assistant Attorney General

Memorandum on the Provisions of the Minnesota Constitution Dealing With Forests and Forestry, H. G. White, University of Minnesota, November 10, 1947

General Report on State Finances for Period Ending Dec. 31, 1947, Julius A. Schmahl, State Treasurer

Memorandum relating to Minnesota Constitution Article VIII, Revisor of Statutes, December 1947

Memorandum relating to Minnesota Constitution Article IX, Revisor of Statutes, December 1947

Memorandum relating to Minnesota Constitution Articles XVI, XVII and XVIII. Revisor of Statutes, January 1948

Taxation - The Tax Clause - The Governor's Committee on Preparatory Research of the New Jersey Constitutional Convention - prepared by A. K. Neeld, New Jersey Department of Finance and Taxation

Martin V. Giessel, 31 N. W. (2nd) 626 - interpretation of "works of internal improvement".

The Railroads Position, Article IV - Section 32 (a), Minnesota Railroads, St. Paul, Minnesota, May 1948

Draft Prohibiting Dedication of Receipts, Mr. Harold L. Henderson, Minnesota Institute of Governmental Research, June 3, 1948

Report on Dedicated Revenues, Report of the Minnesota Institute of Governmental Research, submitted by H. L. Henderson, Executive Director, June 2, 1948

Suggested Draft on State Public Lands, prepared by Chester S. Wilson, Commissioner of Conservation, June 8, 1948

Opinion of the Attorney General on Draft of State Land Section and "Net Proceeds" of Trust Fund Land Sales, June 8, 1948

Distribution of Investment of Permanent Trust Funds, memorandum report prepared by the Research Staff of the Constitutional Commission, June 9, 1948

Proposed Constitutional Provision Affecting Revenue Receipts, memorandum from the University of Minnesota, June 22, 1948

General Report on State Finances for Period Ending June 30, 1948, Julius A. Schmahl, State Treasurer

Dedicated Revenues, statement of Charles L. Halsted, July 1, 1948

Classification of Total Receipts by Source -- Year Ending June 30, 1946, report by Budget Division, Department of Administration, July 14, 1948

#### IV. Appearances

Mr. R. C. Alderson, Mower County Taxpayers Association

Mr. G. C. Axelrod, Attorney, Minnesota State Automobile Association

Mr. Frank Blair, Director of Division of Game and Fish

Professor Roy G. Blakey, University of Minnesota

Mr. B. L. Crimmins, Redwood County Taxpayers Association

Mr. Al Crocker, St. Paul Association of Commerce

Mr. Charles Foster, Secretary, Board of Investments

Mr. Michael Galvin, Minnesota Railroads

Mr. Charles L. Halsted, Brainerd, Minnesota

Mr. Harold L. Henderson, Director, Minnesota Institute of Governmental Research

Mr. William Henderson, Revisor of Statutes

Mr. M. J. Hoffmann, Commissioner of Highways

Mr. R. Kennedy, Northwest Country Elevator Association



Mr. A. Karlsson, Legislative Representative, Railroad Brotherhoods  
Mr. J. P. McDonnell, Minneapolis, Minnesota  
Mr. W. K. Montague, Attorney, Duluth, Minnesota  
Mr. A. C. Murray, Wadena, Minnesota  
Mr. Ray Nolan, Director, Division of Lands and Minerals  
Mr. Charles J. O'Connell, Minneapolis, Minnesota  
Senator Elmer Peterson, Hibbing, Minnesota  
Mr. G. W. Price, Manager, Good Roads Association  
Mr. Harry Reed, Governmental Research Bureau, Duluth, Minnesota  
Senator Herbert Rogers, Duluth, Minnesota  
Dr. C. L. Roholt, Minnesota School Board Association  
Mr. M. H. Rosen, President, Minnesota Good Roads Association  
Dean Schweickhard, Commissioner of Education  
Mr. G. Howard Spaeth, Commissioner of Taxation  
Mr. William A. Syreen, Deerwood, Minnesota  
Mr. Mandt Torrison, Ramsey County Sportsmen's Clubs  
Mr. Chester S. Wilson, Commissioner of Conservation  
Mr. W. R. Youngquist, Savings and Loan Council of the Twin Cities

owned lands in such manner as the legislature may provide. Land so acquired shall be subject to any trust to which the land exchanged therefor was subject. All mineral and water power rights in state public land so exchanged shall be reserved to the state.

Comment:

The membership of the land exchange commission is to be provided by law. Exchange of public lands for tax forfeited lands will permit the state to consolidate its holdings in state forests.

Occupation Tax - Taconite Tax (Article IX - Sec. 1 (a) )

Sec. 8. Every person engaged in the business of mining or producing ores in this state shall pay to the state, in addition to other taxes provided by law, an occupation tax on the valuation of all ores mined or produced. The method of determining the valuation of such ores, the rate of tax and the time of payment thereof shall be provided by law.

No change shall be made in the rates nor in the method of taxation of taconite or the occupation or business of mining or producing such taconite or upon the production of concentrate therefrom, or upon the concentrate so produced, or upon the machinery, equipment, tools, supplies and buildings directly used in such mining or production, as is, or hereafter may be provided by law, except by a two-thirds vote of each house of the legislature.

Comment:

The occupation tax on iron ore has been retained, but the dedication of this revenue to certain trust funds has been eliminated. The tax protection extended to the taconite industry has been based upon a number of factors considered by this committee.

(1) The high grade ores are now rapidly facing exhaustion while unlimited amounts of taconite are available. If the industry can be encouraged to make the necessary investments it is believed that the State of Minnesota and its people will gain immeasurable benefits. (2) It is a new industry requiring tremendous capital investment in processing plants.

Railroad Taxation (Article IV - Sec. 32 (a) )

Sec. 5. Any gross earnings tax imposed on railroads shall be in lieu of all other taxes and assessments upon the real estate, roads, rolling stock and other personal property.

Comments

The committee believes that such a provision as found in the present constitution (Article IV, Sec. 32 (a)) might have had a purpose seventy-five years ago when the railroads were in the process of constructing their roads in Minnesota, but it does not believe that the railroads as an industry are today entitled to a constitutional tax protection denied to all other corporations and individuals. To the committee's knowledge no other state constitution requires a referendum to change the rate or the method of taxation of a railroad corporation. Yet the railroads apparently operate successfully in the other forty-seven states. The committee has provided that if a gross earnings tax is imposed that such a tax shall be in lieu of all other taxes and assessments upon the real estate, roads, rolling stock and other personal property.

State Lands: (Article IV - Sec. 32 (b) Article VIII - Sec. 2, Sec. 4 )

Sec. 6. Swamp lands and lands within the state as are, or hereafter may be, granted by the United States for the use or benefit of schools, for the University of Minnesota, or for internal improvements, shall be held, or shall be appraised and sold or exchanged, all as provided by law.

Comments:

This section represents a considerable rewording of the present section on state lands but safeguards on retention of mineral rights and water power sites are maintained.

Land Exchange (Article VIII - Sec. 8)

Sec. 7. Any public lands of the state, including lands held in trust for any purpose, may with the unanimous approval of a commission established by law, be exchanged for lands of the United States, tax forfeited lands, or privately



State Debt (Article IX - Sections 5, 6, 7, 8, 10)

Sec. 3. The credit of the state shall never be given or loaned in aid of any individual, association or private corporation.

For the purpose of defraying extraordinary expenditures the state may incur indebtedness. Such indebtedness shall be authorized only by law, which law shall specify a single object or work for which the indebtedness is to be incurred. No such law shall be enacted unless it receives the affirmative vote of two-thirds of the members of each branch of the legislature. Any such law shall provide for the payment of such indebtedness within twenty years after the debt is contracted. The provisions for the payment and discharge of any such indebtedness shall not be repealed, postponed or diminished until the principal and interest of such debt are fully paid. Any obligation payable out of appropriations or levies to be made later than two years from the time of its incurrence shall be deemed an indebtedness within the meaning of this section.

The state shall never contract any debts for works of internal improvements, or be a party in carrying on such works, except as authorized herein.

**Comment:**

According to the present constitution the amount of state debt for general purposes is limited to \$250,000. (Article IX, Sec. 5); yet on June 30, 1948, the state had an outstanding indebtedness of \$30,710,640, payable from property taxes. The committee is urging the adoption of this revised section on debt service as a basis for a sound system of future borrowing.

Forestry Taxation (Article XVIII)

Sec. 4. The legislature may provide for a limited annual tax on lands used or intended for forest purposes, and a yield tax on timber and other forest products grown thereon, but the taxation of mineral deposits shall not be affected by this section.

**Comment:**

The committee recommended no substantial change in the severance tax on timber. There has been some rewording. The committee believes that the retention of this section will encourage the proper use of forest resources.

PROPOSED ARTICLE OF THE MINNESOTA CONSTITUTION RELATING TO TAXATION AND FINANCE

- - - - -

General Tax Section - (Article IX - Sec. 1)

Sec. 1. The power of taxation shall never be surrendered, suspended, or contracted away. All taxes shall be levied and collected for public purposes and shall be uniform upon the same class of subjects. Different classes of subjects may be valued by different methods and taxed at different rates. When authorized by charter or general law, local governments may levy and collect assessments for local improvements and services on property specially benefited thereby without regard to the valuation of such property.

Comment:

The committee has continued with some changes in wording the present provisions of Article IX, Sec. 1. The retention of the so-called "wide-open" tax section is recommended. The wisdom of such broad provisions to meet changing fiscal needs has been amply demonstrated.

Exemption Section (Article IX - Sec. 1)

Sec. 2. Public property used exclusively for any public purpose is exempt from taxation. Private property used exclusively for any religious, educational, charitable or burial purpose as defined by law and not held or used for profit, is also exempt from taxation.

The legislature may in whole, or in part, exempt personal property, or any classification thereof, from taxation.

Comment:

The committee is of the opinion that the present provision on the exemption of property should be strengthened. In 1944 approximately 25% of the assessed value of all taxable real property in Minnesota was exempt from taxation.

The power of the legislature to exempt from taxation various classes of personal property is clearly stated.

individuals and groups who submitted briefs and who appeared before the committee for their assistance and suggestions.

TAXATION AND FINANCE COMMITTEE

Senator Gerald T. Mullin, Chairman

Rep. Stanley W. Holmquist

Judge Leroy E. Matson

Mr. Earl L. Berg

Mr. Charles Lesley Ames

Mr. Lyle W. Hines

Rep. Claude H. Allen



in terms broad enough to permit the adjustment of tax laws to current needs by legislative action more readily than at the present time but without disturbing the fundamental structure of the tax system. With this principle in mind, this committee has sought to provide a tax article that is short, simple and substantially more flexible than the present provisions. Such an article will be the foundation of a sound and equitable tax system of this state.

The principal features of the changes embodied in this report are as follows:

1. Power of the legislature to classify all kinds of property for the purpose of taxation is clarified.
2. Provisions on tax exemption have been strengthened expressly giving to the legislature the power to define the limits of exemption.
3. Legislative power to exempt certain classifications of personal property is defined.
4. Present constitutional section on state debt, inoperative due to the practice of issuing interest bearing certificates of indebtedness instead of bonds, has been revised to require the state to place its debt service on a sound financial basis.
5. Limitation on general state indebtedness (present limit - \$250,000) has been eliminated.
6. Requirement of a referendum on the repeal or amendment of the gross earnings tax on railroads has been eliminated.
7. Constitutional sections on state lands have been combined into a single paragraph eliminating statutory and obsolete material.
8. Constitutional provisions on land exchange have been enlarged to permit the exchange of public lands for tax forfeited lands.
9. Taxation of taconite mining and production facilities has been placed in a separate category in so far as changes in the method and rate of taxation are concerned.

The committee members wish to express their appreciation to the

Partial Report on Revision of the Articles of the Minnesota Constitution Relating to the Sections on Taxation and Finance

- - - - -

The taxation and finance committee is one of the committees established by the Constitutional Commission of Minnesota to study articles and sections of the constitution. To this committee were assigned the following articles and sections: Article II, Section 3 (Acceptance of Enabling Act); Article IV, Sec. 32 (a) (Railroad Taxation); Section 32 (b) (Internal Improvement Lands); Article VIII, Sec. 2 (School Lands and School Fund); Section 5 (Loan of School Funds); Section 6 (Investment of School Funds); Sec. 7 (School Forests); Article IX (Finances of the State); Sections 1 through 12; 14 (a) and 16; Article XI, Sec. 5 (County and Township Power to Tax); Article XVI (Trunk Highways) Sections 2, 3 and 4; Article XVII (Forest Fires); Article XVIII (Reforestation) and Article XIX (Air Navigation), Sections 2, 3 and 4.

This committee in some of its assigned articles and sections had joint jurisdiction with other committees, principally the committees on education and on highways and airports.

The report of this committee is being presented in two sections, this being the first. This report does not include committee action in the following areas: trust funds, highway and air navigation taxes and dedicated revenues. Sections relating to these fields will be treated in a subsequent report. This report is the presentation that will be made to the full commission for its consideration.

The committee is recommending some fundamental changes in the constitutional provisions relating to taxation and finance. The committee is of the opinion that inflexible limitations controlling taxation should not be placed in a constitution. The provisions relating to tax policy should be stated

LEAGUE OF WOMEN VOTERS OF MINNESOTA  
84 South 10th Street, Room 417  
Minneapolis 2, Minn.

M E M O R A N D U M

September 3, 1948

TO STATE PROGRAM CHAIRMAN

LEAGUE OF WOMEN VOTERS

You have been chosen to take part of the responsibility for planning and presenting the Round Table Discussion at the Conference on State Constitutional Revision to be held between October 11th and 15th, 1948, at \_\_\_\_\_. Sharing this responsibility will be the State Program Chairmen of the \_\_\_\_\_ and \_\_\_\_\_ Leagues. The State Board member who will assist the three of you to coordinate your efforts is:

Send her the name or names of the members of your League participating in the panel.

Mrs. \_\_\_\_\_ (State Program Chairman of the \_\_\_\_\_ League) will be responsible for arranging the meeting at which you will plan your panel discussion, contacting the \_\_\_\_\_ and \_\_\_\_\_ League State Program Chairman to arrange the rehearsal. She will also correspond with the State Board member named above as to these arrangements.

The time allotted for the Round Table Discussion is two and one-half hours (Ten O'clock A. M. to Twelve-Thirty O'clock P. M.) You may allow whatever time you deem necessary for presentation of each of the topics listed, although we have made tentative suggestions as to the time appropriate for presentation of each. Since Topic II. is really the "build-up" for Constitutional Revision, it will naturally require a longer time for presentation than the other topics.

Here are a few suggestions for your assistance:

PRESENTATION At least 1 (or as many more as you decide advisable) member of each of your 3 Leagues should be asked to present in Round Table Discussion form the subjects listed below. Allot each a specific time.

OR - IF YOU PREFER

You may allot each participant a specific time in which to present her subject, followed by a 15 minute question period for each. In this case subject I would be allotted 30 minutes; subject II 50 minutes and so on.

It might be more effective for two people to present subject II, one presenting the items under A and one the items under B. One person might present both subjects III and IV.

The object is to present the material in the most concise, interesting and action-arousing manner possible.



RE SPEAKERS FROM  
SPEAKERS' BUREAU  
MINN. CONSTITUTIONAL  
COMMISSION

NAME \_\_\_\_\_

WRITE NAME CLEARLY

ADDRESS \_\_\_\_\_

\_\_\_\_\_

MINNEAPOLIS ADDRESS \_\_\_\_\_ ROOM NO. \_\_\_\_\_

HOTEL OR STREET & NUMBER

REPRESENTING \_\_\_\_\_

ORGANIZATION OR FIRM

MEMBER \_\_\_\_\_

DELEGATE \_\_\_\_\_

EXHIBITOR \_\_\_\_\_

GUEST \_\_\_\_\_

*Convention Service—Minneapolis Convention and Visitors Bureau*

# The Constitutional Commission of Minnesota

236 STATE CAPITOL

SAINT PAUL

MINNESOTA

September 7, 1948

## Supreme Court:

Hon. Leroy E. Matson

## Senators:

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

## Representatives:

Harold R. Lundeen  
O. L. Johnson  
Frank B. Johnson  
Howard W. Rundquist  
Stanley W. Holmquist  
E. B. Herseeth  
Thomas N. Christie  
Robert J. Sheran

Mrs. Mabeth Hurd Paige

George W. Lawson

Lloyd M. Short, Chairman

Earl L. Berg, Secretary

Mrs. Malcolm Hargraves  
President  
League of Women Voters of Minnesota  
832 Lumber Exchange Building  
Minneapolis, Minnesota

Dear Mrs. Hargraves:

The Commission is gratified over your organization's interest in constitutional revision in Minnesota.

We have sent letters to speakers who have agreed to help the Commission's work and shall notify you as soon as they reply.

It is through such civic-minded organizations as the Minnesota League of Women Voters that the Commission is best able to acquaint the people of Minnesota with the important governmental problems arising from Minnesota's constitution.

We appreciate the help the League has extended. Please feel free to call upon us for such assistance as you may need.

Sincerely,

*Robert J. Hohman*

Robert J. Hohman  
Research and Editorial Assistant

RJH:N



September 3, 1948

Public Information Committee  
The Constitutional Commission of Minnesota  
236 State Capitol  
Saint Paul, Minn.

Attention Mr. Hohman

Gentlemen:

We are enclosing a tentative schedule for area conferences on Constitutional Revision which the League of Women Voters of Minnesota plans to hold between October 11th and 15th. The conferences will take the form of Round Table discussions by League members to be held from Ten O'clock A. M. until 12:30 O'clock P. M. It is our hope that these morning meetings will be followed by a luncheon with a speaker from the Bureau of Information of the Constitutional Commission.

Will it overtax your speaking personnel to request five appearances in one week? The meetings are scattered and we assume that you will be assigning several people to cover them.

If you will let us know what the possibilities are in meeting this request, it will help us to complete our plans.

Sincerely yours,

MH:s  
Enc.

Mrs. Malcolm Hargraves  
President

League of Women Voters of Minnesota  
August 25, 1948

TENTATIVE SCHEDULE

~~SUGGESTIONS~~ SUGGESTIONS FOR AREA CONFERENCES  
ON CONSTITUTIONAL REVISION  
TO BE HELD IN OCTOBER, 1948

----- (Bet. Oct. 11 and 15th)

<u>Place of Conference</u>	<u>To be attended by</u>	
PARK RAPIDS (6 Leagues)	Battle Lake Bemidji Cass Lake Fergus Falls Park Rapids Tintah	
HIBBING (3 Leagues)	Duluth Hibbing Two Harbors	
MINNEAPOLIS (16 Leagues)  (Arrangements to be made by Excelsior and/or Minnetonka Leagues)	Afton-Lakeland Anoka Columbia Heights Excelsior Golden Valley Knollwood Park Mahtomedi Minneapolis	Minnetonka Mound Saint Cloud Saint Paul South Saint Paul Stillwater White Bear New Prague
OLIVIA (8 Leagues)	Atwater Granite Falls (might ask Mrs. Wm. Lee Grove City to assist with arrange- Hutchinson ments) Jackson (or may attend OWATONNA Conf.) Olivia Tracy Worthington (or may attend OWATONNA Conf.)	
OWATONNA (12 Leagues)	Austin Kasson Lake City Mankato New Richland New Ulm	Northfield Owatonna *Red Wing *Rochester *Wabasha Waseca

\*or may attend MINNEAPOLIS Conference

September 13, 1948

Mr. Robert J. Hohman  
Research and Editorial Assistant  
The Constitutional Commission of Minnesota  
236 State Capitol  
Saint Paul, Minnesota

Dear Mr. Hohman:

The following are some of the definite dates for the League of Women Voters Area Conferences on State Constitutional Revision:

<u>Town</u>	<u>Date</u>	<u>Place of Luncheon Meeting</u>
HIBBING	Monday, October 11th	Androy Hotel
MINNEAPOLIS	Wednesday, October 13th <i>y me</i>	Sheridan Hotel, 1112 Marquette Ave.
OWATONNA	Tuesday, October 12th	Hotel Owatonna
PARK RAPIDS	Thursday, October 14th	Place not yet definite

As soon as we hear from Olivia we will advise you the date of that Conference.

As we wrote you previously, the luncheons are scheduled for Twelve Thirty. We suggest that the speaker have about an hour followed by a short question period. The meeting should then be completed not later than three O'clock, permitting those who have long distances to drive to be on their way early.

We are grateful for your help.

Sincerely yours,

Mrs. Malcolm Hargraves  
President

MH:s

*Olivia Hohman Oct 14th*



SUGGESTED TOPICS FOR AREA CONFERENCE ROUND TABLES ON  
CONSTITUTIONAL REVISION

I. OUR PRESENT STATE CONSTITUTION

*Mrs. Frank Morris St. Paul*

- M.P.S.*
- A. Brief history of present constitution
  - B. Changes and developments which have occurred necessitating a more modern constitution.
  - C. Some obsolete provisions
    - Bill of Rights
    - Suffrage qualifications or disqualifications of women and Indians
    - Election of U. S. senators by state legislature
    - Woman suffrage in school and library elections
    - State census
    - - and many others
  - D. ~~Legislative Department~~
  - E. ~~Executive Department~~
  - F. ~~Courts and Judicial System~~
  - G. ~~County and Local Government~~

(This should be a more or less factual presentation to give background)

II. THE ROAD TO A MODERN CONSTITUTION

*Mrs. H.L. Stright 45 minutes White Bear*

A. Removal of obstacles which stand in way of change

1. Legal

- a. Complicated process of submitting individual amendments
- b. Lengthy and complicated process of calling Convention for adoption of new Constitution

(point out that these obstacles would be at least partially removed by adoption of amendments 2 and 3 to the Constitution to be voted on November 2nd. Explain amendments)

2. Political

- a. Political opposition to constitutional changes will, if possible, take advantage of any and all legal impediments to revision of basic law
- b. Interest groups afforded special protection by existing basic law (severe tax limits, dedicated taxes)
- c. Inadequate support for existing regulations

3. Psychological

- a. Apathy and mistrust of people themselves.  
(Point out here that one cause of public apathy and substitution of "government by private manipulators" for "government by the people" is our present long ballot for election of numerous state, county and local officers, including judges, which gives the voter an impossible and therefore disheartening task)
- b. Techniques used by interest groups to bolster psychology which will defeat reform

B. Adoption of an entirely new Constitution to fit present-day needs

- 1. Modern Legislative Department vs. present
- 2. Modern Executive Department vs. present
- 3. Modern Courts and Judicial System vs. present

*Mrs. T.P. Regan*

*Miss Laura Streeter*

*M.P.S. League.*

- Mrs. J. R. Moen*
4. Modern County and Local Government provisions vs. present
  5. Dedicated Tax funds *Mrs. Livingston*

(The person presenting this topic should stress the improvement to be brought about by the changes suggested in comparison with the weakness of the present Constitution)

*North Beach*

*Ed*

65 minutes

### III. WHAT THE LOCAL LEAGUE CAN DO TO MODERNIZE OUR PRESENT CONSTITUTION

*Mrs. Harris  
Patt*

- A. Familiarize every member with provisions of present constitution and advantages of modern one
- B. Educate Mr. and Mrs. average citizen by
  1. Training league speakers in manner of presentation and content of Constitution
  2. Offering services of trained League speakers to Labor groups, service clubs, mother's clubs, PTA's, DAR., fraternal groups, farm groups and others
  3. Arranging for debate of proposed amendments and need for revision on radio and at other popular forums. This will develop technique for refuting untruths and misleading information with authentic information.
  4. Arranging for public meetings with speakers from the Speakers' Bureau of the Constitutional Commission
  5. Distributing through league members and other organizations the free broadside on the 4 amendments to the Constitution to be voted on November 2nd.
- C. Stress importance of voting on 4 Constitutional amendments November 2, 1948. Remind voters that failure to vote is a vote AGAINST the amendments.

*Combine the  
2*

20 minutes

### IV. WHAT THE LEAGUE MEMBER CAN DO TO MODERNIZE OUR PRESENT CONSTITUTION

- A. Become thoroughly familiar with the provisions of the present state constitution and the advantages of modern one
- B. Offer to train as League speaker on content of present Constitution
- C. Distribute broadsides on 4 amendments to constitution to be voted on November 2, 1948
- D. Discuss at home, at the grocer's, at parties, at all civic and social meetings she attends -
  - the need for Constitutional revision
  - the need for passage of amendments 2 and 3 to the constitution to be voted on November 2nd
  - the need to vote on the 4 Constitutional amendments November 2nd
  - the fact that failure to vote on the amendments is a vote AGAINST them

20 minutes

REFERENCES:

William Anderson, "The Need for Constitutional Revision in Minnesota"  
Kise and Sjoselius, "Minnesota, the State and Its Government"  
Minn. Institute of Governmental Research Bulletin No. 20  
Anderson and Lobb "A History of the Minnesota Constitution"  
Reports of Constitutional Commission sub-committees  
Report of Constitutional Commission (not yet submitted - must be  
submitted by October 1st)  
State Constitution  
National League Publication "KNOW YOUR STATE"  
and League sheets on various chapters (available at State Office)  
State League Constitution broadside published 1947  
Broadside on 4 Constitutional amendments to be voted on November 2, 1948  
(available soon from State office)



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William Anderson, "The Need for Constitutional Revision in Minnesota"  
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Broadside on 4 Constitutional amendments to be voted on November 2, 1948  
(available soon from State office)

9/27/48

with copy of broad-  
side, reservation  
card and copy of  
Voters' Serv. letter.

## LEAGUE OF WOMEN VOTERS OF MINNESOTA

832-33 LUMBER EXCHANGE BUILDING  
MINNEAPOLIS 1, MINNESOTA

September 27, 1948

Atlantic 0941

and summary  
of board  
minutes.

Dear President:

We realize as autumn gets under way that there are no unemployed local Leagues in Minnesota. Encouraging and exciting reports of pre-election activities, United Nations Workshops, and outlines of the year's work have come into the office.

AREA CONFERENCES ON STATE CONSTITUTIONAL REVISION

Plans are now complete for the area conferences on Constitutional Revision. Listed below are the places and the dates.

Please send on the enclosed stamped, addressed postal card, not later than October 4th, the number of luncheon reservations that you will need for your League's representatives at the conference. There will be no luncheon arrangements made for those Leagues which do not request reservations and reservations which are not used must be cancelled at least twenty-four hours in advance, or paid for by the League which made them.

<u>Conference</u>	<u>Date</u>	<u>Meeting Place</u>	<u>Luncheon Speaker</u>
HIBBING	Friday, October 15th	Androy Hotel (A.M. meeting and luncheon)	Sen. Elmer Peterson of Hibbing
MINNEAPOLIS	Wednesday, Oct. 13th	A. M. Meeting: Y.W.C.A., 1130 Nicollet Ave. Luncheon: (\$1.00) Sheridan Hotel, 1112 Marquette	Mr. Val Bjornson
OLIVIA	Thursday, Oct. 14th	To be announced (Luncheon 85¢)	To be announced
OWATONNA	Tuesday, Oct. 12th	A.M. Meeting: Gainey Room, Owatonna Public Library Luncheon: Hotel Owatonna	Rep. Robert J. Sheran of Mankato
PARK RAPIDS	Thursday, Oct. 14th	A. M. Meeting: Community Club Rooms (above fire hall) Luncheon: (\$1.25) Bert's Cafe	Sen. A. R. Johanson of Wheaton



Affiliated with the  
League of Women Voters of the U. S.

meetings begin at Ten O'clock. Luncheons will begin at 12:30 O'clock.

At the conferences we will have ready material on Constitutional Revision to assist you in preparation of radio scripts, or talks before groups. There will be, also, a summary of the Committee Reports and a brief history of the formation of the Minnesota Constitutional Commission.

September 27, 1948

BROADSIDE ON 4 AMENDMENTS TO STATE CONSTITUTION  
TO BE VOTED ON NOVEMBER 2nd

A copy of the broadside, prepared and donated by the Minneapolis League, which explains the four amendments to the State Constitution to be voted on at the general election November 2nd is enclosed. Also enclosed is a copy of the letter we are mailing to your Voter's Service Chairman containing suggestions for distribution and publicity. If you have not done so, please send us immediately your order for the number of broadsides you can use. This is an opportunity for Leagues to do a thorough educational job on the importance of voting on amendments and to begin their campaign for understanding of the need for constitutional changes in Minnesota.

-----  
I hope the summer has refreshed you to meet the stimulating demands of this important election and legislative year.

Sincerely,

*Malcolm Hargraves*

Mrs. Malcolm Hargraves  
President

MH:s  
Encs.



SUMMARY OF MINUTES  
MEETING OF BOARD OF DIRECTORS  
LEAGUE OF WOMEN VOTERS OF MINNESOTA  
SEPTEMBER 22, 1948

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FINANCE

An informal report by the Treasurer and President indicated an "understandably" slow month on income. Appreciation was expressed for the detailed information from local Leagues giving their finance plans and the names of their Finance Chairmen.

AREA  
CONFERENCES ON  
STATE CONSTITU-  
TIONAL REVISION

Final plans and dates for the 5 Area Conferences on State Constitutional Revision to be held between October 11th and October 15th were announced. No major changes in the previous plans had been made. (See summary August 25th State Board meeting). Final dates for the conferences are:

Hibbing - Friday, October 15th  
Minneapolis - Wednesday, October 13th  
Olivia - Thursday, October 14th  
Owatonna - Tuesday, October 12th  
Park Rapids - Thursday, October 14th

BROADSIDES ON  
FOUR AMENDMENTS  
TO STATE CON-  
STITUTION TO  
BE VOTED ON  
NOV. 2, 1948

These broadsides (of which 60,000 have been printed by courtesy of the Minneapolis League) are now available for free distribution at the State Office. It was reported that 12,000 had already been requested. It was suggested that local Leagues might wish to stamp on the broadsides "Distributed by (name of their League). For further information call \_\_\_\_\_." or some similar identification.

LEGISLATIVE  
SCHOOL

Mrs. Livingston reported that the Legislative School would be held on Friday, November 12th.

Time - 10:00 O'clock A. M.

Place - Auditorium, State Office Building, St. Paul

Tentative Program - "Legislative Highlights" in morning;

A dramatic presentation of the steps necessary to passage of a bill in the afternoon.

League representation - No limit. Any number may attend and will be urged to do so via letter to local Leagues about October 15th.

CANDIDATE  
INFORMATION

Summaries of the interviews with candidates for the U. S. Senate from Minnesota have already gone out to local League presidents. You will soon receive such information on candidates for the U. S. House of Representatives from your District and on Minnesota's Gubernatorial candidates.

ECONOMIC  
CONFERENCE  
ST. PAUL

It was reported that the Area Conference of the National League on the Economic Item was definitely scheduled to be held at the LOWRY HOTEL, ST. PAUL, November 30th and December 1, 1948. National Board member in charge is Mrs. Eugene Burgess, 5063 Nicollet Avenue, Minneapolis. Hotel reservations must be made by November 27th. Delegates should make their own reservations, mentioning the fact that they are attending the League of Women Voters Conference.

ORGANIZATION

The Board recommended recognition of a new provisional League at Buffalo, Minnesota. Miss Washburn reported that plans were being made for Mrs. Horner's visit Nov. 19-Dec. 20 and that she would welcome suggestions from local presidents.

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

SAMPLE COPY September 27, 1948

Dear Voters' Service Chairman:

DID YOU KNOW THAT:

1. There will be two League-supported amendments to the State Constitution of the four on the ballot November 2nd?
2. The passage of these two amendments is vital to a speedier, more efficient process of Constitutional Revision?
3. An average of only 67% of the voters in each election vote either way on amendments?
4. The passage of an amendment requires a Yes vote by the majority of ALL voters in the election and 13 out of 18 amendments have NOT passed because the other 33% ignored them completely?
5. The League of Women Voters has been entrusted with a major part of the public education job necessary to Constitutional revision?

SECURING THE PASSAGE OF THESE TWO AMENDMENTS (Nos. 2 and 3) TO FACILITATE AND SHORTEN THE REVISION PROCESS IS OUR FIRST BIG TASK. It is the "opening gun" in our campaign for a new or revised State Constitution. We must use every means in our power to accomplish it.

Enclosed you will find a broadside prepared and published by the Minneapolis League of Women Voters. How many can you use? They're free. Make your plans for wide distribution and order them immediately from the State Office. If you feel that the name of the Minneapolis League appearing on the bottom of the broadside will confuse people or in any way complicate distribution thereof, cut it off. The Minneapolis League has given permission to local Leagues to do so. Won't you please, too, stamp on the broadside your local League name and a telephone number that can be called for further information? Boy or Girl Scouts may like to help with the stamping.

When you make your plans, use your Election Handbook, Voters' Service Check List and the brown poster No. 109. They'll give you loads of ideas you can adapt to your community. You're going to try a door-to-door "get out the vote" campaign, aren't you? When you go take these broadsides with you. Use the Boy Scouts and Girl Scouts, the milk companies, the paper boys. Secure permission to place a copy under each plate at Kiwanis, Lions, Rotery or other club luncheons.

We will have for you at the Area Conferences on Constitutional Revision a copy of a speech and a list of speakers on Constitutional Revision. Offer to secure one of them for the above mentioned luncheons. Also coming to you via the Area Conferences on Revision are suggestions for two radio forums - one on the amendments and the other on Constitutional Revision itself. Contact your local radio station and ask them for time.

September 27, 1948

The Public Relations Committee is sending out a prepared newspaper release on the amendments through the Minnesota Editorial Association for October 4th publication. Tell your editor about it and ask him to use it.

That's all for now. Order your broadsides as soon and in as large quantities as possible - and good luck to you.

Sincerely,

*Avis Brustuen*

Mrs. Reuben C. Brustuen, Voters' Serv. Chrmn.

*Ann Kehl*

Mrs. Raymond E. Kehl, Public Relations Chrmn.

Enc.



# 4 AMENDMENTS

## to the Minnesota Constitution will be submitted to the voters NOVEMBER 2, 1948

**REMEMBER — Failure to Vote on an Amendment is a Vote Against the Amendment!!**

**AMENDMENT NO. 1** provides for  $\frac{1}{2}$  of the gasoline tax to go to the State Highway Department, and  $\frac{1}{2}$  to the State Road and Bridge Fund. (*State Highway Funds—plus Federal Aid Construction Funds—pay for building and maintaining trunk highways and bridges on trunk highways. The Road and Bridge Fund plus Federal Secondary Construction Funds is used to construct and maintain county roads and bridges.*)

At present the State Highway Department receives  $\frac{2}{3}$  and the counties  $\frac{1}{3}$ . Trunk highways carry 50% of the State vehicle mileage, county roads 15%. If this amendment passes, the State Trunk Highways will lose an estimated Four Million of state tax dollars. To carry out the current proposed ten-year program for trunk highway construction, the state interim committee has tentatively suggested a one-cent boost in gasoline tax plus an increase in motor vehicle license fees to restore the estimated Four Million Dollars which would be lost to the state Trunk Highway System, if the amendment passes. (The one-cent gas tax increase alone would still provide One Million Dollars LESS for the trunk highways than they are NOW receiving.)

tively suggested a one-cent boost in gasoline tax plus an increase in motor vehicle license fees to restore the estimated Four Million Dollars which would be lost to the state Trunk Highway System, if the amendment passes. (The one-cent gas tax increase alone would still provide One Million Dollars LESS for the trunk highways than they are NOW receiving.)

**The League of Women Voters of Minnesota has taken no position either for or against the gasoline tax amendment.**

**AMENDMENT NO. 2** permits two or more alterations or amendments to the State Constitution to be voted on at one time.

At present when two or more amendments to the State Constitution are proposed EACH proposed amendment must be approved SEPARATELY by a majority of voters. Passage of Amendment 2 would make it POSSIBLE for

Two or More amendments to be submitted in such form that voters shall be required to vote for or against ALL of the proposed amendments as a GROUP and not on each amendment separately.

**The League of Women Voters of Minnesota favors a YES vote on Amendment 2 because:** Passage of this amendment will make for a speedier method of modernizing of our state governmental machinery.

**AMENDMENT NO. 3** will permit  $\frac{2}{3}$  of both Houses of the State Legislature to provide by law for the calling of a Constitutional Convention WITHOUT SUBMITTING THE QUESTION TO A VOTE OF THE PEOPLE.

At present to have a complete revision of our 91-year-old Constitution, the law requires the following 4 steps:

1. A  $\frac{2}{3}$  vote of both houses of the legislature to submit to the Voters the question of calling a Constitutional Convention.  
(This means that 45 out of 67 senators and 88 out of 131 representatives must vote in the affirmative.)
- 2.\* Approval of this legislative proposal by a majority of the votes cast at the next general election.

\*This step will be eliminated if the amendment passes.

**The League of Women Voters of Minnesota favors a YES vote on Amendment 3 because:**

- a. Its passage will shorten the amending process by 2 years, thus eliminating the cost and delay of submitting legislature's proposal for calling Constitutional Convention to voters.
- b. A revision of our horse and buggy State Constitution is necessary to meet present day needs.

3. Enactment by the next legislature of a law providing for calling a Constitutional Convention, consisting of 131 members, chosen as are the members of the House of Representatives, and appropriation by the legislature of money for Convention expenses.

4. When the Convention has agreed on a new Constitution it may be, and customarily is, submitted to the voters at a general or special election for their approval.

(This process requires at least 4 years)

**AMENDMENT NO. 4** authorizes the Legislature to raise money to pay a bonus to veterans of World War II.

The various bonus proposals are estimated to run from \$80 Million to \$265 Million. (State Governmental Research Bulletin No. 23, July, 1948.) To pay a bonus, your legislature may, if Amendment 4 is passed:

- a. levy taxes (general sales tax is the only major field Minnesota has not entered to date)
- b. contract debts
- c. issue or negotiate bonds or certificates of indebtedness
- d. pledge the public credit within limits set by legislature.

**The League of Women Voters of Minnesota has taken no position either for or against the Soldiers' Bonus Amendment.**

For Further Information About These Amendments Call ATLantic 6310

**LEAGUE OF WOMEN VOTERS OF MINNEAPOLIS**

84 South Tenth Street, Room 407, Minneapolis 2, Minnesota

LEAGUE OF WOMEN VOTERS OF MINNESOTA  
84 South Tenth Street, Rm. 417  
Minneapolis 2, Minnesota

October 7, 1948

Dear Editor:

From time to time throughout the year we plan to send you releases we believe to be in the best public interests.

We hope we will always agree with you on the stands we take. If we don't agree we hope you will defend our right to disagree on the basis that honest differences of opinion make us a vigorous democracy.

We want to assure you that any measure we support or oppose is based on careful study and is arrived at after open democratic debate. Democratic debate in the League of Women Voters means that every League member has had a full opportunity to study and voice her opinion. Therefore our decision to support or oppose any given measure represents the decision of a majority of the members of our organization. However, we also defend the right of any members of the League having a minority opinion.

We hope you will find space in your paper for the following release on the need for State Constitutional revision and a Yes vote on Amendments 2 and 3 in the November 2nd election.

Sincerely,

Mrs. Raymond E. Kehl, Public Relations Chairman

Mrs. G. Lee Runyon, Publicity Chairman

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NEWS RELEASE

There is a job to be done in the November 2nd election not only in voting candidates into office but also making a decision on the amendments which will appear on the state ballot.

Everyone knows Minnesota's State Constitution is 91 years old. Everyone knows this Constitution needs revision. However, many of us do not know there will be two amendments to that old Constitution on the November 2nd state ballot which would almost guarantee a thorough revision of the old Constitution or a stream-lined new one.

After study and careful consideration the State Convention of the League of Women Voters of Minnesota last spring voted onto its program one item: "A new State Constitution or Constitutional Revision in the interest of greater efficiency and economy in government". It supports amendments 2 and 3 because it believes that: (1) a modern, up-to-date Constitution is in the public interest; (2) passage of amendments 2 and 3 will make for speedier modernization of the present constitution. These amendments are on the ballot this fall because our constitution obviously needs revision. They're on because under the old constitution amendment or revision takes too long. The League hopes that the voters will vote "yes" to these two amendments.

As Charles B. Cheney has said: "Drafting an entire new Constitution is a strenuous task not to be done in a hurry.". Passage of amendments 2 and 3 will make it possible to revise our old Constitution in about two years. The League believes that with the work already done by the Constitutional Commission created by the last legislature, 2 years would be sufficient time in which to write a new Constitution - and a good one. Two years would be ample time in which to debate and publicize ideas for improvement and to weed out the poor suggestions.

Remember, if a voter fails to vote on a Constitutional Amendment he votes, in effect, in the negative!

LEAGUE OF WOMEN VOTERS OF MINNESOTA  
TWIN CITY AREA CONFERENCE ON CONSTITUTIONAL REVISION  
WEDNESDAY OCT. 13, 1948

MORNING MEETING      10:00 o'clock A. M.      Y.W.C.A., MINNEAPOLIS  
1130 Nicollet, Minneapolis  
Industrial Club Room

10:00 A.M.    CALL TO ORDER      Mrs. E. T. Bettels, Pres., Excelsior League

OUR PRESENT STATE CONSTITUTION      Mrs. Frank Morris, St. Paul

Brief history of present constitution  
Changes and developments which have occurred necessitating  
a more modern constitution  
Some obsolete provisions  
Bill of Rights  
Suffrage qualifications or disqualifications of women &  
Indians  
Election of U. S. senators by state legislature  
Woman suffrage in school and library elections  
~~State census~~ and many others

THE ROAD TO A MODERN CONSTITUTION

- A. Removal of obstacles which stand in      Mrs. H. L. Stright,  
way of change      White Bear Lake
1. Legal
  2. Political
  3. Psychological
- B. Adoption of an entirely new Constitution to fit present-day needs
1. Modern Legislative Dept. vs. present)      Mrs. T. Regan,
  2. Modern Executive Dept. vs. present      ) Minneapolis
  3. Modern Courts and Judicial System  
vs. present      Miss Laurie Streeter,  
Minneapolis
  4. Modern County and Local Govt.      Mrs. J. K. Moen,  
Minneapolis
  5. Modern Education system vs. present      Mrs. N. Beach  
Minneapolis
- WHAT THE LOCAL LEAGUE CAN DO TO MODERNIZE      Mrs. Harris Pett,  
OUR PRESENT CONSTITUTION      Excelsior
- WHAT THE LEAGUE MEMBER CAN DO TO MODERNIZE      Mrs. Harris Pett,  
OUR PRESENT CONSTITUTION      Excelsior

12:30 P. M.      LUNCHEON      SHERIDAN HOTEL, MINNEAPOLIS

CONSTITUTIONAL REVISION      Mr. Valdimar Bjornson, St. Paul  
Dispatch-Pioneer Press and KSTP  
Chairman of the Bureau of Public  
Information of the Constitutional  
Commission of Minnesota

3:00 P. M.      ADJOURNMENT

Hostesses: League of Women Voters of Excelsior  
League of Women Voters of Minnetonka



League of Women Voters of Minnesota  
84 South Tenth Street, Room 406  
Minneapolis 2, Minnesota  
October 1, 1948

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### SUGGESTED SPEECH ON MINNESOTA CONSTITUTIONAL REVISION

When members of Minnesota's only constitutional convention met in St. Paul in 1857 to draft a basic law for the new state, political events and pressures shaped their work.

Bitter political enmity between evenly-balanced groups of Republicans and Democrats split the convention into two warring factions. Each claimed that it was the legal constitutional convention and continued separately in its work until the end. Each group drafted its own constitution. Only the threat of state-wide chaos if two constitutions were submitted to the voters was sufficient to create a forced agreement. Our 91-year old constitution was not the result of prudent, long-range planning.

The document bequeathed to Minnesota was not flexible enough to adapt itself to the remarkable changes the state has undergone these past 100 years. Written against a background of political controversy and designed for an era which vanished with mechanization, urbanization and modern communication, Minnesota's constitution, molded in the tradition of 1857, simply is not adequate for following generations.

Our state's basic law has been amended 74 times to bring it into conformity with Minnesota's progress. The character and intent of the original document was changed substantially by the amendments but despite attempts to change the constitution to fit the needs of a modern Minnesota the document still contains obsolete, unworkable and unnecessary sections.

For example, the constitution says that only men may vote, except in school elections. It provides that the legislature shall elect United States Senators and that secret sessions may be held by the legislature. It directs that every bill passed by the legislature must first be read "at length" before each body at least twice. Another directive, nullified by legal opinion, was that half of the state senate shall be elected at each election. The state, according to the constitution, may not contract any debt over \$250,000 a limit which has been destroyed by court decisions and by other provisions.

One of the constitution's most important and controversial provisions has not been enforced since 1913 - the question of reapportionment. It states that after every census the legislature "shall" reapportion the legislative districts, but fails to provide a method by which reapportionment can be assured. For 35 years the legislature has not reapportioned Minnesota. State courts have refused to touch this volatile issue and today serious inequities exist.

These examples serve to point up the inadequacies of our constitution. Policies and philosophies sufficient for the era of our forefathers today are no match for the increasing complexity of government.

The problem of constitutional revision is not peculiar to this state. In at least 15 states constitutional revision is under way or being actively urged by political and civic leaders. These states found that they were operating under cumbersome, inefficient and outmoded constitutions. Inflexible provisions of these constitutions prevented the full potentialities of the states from being realized.

Minnesota's legislature, long aware of the need for constitutional revision, created the Constitutional Commission by a 1947 legislative act. Its membership was fixed at 21. Eight members were selected from the house of representatives by the speaker. Eight members of the senate were appointed by the senate committee on committees; one member appointed by the chief justice came from the state supreme court; and

Suggested Speech on Minnesota Constitutional Revision - 2

one member from the executive branch of the government was appointed by the governor. The governor also appointed three citizen members.

According to the act establishing the Commission, it was to "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 twenty-one members were handed a difficult task. They had, within the existing framework, to preserve and strengthen the basic foundations of state government and still endow the constitution with enough flexibility to meet the challenges of the day. Commission members were dealing with the traditions of the people when they undertook to recommend changes in the constitution and they had to be mindful of the state's progress under the existing constitution. The final report was to be filed with the Secretary of State and sent to each member of the legislature, the Governor and to the clerk of the supreme court no later than October 1, 1948.

The Commission held its first meeting on July 1, 1947 at the call of Governor Youngdahl. Dr. Lloyd M. Short, professor of political science and Director of the Public Administration Center of the University of Minnesota was chosen chairman by the Commission. A steering committee of seven members was appointed to prepare plans for the Commission's work and to act in the interim between full Commission meetings. Individual members of the Commission were polled to find out their preferences for service on the various study committees which were established to deal with specific provisions of the constitution.

Eight study committees were appointed: Legislative, Executive, Judiciary, Taxation and Finance, Education, Local Government, Banks and Corporations, and Highways and Airports. The steering committee assigned various sections of the constitution to the different committees for study and recommendations. These sub-committees were composed of from five to eight members of which the chairman and at least two members were members of the Commission. Remaining committee members were men qualified by training and experience to make genuine contributions to the areas assigned to their committees.

Rules of procedure were adopted by the Commission, personnel hired to do the office work, and space secured in the state capitol. To keep the people informed of progress made by the Commission, a Committee on Public Information was appointed, consisting of about 25 newspaper editors and publishers, radio commentators and representatives of civic groups. A speakers bureau was later established to cooperate with interested organizations. Panel discussions on different aspects of the commission's work were transcribed and broadcast over various Minnesota radio stations.

The Commission and its committees used the resources of the State Law library, the University of Minnesota library and other agencies to amass material on constitutions and constitutional revision. States and municipalities, civic groups and other organizations interested in the problem of constitutional revision contributed to the work of the Commission.

The Chairman and vice chairman of the Commission attended the annual conference on Government of the National Municipal League held in Nashville, Tennessee, during November of 1947 which was devoted largely to the subject of state constitutional revision. Information at this meeting proved extremely valuable to the Commission's work.



### Suggested Speech on Minnesota Constitutional Revision - 3

The University of Minnesota contributed a portion of the time of the chairman of the Commission as well as the services of three half-time graduate research assistants in the Public Administration Center who prepared approximately 30 research reports for the use of the Commission.

In November 1947 the eight sub-committees started a study of the sections assigned to them. Committees held from 6 to 12 meetings, several lasting for two days. Before these committees appeared representatives of various government agencies, educational institutions and civic groups who contributed information and advice.

The full Commission began considering committee reports in June, 1948. Five meetings each lasting two days and sometimes including sessions late into the night, were devoted to this important work. Hearings were held at which interested individuals and groups were permitted to state their objections to or support of measures which would affect them.

Before the final meeting of the Commission in September, 1948, a committee on style was appointed to assume responsibility for the final draft of the Commission's work. The office of revisor of statutes reviewed all the committee reports and prepared drafts for committee consideration.

The principal recommendations of the Commission incorporated in the final report will be discussed briefly under their appropriate headings. The Commission has emphasized that these recommendations must eventually be submitted to the people for approval before any of them can be put into effect.

#### Legislative

A proposed solution to reapportionment, one of Minnesota's most difficult and controversial problems was suggested by the Commission.

The Commission's plan for insuring reapportioning of Minnesota for election of its state senators and representatives requires the following sequence of steps be taken.

The legislature will reapportion the state after every federal census.

If it fails to do so, the supreme court, on complaint of any voter, is empowered to review the action of the legislature to reapportion as provided.

Then if the legislature fails to act, the governor is authorized to appoint a 10-man commission to reapportion; its members drawn from twenty nominees, ten provided by each of the two state political parties.

If, within 90 days, the 10-member commission does not fulfill its obligation, it will be discharged of its duties.

Senators would then be elected at large and one representative would be elected from each county at the next general election - after which a new commission would be established to carry out reapportionment.

This process, if adopted, would insure apportionment of the state, an event which has not occurred since 1913. Almost every session has seen attempts to bring this issue to a vote. Court tests have been instituted to make the legislature comply with the constitutional provision that the state be reapportioned after each federal census. The courts have refused to touch the question, holding that the legislature may not be compelled by another branch of the government.

The Commission also recommended that the legislature be given power to call itself into session, a power now held only by the governor. Coincident with this, it was also recommended that the governor's approval not be required on any bills dealing with business, procedures or adjournment of the legislature or on any appropriations of funds for the legislature.



## Suggested Speech on Minnesota Constitutional Revision - 4

It was also suggested by the Commission that the present 90-day legislative session be retained, but an escape clause was added by the provision that within the first 75 days of the session, the two houses could by concurrent resolution extend the length of the session.

### Executive

Appointment of the state auditor by the legislature for a six-year term was one of the key proposals made by the Commission on the executive branch.

Other constitutional changes in the executive branch proposed include lengthening the term of office from two to four years and reducing the constitutionally established executive officers to the governor, lieutenant governor and attorney general. Provision for a self-executing system of succession to the governorship, establishment of civil service and the requirement that the governor submit a budget to the legislature was also recommended.

It was pointed out that the state auditor would be set up entirely independent of the governor as a post auditor responsible solely to the legislature. This would insure strict adherence to the mandates and spending policy established by the legislature.

The positions of secretary of state and treasurer, recommended to be eliminated as constitutionally established officers, would be set up as deemed best by the legislature. Since duties of both posts are ministerial rather than discretionary in nature, it was deemed advisable by the Commission that the legislature determine whether they should be continued and, if so, how the positions should be filled.

In recommending the lengthening of the term of office for the governor, lieutenant governor and attorney general from two to four years, the Commission reasoned that the two-year term is hardly long enough for those officials to develop and carry out policies they have advocated. Biennial election of the legislature makes possible public expression on particular issues without a general overturn of state administration.

Although presently provided in state laws, expenditures would be more carefully planned and coordinated by requiring the governor to submit a budget to the legislature. As proposed, the governor would have to submit to the legislature, within three weeks after it convenes, a budget showing proposed expenditures and expected revenues prescribed by statute, together with his recommendations for providing such revenue.

Succession to the governorship is clarified and additional successors are provided. As now recommended, succession follows these lines: should the governor die, be impeached, resign or not qualify, the lieutenant governor would fill the balance of the term. Should the lieutenant governor not be available for any of these reasons, the president pro tempore of the senate, then the speaker of the house would fill the vacancy in that order. Should none of these be available, the oldest member of the senate, in chronological age, would call the senate together to elect a president pro tempore. This clear line of succession would eliminate situations such as arose recently in Georgia where the governor-elect died or as in Oregon in which the governor and several of the men who would succeed him were killed in one accident.

### Judiciary

The Commission recommended that the judicial power of the state be vested in three courts established by direct constitutional mandate, namely, the supreme, district, and probate courts, and in such other courts inferior to the supreme and district courts as the legislature may establish. The justice of peace courts are removed from the constitutional framework and may be continued only as the legislature may provide.

The establishment of an administrative council designed to formulate policies for the improvement of the administrative or business end of our judicial system is

recommended. This council will consist of the chief justice; one representative of each of the courts; one representative from the legal profession; and one from the public at large. The administrative council will serve as a clearing house for the exchange of ideas between the various courts and provide a basis for effective co-operation.

It is recommended that judges of the supreme, district and probate courts be learned in the law; that is, they must have been admitted to the bar. In view of the many laymen on the probate bench, who have by years of experience become versed in the law, a schedule of exceptions recognizes all incumbent probate judges as learned in the law for the purpose of their re-election.

The commission recommended that all judges are to be automatically retired at the age of 70 years. In order that able experienced lawyers will be willing to give up their practice for the bench and in order to avoid any hardship that may result from compulsory retirement, a retirement allowance is to be provided for judges who have continuously served a minimum period of ten years immediately prior to their retirement.

All judges, including those of the probate court, are to be elected for six-year terms. Vacancies are to be filled by appointment by the governor and the appointee is to serve until his successor has been elected and qualified. With respect to the supreme court only, the legislature is empowered to establish a special plan of appointment for the filling of vacancies and for the re-election of the chief justice and his associates. If the legislature should ever decide to put this plan into effect, any vacancy on that court would be filled by appointment by the governor from a list of three persons nominated by a non-partisan judicial commission created by law. A person so appointed would serve until he or a successor was duly elected. Once a justice of the supreme court had been elected in a free-for-all election, his name would go on the ballot in all succeeding future elections without an opponent; but with the simple question whether he should be retained in office. This provision would make it unnecessary for elected justices to engage in active political campaigns; but at the same time the voters would be able to retire those who proved unsatisfactory.

#### Taxation and Finance

Principal features of recommendations made by the Commission for the taxation and finance provisions are:

1. Power of the legislature to classify all kinds of property for the purpose of taxation is clarified.
2. Provisions on tax exemption have been strengthened expressly giving to the legislature the power to define the limits of exemption.
3. Legislative power to exempt certain classifications of personal property is defined.
4. The present constitutional section on state debt, inoperative due to the practice of issuing interest-bearing certificates of indebtedness instead of bonds, has been revised to require the state to place its debt service on a sound financial basis.
5. Limitation on general state indebtedness (present limit - \$250,000) has been eliminated.
6. Requirement of a referendum on the repeal or amendment of the gross earnings tax on railroads has been eliminated.
7. Constitution provisions on state lands have been combined into a single paragraph eliminating statutory and obsolete material.
8. Constitutional provisions on land exchange have been enlarged to permit the exchange of public lands for tax-forfeited lands.
9. Taxation of taconite mining and production facilities has been placed in a separate category insofar as changes in the method and rate of taxation are concerned.

An important problem before the Commission concerned taxation of taconite or low-



grade ore. Evidence revealed that this problem would affect the future of the state. It is generally known that our high-grade ores will soon be depleted. There are, however, vast resources of taconite from which iron ore can be obtained by processes requiring large capital investments. To secure these necessary sums, investors need to be assured of a fair and stable tax on the facilities and processes used. It was decided to retain the occupational tax on iron ore and provide that no change in the rates or methods of taxation of taconite be permitted without a two-thirds vote of each house of the legislature.

#### Education

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

1. Educational trust funds are retained.
2. Sections containing constitutional provisions on state school lands are to be combined into a single revised section, eliminating obsolete material.
3. Proceeds arising from the disposition of lands and mineral resources situated beneath waters owned by the state and beneath navigable lakes and rivers shall be allocated to a trust fund for the use of schools.
4. The provisions relating to the investment of state trust funds are to be placed in a single revised section eliminating the obsolete and contradictory provisions.

#### Local Government

The Commission has recommended the following changes in the local government provisions of the constitution:

1. Special legislation affecting specific communities may be enacted by the legislature, but such acts would not become effective until voters of the locality affected ratified the proposal at the next general election.
2. Counties as well as cities could adopt home rule charters, or counties might consolidate with cities within their boundaries.
3. Home rule charter commission organization and procedure, and the mechanics for presenting and adopting home rule charters or amendments would be prescribed by law.
4. New home rule charters could be adopted or old charters amended as often as needed or repealed completely by communities operating under them.
5. Cities of more than 50,000 population would be permitted to divorce themselves from counties and set up their own organization as a city-county.
6. Classification of local governments including counties, cities, villages, towns and school districts is authorized subject to a limit on the number of classes of each type.

The Commission's key proposals revised constitutional provisions with relation to the organization and classification of local governments as an aid in limiting the amount of special legislation enacted by every legislature. Such special laws, although called general, by circuitous definition apply only to single communities.

The provisions of the present constitution, interpreted recently by the supreme court as allowing a city to amend an existing home rule charter but not to adopt a new one, were recommended changed. This revision would "legalize" the charters of some 16 Minnesota cities now operating under their second or third charters in direct opposition to that ruling.

Greater flexibility in city-county organization through consolidation of one or all governmental functions was recommended in the Commission's report. A saving to local taxpayers might be effected the report points out, if overlapping functions are eliminated through such consolidation.



Although the present constitution has a provision for the separation of cities from counties, enabling a city to establish itself as a separate county, it may now only be effected by legislative act. The Commission's proposal would permit such reorganization by a city under a home rule charter.

#### Banks and Corporations

The principal change recommended by the Commission is the removal of the constitutional provision requiring double liability for state bank stockholders. With the exception of the section on general authority to enact banking laws, the Commission recommended the elimination of the balance of those sections devoted to banks and corporations for the reason that the material is either obsolete, covered by other constitutional provisions or more properly the subject of legislation.

#### Highways and Airports

The Commission's principal recommendations are as follows:

1. The elimination from the constitution, except by reference, of a 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 route 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.

Primary considerations of the Commission have been to give the state a more integrated and logical document on which to base the operation of the state government, eliminating overlapping functions of departments and unnecessarily minute details that were either incorporated by the constitutional framers nearly 100 years ago or added by the 74 amendments adopted since that time.

Now that the Constitutional Commission has completed its work, how can the constitution be brought up to date?

The business of modernizing and streamlining the framework of Minnesota's governmental structure can be undertaken in only two ways: by amendment; or by calling a state constitutional convention. A further restriction now part of the constitution, makes wholesale revision by amendment highly improbable since it requires that voters act on each amendment separately. A constitutional amendment, proposed by the last legislature, if ratified by the voters at the election this fall, would permit constitutional amendments to be submitted en bloc, or as a group, thus facilitating and speeding changes.

The second alternative in gaining constitutional revision would be calling a state constitutional convention. The constitution makes even this a difficult process by requiring that two-thirds of the members of the legislature propose it, plus a majority of the voters balloting at the next election. This, in effect, makes it more difficult to get such a proposal through than it is to submit an amendment.

However, under the terms of another constitutional amendment proposed by the last legislature, the procedure for calling a constitutional convention would be simplified. If voted on favorably by a majority of those balloting at this fall's general election, the legislature would be able by a two-thirds vote of both houses to call a constitutional convention.

League of Women Voters of Minnesota  
84 South Tenth Street, Room 406  
Minneapolis 3, Minnesota

October 5, 1948

Additional copies - 10¢

### IS A NEW CONSTITUTION NEEDED?

Minnesota became a state 90 years ago and its people adopted a constitution for the state at that time. We are still operating under that constitution.

In these 90 years, the constitution has been amended 74 times. This patch-work makes the constitution a "crazy quilt".

To say that the state has outgrown its constitution is to state that an adult has outgrown his boyhood knickerbockers.

The job of formulating a new constitution is a challenging one. It demands the best thought and utmost effort of our leaders in every walk of life. It is time for the people to do some serious thinking about their constitution. The job should be tackled in dead earnest.

The Constitutional Commission of Minnesota created by the legislature in 1947 has carried on thorough research through its various committees. These committees have worked out many proposed changes. Such of these proposed changes as are approved by the Constitutional Commission will be reported to the 1949 legislature. There will be controversy over some of the proposed changes. This is good.

What will the legislature do with the Commission's report? Perhaps it would be best to call a Constitutional Convention to draft a new constitution.

Drafting a constitution is a task not to be done in a hurry. The delegates to a Constitutional Convention will have to devote many months of deliberation to the subject. The work of the Constitutional Commission has been an immense benefit to the people, and a Constitutional Convention would reap much benefit from its work.

It might be interesting at this point to examine the work of the committees of the Constitutional Commission, taking the report of each and briefly noting the effect of the proposed changes suggested.

#### STEERING COMMITTEE

To this committee was assigned the following articles and sections of the constitution: The Preamble; Article II, Sections 1 and 2 (Name and Boundaries); Article 3 (Distribution of the Powers of Government); Article 14 (Amendment of the Constitution); Article 15, Sections 1, 4 and 5 (Miscellaneous). The principle change in the constitution, proposed by this committee, relates to the matter of amendment of the constitution.

At present, only a majority of each house of the legislature is required to propose constitutional amendments, which are to be submitted to the vote of the people, and adopted by a majority vote of all the voters



voting at the election at which the amendment is submitted. The committee proposes that two-thirds of each house of the legislature be required to propose constitutional amendments; any proposed constitutional amendment to be submitted at a general or special election; and that only a majority of the voters voting on the question of adopting the amendment be required for adoption.

This committee suggests the legislature be required to submit to the people at periodical intervals, the question of calling a constitutional convention. Iowa, Michigan, Missouri, and New York have these provisions and the experience of these states indicates that such provisions do not result in frequent conventions, but the power of the people is there if they wish to exercise it.

This committee suggests minor changes in the other sections assigned to it in order to eliminate obsolete material and bring these sections into conformity with other proposed changes.

#### JUDICIARY COMMITTEE.

This committee was given the task of making a study of the Bill of Rights and of the Judiciary Article.

The committee proposes some changes in the section pertaining to the right of trial by jury. At present a person charged with a violation of a municipal ordinance is not entitled to a jury trial. Under the proposed amendment, he would be entitled to a jury trial in those instances where he might be punished by imprisonment or by a fine in excess of \$50.

At present this section provides that a jury trial may be had in all cases at common law regardless of the value in controversy. The proposed amendment, limits this right to cases where the value in controversy exceeds \$100.

It is proposed to modify the right against unreasonable searches and seizures by providing that the evidence obtained as a result of an unreasonable search and seizure may not be used as evidence against the person whose rights have been violated by reason of the improper search and seizure.

The committee proposes to delete the section declaring that all lands within the state are allodial and prohibiting feudal tenures. It was thought that it served no useful purpose and could be deleted without adverse effect.

The salient features of the proposed amendment for the improvement of our judicial system may be summarized as follows: (1) Courts established by constitutional provision or which may be created by law: (a) A supreme court, a district court, and a probate court. (b) Other courts with jurisdiction inferior to the supreme and district courts may be created by law. (c) Special provision made for juvenile court work. (2) Justice of the peace courts no longer required by constitutional mandate. (3) Provision for administrative council to consist of the chief justice and representatives of other courts, the legal profession, and the public. This council will formulate policies for the efficient administration of the court system. (4) Provision for retirement of all supreme court justices



and district and probate court judges at the age of 70 years. (5) Judges to be elected for a term of six years. (6) A modified plan for the retention of the supreme court justices may be authorized by the legislature. (7) Probate court provisions: (a) Unlimited jurisdiction in law and equity for administration of estates, etc.; (b) Trust estate jurisdiction may be conferred by law; (c) Jurisdiction for determination of taxes contingent upon death may be conferred by law; (d) Each county made a probate court district unless otherwise provided by law. (8) District court clerks to be elected. (9) Clerk of the supreme court and state law librarian to be appointed by the supreme court. (10) All justices of the supreme court and judges of the district and probate courts must be learned in the law. Incumbent judges of probate recognized as learned in the law. Qualifications of other judges to be prescribed by the legislature. (11) Judges of the supreme court and justices of the district court may not hold any other office.

#### EXECUTIVE COMMITTEE

To this committee was assigned those parts of the constitution relating to the executive branch of the government principally Article 5. The recommendations of the committee are based upon the experience of our own state, that of other states, and the federal government, and embody some substantial changes. The principle features of the committee recommendations are as follows: (1) The number of constitutional 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 a statutory requirement at the present time. (6) The merit system in state and local employment is provided for.

The committee sought to adhere to the principle of placing executive responsibility in the hands of a single popularly elected officer, the governor. It is his duty to take "care that the laws be faithfully executed".

The offices of the secretary of state and treasurer are removed from the constitution; neither has anything to do with policy formulation or control functions. Their powers are administrative. Their duties are statutory. The legislature will 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.

Increasing the terms of office of the governor, lieutenant-governor, and attorney general to four years provides a more ample opportunity for the governor to establish and carry out an effective program.

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.

The composition of the board of pardons is changed by the omission of the chief justice of the supreme court. The change is in accordance with the theory that the pardon power should be placed exclusively in the executive branch of the government.

The senate is relieved of the necessity of approving the appointment of hundreds of notaries public by another change in this section.

A self-executing succession to the governorship is established. This provision covers almost all of the exigencies that may occur.

The section proposed for the establishment of the merit system is similar to one found in the New Jersey Constitution adopted in 1947.

The committee recommends the creation of a post auditor chosen by and responsible to the legislature. This will insure financial responsibility to the legislature which is the body which has constitutional responsibility for the raising and spending of state funds. At present, the legislature 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 committee proposes that the time in which the governor may consider a bill be extended, believing that this additional time will provide for more thorough examination of the work of the legislature. The present three-day limitation after adjournment of the legislature sometimes requires the governor to consider as many as 100 bills in a day.

#### LEGISLATIVE COMMITTEE

To this committee was assigned those parts of the constitution relating to the legislature, suffrage, and impeachment. These constitute most of Article 4, all of Article 7, some sections of Article 9, all of Article 13, and two sections of Article 15.

The committee sought to combine these sections into a legislative article that would assure the operation of the executive branch of the government on an efficient basis. Many substantial changes are recommended by the committee, and many minor changes are made, chiefly the deletion of obsolete material.

The sections on reapportionment have been revised to assure that apportionment will be carried out, as required, either by the legislature or by a commission appointed for that purpose. Apportionment of the house of Representatives is strictly on a population basis. Apportionment in the Senate is based on population qualified by a restriction that no county may be apportioned more than one-eighth of the senators and no two adjacent counties may be apportioned more than one-fourth of the senators.

The legislature is given greater control of its own procedure and is given the power to call itself into session. Methods of expediting the work of the legislature, such as the power to extend the session, limitation as to time which bills may be introduced, permitting introduction of revenue measures in either house, have been included as a means of insuring prompt handling of public affairs.

The sections relating to special and local laws have been entirely revised, omitting all reference to local laws. This omission is due to the fact that a local government committee has been appointed to consider the matter of local governments and local laws.



Obsolete provisions on suffrage have been deleted.

The present 90-day limit on sessions is modified by permitting the legislature to extend the 90-day limit by concurrent resolution adopted within 75 days.

The provision for introduction of bills during the last 20 days by written request of the governor has become meaningless because the governor has made a practice of requesting the introduction of bills of the most trivial nature. Now no bills may be introduced at a regular session after the seventieth legislative day unless consent is given upon important matters by concurrent resolution.

Reapportionment is to be made at the first regular session after the adoption of the constitution and at the first regular session following each decennial census of the United States. Reapportionment becomes effective so as to coincide with the expiration of the terms of the members of the existing senate.

The drastic provision which comes into use in the event the legislature does not reapportion, should be sufficient to compel the legislature to reapportion.

The validity of reapportionment is made a jurisdictional question of which the supreme court has original jurisdiction.

The present restrictions as to holding office are unnecessarily drastic. The proposed change would enable a member of the legislature, by resigning his legislative position, to qualify for another office. A like provision is contained in the federal constitution.

The present exception is that of postmaster. This is changed and an exception made in favor of notary public. There is nothing incompatible between the office of legislator and the office of notary public.

The requirement that every bill shall be read on three different days in each house and twice at length is unworkable. The recommended change follows closely the present practice.

The penalty imposed for failure of the presiding officer of either house to sign a bill previously passed by both houses was rather drastic for the offense and the committee recommends that it be omitted.

The state supreme court has ruled that a man can be convicted of felony in federal court and not lose his right to vote. The committee believes that the revocation of the right to vote should follow the conviction of a felony in a federal court as well as in a state court.

The committee has recommended a change in the section relating to the payment of money from the state treasury. This change assures to the legislature power to appropriate money for the conduct of its own business. This becomes a necessity, concomitant with the power of the legislature to call itself into session.

#### LOCAL GOVERNMENT COMMITTEE

To this committee was assigned those parts of the Constitution relating to local government; Article 4, Sections 33 and 36, and Article 11. The



committee recommended some substantial changes.

The provisions in relation to the reorganization and classification of local governments were revised with a view to limiting the amount of special legislation.

The legislature may enact special legislation affecting individual local governments, but these acts will not become effective until the voters of the local government ratify them.

Counties, as well as cities, may adopt home rule charters for their government.

The details of home rule charter procedure are left to legislative action; but the power to submit and adopt home rule charters is declared to be a continuing one.

Provision is made for the consolidation of cities and counties.

"Special law" is defined, as an aid in differentiating between special laws and general laws.

"Home rule charter" is also defined.

The legislature is authorized to provide by general law for the creation, organization, administration, consolidation, and division of local governments and their functions, also for the change of boundaries and the transfer of county seats. A change of county boundary or transfer of county seat requires approval of the voters of the counties affected.

A provision is included that a general law prevails over a home rule charter only if the law so states. Thus, frequent litigation may be avoided.

The committee has limited the classification of local governments as an inducement to the enactment of general legislation for all classes of local governments, and thereby restricting special legislation.

Special laws may be enacted for any local government and may designate the local government by name.

Before any special law becomes effective it must be approved by the local citizens concerned. However, any special law may be repealed without local approval.

Counties, as well as cities, may adopt home rule charters. Any such charter shall provide for the form of the government, for the election of the principal governing body, and for the performance of all duties imposed upon the local government.

Charter commissions are provided for. Elected officials may be members of the charter commission. The present differences in the vote necessary to adopt or amend a charter are eliminated. The power of charter commissions to submit a charter is a continuing one, not limited to the original submission.

Counties and cities may be consolidated into single units of government;

thus providing a method of reducing overlapping governmental functions and the resulting high cost of operation and maintenance.

The legislature may provide that any city of over 50,000 inhabitants may be organized as a city-county under a home rule charter, with a proper division of property, debts, and records between the city-county and the remainder of the county, and for the government of the remainder of the county. Such a charter may be presented and submitted in the same manner as a city home rule charter. A city-county has the powers and duties of a city and a county.

#### COMMITTEE ON BANKS AND CORPORATIONS

Those parts of the Constitution relating to banks and corporations; Article 4, Section 35; Article 9, Section 13; and Article 10, were assigned to this committee.

It recommended a deletion of all the sections assigned to it with the exception of one section relating to banking laws.

The principal recommendation is for the removal of the constitutional provision requiring double liability for state bank stockholders. The depositors of most state banks are adequately protected by insurance. Minnesota and Illinois are the only states that impose double liability of state bank stockholders by Constitution.

The elimination of the balance of the sections assigned to the committee is recommended for the reason that the material is either obsolete, is covered by another constitutional provision, or is more properly the subject of legislation.

Article 4, Section 35, forbidding combinations or pools to affect markets, was adopted in 1888 before the enactment of the Federal Anti-trust Act. The committee believes that this subject is more properly one that could be left to the legislature.

Article 9, Section 13, the General Banking Law, now reads:  
"The legislature may pass general banking laws".

This is merely declaratory of an inherent power already vested in the legislature. It was not thought wise to assume the responsibility of completely deleting any provision relating to banking, even though the provision is only a declaratory one.

Much of section 13 became obsolete at the time of the Civil War, with the establishment of national banks and the enactment of a Federal tax of ten per cent on all state bank notes.

The paragraph on the suspension of bank payments is no longer effective as the government has suspended all gold payments. Three other paragraphs apply to the issue of state bank notes, which went out of circulation over 80 years ago. The paragraph requiring the recording of names of all stockholders of bank stock is a matter that could well be left to the discretion of the legislature.

Article 10, Section 1, defining "corporation" is deleted because the committee did not consider it appropriate to extend the length of the

Constitution by including such a well-accepted legal concept.

Other sections are duplications of matters adequately covered in other places.

#### COMMITTEE ON EDUCATION

There was imposed on this committee the task of studying those parts of the Constitution relating to the system of public education in the state, principally Article 8. Its report provides a considerable revision and re-arrangement of the contents of this article.

The committee recommends that;

- (1) The educational trust funds be retained.
- (2) The provisions on state school lands be combined into a single section, eliminating obsolete material.
- (3) The proceeds arising from the disposal of lands and mineral resources found beneath waters owned by the state and beneath navigable waters, be allocated to the trust fund for the use of schools.
- (4) The provision relating to the investment of state trust funds be placed in a single revised section, eliminating obsolete material.

The committee consolidated the first paragraph of Article 8, Section 3, with the present Section 1 into a statement of the education policy for the state.

The committee suggests a consolidated section on public lands, combining parts of Article 4, Section 32, (b) and Article 8, Sections 2 and 8, eliminating reference to the time and place of sale and the valuation of these lands, which could be left to the legislature for determination.

The committee recommends that the proceeds from the disposition of lands and minerals under public waters and navigable lakes and rivers constitute a trust fund for the support of public education. These may prove to be exceedingly valuable.

The committee has made a short, clear statement encompassing the distribution of the present constitutionally established trust funds.

Certain matters, such as assessed value against which loans may be made to local governments, and the interest rate and duration of such loans, are recommended for elimination from the Constitution because the committee felt that such variables should not be fixed by statute, thus making it possible to adjust these variables to meet periodic and economic fluxuations.

The present constitutional provision on the distribution of the endowment school fund has been eliminated, leaving to the legislature the method of distribution.

It recommends the elimination of the investment of trust funds in farm mortgages and that they be invested only in federal, state and local bonds.



The distribution of the income from the swamp land fund has been changed from one-half to schools and one-half to charitable institutions of the state to the schools in its entirety. The reasons that appealed to the committee are that the amount distributed to any one educational or charitable institution is relatively small in relation to the annual cost of their operation; and that the present method of allocation of the income from this fund now results in an unnecessarily complicated system.

#### HIGHWAYS AND AIRPORTS COMMITTEE-HIGHWAYS

This committee had the study of the sections relating to highways and airports.

The committee recommends:

- (1) The elimination from the Constitution, except by reference, of the detailed listing of trunk highway routes.
- (2) The establishment of a commission to study and report to the legislature on the advisability of additions or deletions from the trunk highway system.
- (3) Placing in the hands of the legislature the power to delete from or add to the state highway system, routes other than those listed in the present Constitution.
- (4) Retention of the dedication of highway user taxes for the construction and maintenance of roads.
- (5) The retention of the present article on aeronautics.

The provisions relating to highways are gathered into one article. The first section relates to the tax on motor vehicles. A more concise section was drafted without making any fundamental changes. Section 2 relates to the method of dividing the income from the gasoline tax between the counties and the state. No recommendation was made because this question will be presented to the people at the November election this year.

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

Section 3 retains, by reference, the routes constitutionally established by the amendment adopted November 2, 1920. Eliminating the detailed enumeration of these routes reduces the length of the present Constitution by approximately 25 per cent.

Section 4 provides that the routes added to the trunk highway since the adoption of the Babcock Amendment in 1920 be retained as part of the trunk highway system until otherwise provided by law.

Section 5 provides for the establishment of a commission to study and recommend to the legislature changes in the trunk highway system.

Section 6 authorizes the legislature to alter, change the location of, add or delete from the trunk highway system any route not fixed by the constitution.

Section 7 eliminates the present limitation as to the amount of bonds that may be sold in any one year or the total amount issued for the purpose of financing highway construction.

#### HIGHWAY AND AERONAUTICS COMMITTEE--AERONAUTICS

The committee recommends that the article relating to aeronautics be not changed. The reason for this is that the article was recently adopted, in 1944, and the experience as to operation is limited.

#### TAXATION AND FINANCE COMMITTEE

The taxation and finance committee was assigned to study the following articles and sections; Article 2, Section 3 (Acceptance of Enabling Act); Article 4, Section 32, (a) (Railroad Taxation); Article 4, Section 32, (b) (Internal Improvement Lands); Article 8, Section 2, (School Lands and School Fund); Article 8, Section 5, (Loan of School Funds); Article 8, Section 6, (Investment of School Funds); Article 8, Section 7, (School Forests); Article 9, (Finances of the State); Article 11, Section 5, (County and Township power to tax); Article 17, (Forest Fires); Article 18, (Reforestation); Article 19, Sections 2, 3, 4, (Air Navigation).

The committee is of the opinion that inflexible limitations and controlled taxations should not be placed in the constitution. The provisions relating to policy should not be placed in the Constitution. The provisions relating to policy should be stated in terms broad enough to permit the adjustment of tax laws to current needs by legislative action more readily than at present, but without disturbing the formal structure of the tax system. With these principles in mind, the committee sought to provide a tax article that is short, simple, and substantially more flexible than the present provisions. The principal features of the changes recommended are; (1) Power of the legislature to classify all kinds of property for purposes of taxation. (2) Strengthening the provisions on tax exemption, expressly giving to the legislature the power to define the limits of exemption. (3) Defining the legislative power to exempt certain classifications of personal property. (4) The present constitutional section on state debt is inoperative, due to the practice of issuing interest-bearing certificates of indebtedness instead of bonds. This has been revised so as to require the state to place its debt service on a sound financial basis. (5) Elimination of the present limitation on general state indebtedness. (6) Elimination of the requirement for a referendum on the repeal or amendment of the gross earnings tax on railroads. (7) Combining the constitutional sections on state lands into a single paragraph, elimination of obsolete material. (8) Enlarging the constitutional provisions on land exchange so as to permit the sale of public lands for tax-forfeited lands. (9) Placing the taxation of taconite mining and production facilities in a separate category insofar as changes in the method of rate or taxation are concerned.

The committee recommends the retention of the so-called "wide open" tax section.

The committee recommends that the present provision on the exemption of property should be strengthened. In 1944 approximately 25 per cent of the assessed value of all taxable real property in the state was exempt from taxation.

No substantial change in the severance tax on timber was made.

The committee recommends a substantial change in the gross earnings tax imposed on railroads. It does not believe that the railroads, as an industry, are today entitled to a constitutional tax denied to all other corporations and individuals. No other state constitution requires the change of rate or the method of taxation of a railroad corporation, yet the railroads apparently operate successfully in the other 47 states.

The section relating to state lands is considerably re-worded, but safeguards on retention of mineral rights and water power sites are kept.

The committee recommends the retention of the occupation tax on iron ore but suggests that the dedication of this revenue to certain trust funds be eliminated.

The tax protection extended to the taconite industry is based on the following factors: (1) The high grade ores are rapidly facing exhaustion while unlimited amounts of taconite are available. If the industry can be encouraged to make the necessary investments, the state and its people will reap unusual benefits. (2) The taconite industry is a new industry requiring tremendous capital investment in processing plants.

end



1949

## VOTE ON H.F. 810

A bill for an act proposing a convention to revise  
the Constitution of the State of Minnesota

<u>LEAGUE</u>	<u>LEGISLATIVE DISTRICT</u>	<u>LEGISLATORS</u>	<u>VOTE</u>
AFTON-LAKELAND	43	Howard O'Brien	No NO
ANOKA	44	Nordin	Yes
ATWATER	25	Felt Johnson, A. I.	Yes No
AUSTIN	5	Holtan Herzog	Yes Yes
BATTLE LAKE	50	Anderson, J. A. Aune Dunn Windmiller	No No No Yes
BEMIDJII	62	Chilgren Dickinson	Yes No
BUFFALO	27	Ilstrup Lee	Yes No
CASS LAKE	52	Lundrigan Shipka	Yes Yes
COLUMBIA HEIGHTS	44	Nordin Felt	Yes Yes
DULUTH	58	O'Malley Wanvick	No Yes
EXCELSIOR	36 S	Matchan	Not voting
FERGUS FALLS	50	Anderson, J. A. Aune Dunn Windmiller	No No No Yes
GOLDEN VALLEY	36 N	Haeg	No
GRANITE FALLS	13	Nelson Peterson, O.	Yes Yes
GROVE CITY	26	Holmquist	Yes
HIBBING	60	D'Aquila Rutter	Yes Yes
HUTCHINSON	22	Ernst	No

<u>LEAGUE</u>	<u>LEGISLATIVE DISTRICT</u>	<u>LEGISLATORS</u>	<u>VOTE</u>
JACKSON	10	Bondhus Frederickson	Yes Yes
KASSON	5	Holtan Herzog	Yes Yes
KNOLLWOOD PARK	42 N	Allen	No
LAKE CITY	3	Richardson	Yes
MAHTOMEDI	43	Howard O'Brien	No No
MANKATO	8	Sheran Croswell	Yes Yes
MINNEAPOLIS	28	Tomczyk Biernat	Yes Yes
	29	Murk Wegner	Yes Not voting
	30	Bergerud Christie	Yes Yes
	31	Hagland Johnson, L. A.	Yes Yes
	32	Lundeen Volstad	Yes Yes
	33	French Root	No No
	34	Peterson, P. K. Welch	Yes Yes
	35	Goodin Mosier	Yes Yes
	36	Matchan Haeg	Not voting No
MINNETONKA	36 S	Matchan	Not voting
MOUND	36 S	Matchan	Not voting
NEW PRAGUE	17	Erkel	No
NEW RICHLAND	16	Hartle Dahle	Yes Yes
NEW ULM	14	Burroughs Waibel Dirlam	No No Yes

<u>LEAGUE</u>	<u>LEGISLATIVE DISTRICT</u>	<u>LEGISLATORS</u>	<u>VOTE</u>
NORTHFIELD	18	Illsley	Yes
OLIVIA	23	Enoetvedt	No
OWATONNA	16	Hartle	Yes
		Dahle	Yes
PARK RAPIDS	63	Norman	Yes
		Basford	Yes
RED WING	19	Voxland	Yes
		Langley	Yes
ROCHESTER	4	Madden	Yes
ST. CLOUD	45	Kosloske	No
		Reed	Yes
ST. PAUL	37	Beanblossom	Yes
		Gibbons	No
	38	Prifrel	Yes
		Podgorski	Yes
	39	Meihofer	Yes
	40	Otto	Yes
		Hill	Yes
	41	Carlson	Not voting
		Memmer	No
	42	Allen	No
		Tucker	Yes
SOUTH ST. PAUL	20	Gillen	Yes
TRACY	13	Nelson	Yes
		Peterson, O.	Yes
TWO HARBORS	57	Omtvedt	No
		Anderson, A. B.	No
WABASHA	3	Richardson	Yes
WASECA	16	Hartle	Yes
		Dahle	Yes
WHITE BEAR LAKE	41	Carlson	Not voting
		Memmer	No
	43	Howard	No
		O'Brien	No
WORTHINGTON	11	Halverson	No
		Searles	Yes



The complete vote is listed below. There were 80 yeas and 40 nays - 8 votes short of the required two-thirds.

AFFIRMATIVE VOTE

Anderson, H. R.	Frederickson	Lundeen	Richardson
Anderson, V. F.	Gillen	Lundrigan	Riedner
Basford	Goodin	Madden	Rundquist
Beanblossom	Hagland	Mattson	Rutter
Bergerud	Hegstrom	McReynolds	Ryan
Biernat	Herseht	Meihofer	Ryti
Blomquist	Herzog	Mills	Searles
Bondhus	Hill	Mosier	Sheran
Chilgren	Holm	Murk	Shipka
Christie	Holmquist	Nelson	Silvola
Cina	Holtan	Nordin	Swanstrom
Croswell	Illsley	Norman	Tomczyk
Dahle	Ilstrup	Oberg	Tucker
D'Aquila	Johnson, L. A.	Olson	Tweten
Day	Karas	Otto	Volstad
Dirlam	Keller	Peterson, O.	Voxland
Dixon	LaBrosse	Peterson, P. K.	Wanvick
Ehrenberg	Langley	Podgorski	Welch
Felt	Lejk	Prifrel	Windmiller
Flom	Letnes	Reed	Mr. Speaker

NEGATIVE VOTE

Allen	Dunn	Howard	Morberg
Anderson, A. B.	Enestvedt	Iverson	Moriarty
Anderson, J. A.	Erdahl	Johnson, A. I.	O'Brien
Appeldorn	Erkel	Johnson, M. N.	O'Malley
Aune	Ernst	Kaplan	Omtvedt
Burroughs	French	Kinzer	Ottinger
Burtness	Gesell	Kosloske	Rinke
Clark	Gibbons	Lee	Root
Dickinson	Haeg	Lux	Swanson
Dominick	Halverson	Memmer	Waibel

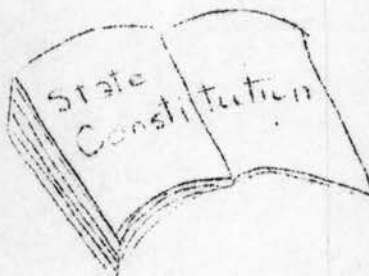
We are giving you this list with the suggestion that the League President or Legislative Chairman and other interested League members write to their legislators commending a favorable vote and, in a diplomatic way, seeking an explanation of the reasons for the opposition.

When you have done this, would you please make a report of the replies to the state office in order that we may plan more constructively our future work on this item.

League of Women Voters  
1025 17th Street, N. W.  
Washington 6, D.C.

Price 5¢  
February 24, 1949

## THE LEAGUE AND STATE CONSTITUTIONAL REVISION



### I. THE NEED FOR REVISION

A good constitution is basic to good government. Sound legislation and efficient administration cannot be hung on a rickety constitution, - like new clothes on an old scarecrow. They must grow out of a strong, consistent and simple constitutional framework.

Many of the existing state constitutions fail to provide such a framework. While there are many differences among them, they have in common several general faults that make them inadequate instruments to meet the needs of modern states. First, they are too long and too wordy; they go into details that should be covered by legislation. Second, administrative authority is not vested in a single responsible executive. Third, in many states people living in the thinly populated rural sections have an unfair share of representation in the legislatures in comparison with people who live in towns and cities. Fourth, the constitutions contain many obsolete provisions (such as prohibition of quartering soldiers on the citizens in time of peace, for example), but forbid, or at least fail to provide for, the machinery needed to cope with the problems of the modern world. Fifth, the state judicial systems are often complicated and inefficient. Sixth, there are many ill advised limitations on state legislative power. Seventh, municipalities and counties are prevented from adopting modern forms of government by constitutional provisions. And lastly, the processes of amendment are sometimes rigid and unworkable, sometimes too loose and easy.

### II. CONVENTION, OR AMENDMENT?

A thorough-going revision by a convention is the most logical way of accomplishing fundamental changes in outdated constitutions; it also has some practical advantages. It arouses public interest and focuses the attention of citizens on government as nothing else does. If some outstanding delegates are elected, and if wide publicity is given to the sessions of the convention, its proposals will have great weight. It is better to have the whole document reviewed as a unit,

its parts brought into a consistent relationship with each other, and its wording made uniform, - than to attempt revision by piecemeal methods. Amendments are less likely to produce a concise and well integrated instrument.

However, the submission of the constitution as a whole to a referendum has its dangers. W. Brooke Graves, in his book American State Government, says, "General revisions widely recognized as good may be defeated at the polls through the cumulative effect of various disgruntled elements objecting to individual provisions. No one of these groups alone would be powerful enough to defeat the proposed constitution; all of them together, though they may have little or nothing in common, can defeat it by their united opposition."

Amendments may accomplish a great deal in the way of revision. Since they are voted on separately, opposition to individual sections does not have a cumulative effect. However, it is not always possible to draw up a logical and consistent set of amendments. Some state constitutions are so badly constructed that to make one change requires the amendment of several sections, and great confusion would result if some of these amendments were not approved as a group. If there are particularly controversial changes proposed, it is sometimes wise to have them submitted separately, even if the rest of the document is submitted as a whole.

In a number of states a commission has proved helpful in preparing the way for action by the Legislature or by a convention. The proposals of a commission have always been treated as advisory only, but as an auxiliary device a commission may have great value in the whole revision effort.

Citizens working for revision must weigh the relative merits of these methods with great care, and try to choose the one that offers the best hope for success in their particular political situation. In many states the method will already be provided in the existing constitution. If this method is too difficult or cumbersome it may be necessary to work first for a "gateway" amendment to provide for an easier amending process.

### III. ROAD BLOCKS IN THE WAY OF REVISION

Revising a constitution is a tremendously difficult job. No group of citizens should undertake it with the idea that it can be easily and quickly done. It takes time, money, a long, persistent, resourceful effort, - and some good luck. There are always a lot of people who have benefited by the weaknesses of the constitution and are violently opposed to revision. There are people who fear that something "radical" may result if the people are allowed to change their charter. The political leaders (and many of the people too) in the rural sections of the state believe that the unfair balance of representation in their favor must be preserved at any cost. There are people who object on principle to any change in the sacred constitution.

Thomas Jefferson wrote: "Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant - too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment.... I am certainly



not an advocate of frequent and untried changes in laws and constitutions ... But I know also that laws and institutions must go hand in hand with the progress of the human mind."

And last, - and worst of all to struggle with, - there are a great many citizens who just can't be bothered with government at all.

Nevertheless, in spite of all these obstacles, the effort is well worth while. A sound constitution is the essential foundation of democratic and efficient government. There is nothing better suited than a revision movement to the "informed and active participation of citizens in government." And there is today a general understanding of the need of modernizing our state constitutions. Citizens in at least one third of the states are currently interested in revision.

#### IV. WHAT REVISION TAKES

1. A vigorous, determined, representative, well organized citizens' movement, headed by leaders who will stick to the fight to the end.

2. Strong support from some branch of the government, - presumably the Governor - or from the leaders of a major political party.

3. Widespread public understanding and backing. "Probably no state constitution will be either amended or rewritten until a large share of the people believes there is need for change." (Charlton F. Chute, - How to Get a New Constitution, National Municipal Review, March 1947).

4. A non-partisan, or bi-partisan, approach. A disgruntled minority party is likely to be able to attach to itself enough scattered opposition to defeat the revised constitution.

5. The preparation of impartial background material by the state Legislative Council, or by the state university. This makes the task of the citizens' committee much easier and cheaper. This preparation should be set in motion early in the campaign.

6. Ample time and opportunity for every interested citizen to learn about the issues and to present his opinion. Revision must not be subject to the charge of "railroading."

7. A large sum of money for public education and citizen organization. A central campaign headquarters with executive and clerical staff will be needed. An immense amount of printing must be provided for. Besides the authoritative studies, a great deal of shorter and simpler campaign material will be needed for wide distribution, - fliers, pamphlets, sample ballots. Money will also be needed for radio and newspaper advertising, and above all for organization.

## V. A PROGRAM FOR THE LEAGUE OF WOMEN VOTERS

If, after considering all these problems and difficulties, the League decides that the time to attempt revision has come, the following is a general outline on how to proceed, - although of course no exact schedule can be laid down that would fit all the varying situations.

1. Make a study of the facts through a committee set up for the purpose. If the need for revision is already fairly well understood, this need not take much time. The help of universities in the state can be invaluable here.

2. Have the report made available to the members, and put before them a recommendation to proceed with a campaign for revision. The members must understand that if they undertake it they must be prepared to devote a very large share of the time and woman power of the League to it for a long time.

3. Enlist the cooperation of other groups. This should be done as early as possible on a very broad base, including all kinds of citizens, - labor, industry, farmers, women, minorities, civic groups. It is especially important to include both rural and town representation, - lest there should be a split along city-vs-country lines.

4. Make a plan of action, well thought out in advance, but flexible enough to be adapted to shifts in the political situation. This plan must include a campaign of public education, using all means of communication.

5. Organize citizens' committees on the county and local levels. No campaign carried on from one central office can be as effective as an organization in each community. To reach the people, the story of revision must be brought to them at home, by direct contact.

6. While all this is going on, come to an agreement through our usual League processes on the changes in the constitution to be supported by the League.

7. Follow and publicize the progress of revision as it goes on. The struggle is not over until the last vote is in.

8. If the draft of the new constitution is good, or the amendments are desirable, there must be an all-out effort to secure ratification. This may be the hardest job of all, because everyone can agree that a change is needed, - but there will be great differences of opinion as to what should be changed, and how.

## VI. THE LEAGUE'S FITNESS FOR THE JOB

Any general advance in the field of government requires, or at least is greatly aided by, the kind of organization and techniques that the League knows so well. We have an essential contribution to make to any such movement as a campaign for constitutional revision. Our non-partisanship, our concern for the general interest, our methods of reaching citizens by direct contact, our ability to take advantage of "political accidents" and above all our corps of women ready and willing to work - all these things are invaluable assets to revision. Our comprehensive

program often gives the League a better understanding of the need for revision than any other organization, because we are likely to have come up against the constitutional obstacles to good government at many points.

#### VII. STANDARD DOCUMENTS FOR REFERENCE

1. The state constitution itself.
2. The Model State Constitution - National Municipal League, 299 Broadway, New York 7, N.Y., 1948, \$1.00. Also from the National Municipal League, Modernizing State Constitutions, a reprint of four articles from the National Municipal Review, 25¢.
3. The Book of the States, issued by the Council of State Governments, 1313 East 60th Street, Chicago 37, Ill., 1948, \$7.50.
4. American State Government, by W. Brooke Graves, D.C. Heath and Co., Boston, Mass., 1941, \$4.00.

#### VIII. SOURCES OF ADVICE AND HELP

1. National office of the League of Women Voters, for information about what state Leagues have done.
2. National Municipal League, 299 Broadway, New York 7, N.Y.
3. Council of State Governments, 1313 East 60th St., Chicago 37, Ill., for up to date material or bibliography.
4. The American Judicature Society, Hutchins Hall, Ann Arbor, Michigan, for suggestions and current material on the organization of courts, selection of judges etc.
5. The State University, or any university within the state.



LEAGUE OF WOMEN VOTERS OF MINNESOTA  
84 South Tenth Street, Room 417  
Minneapolis 2, Minnesota

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April 4, 1949

Dear League Member:

I'm asking you to do something for the League TODAY - NOT TOMORROW - but TODAY. Write a letter to your State Senator and Representatives (get their names from your League President, if necessary) and ask them to vote for the bills in their respective houses which will put to a vote of the people the calling of a Constitutional Convention.

We ask you to do this only if you can do so sincerely, on the basis of your own personal conviction, but we are certain that there are few League members who have taken part in our Constitution study during the past year who do not feel the need for considerable revision in that document. The only means now possible for an overall, coherent revision is by a constitutional convention, which can be called only if the Legislature by a 2/3 vote decides to submit to the people the question of calling such a convention.

If we do not have a Constitutional Convention, any revision done will have to be on a piecemeal basis, with the possible result of increased confusion and ambiguity, and many fundamental problems left unsolved. Besides all the technical reasons, such as the elimination of obsolete and contradictory material, a logical and unified arrangement of subject matter, and omission of statutory detail to make the instrument flexible and capable of changing with the times, there are other basic psychological reasons why we should have revision and why a constitutional convention might be the healthiest way for this to be brought about. Many provisions of our present constitution are actually ignored or in some way circumvented. This leads to a growing disrespect for law on the part of the people, which is most unfortunate. Also, the very life of democracy depends upon keeping the grass roots vocal upon having vigorous local and state governments which solve their own problems rather than running to Washington with them. And last but not least, the people need to be reminded of the fact that they are the government. There has been no overall consideration by our citizens of their fundamental laws since the Constitution was adopted over 90 years ago. There is a tendency for them to think of the government as something entirely foreign to themselves, something to be blamed for everything that goes wrong - and at the same time, to feel that the laws laid down for them by their forbears are too sacred to change. A constitutional convention could serve to remind them of this most important fact - THAT THEY ARE THE GOVERNMENT.

April 4, 1949

With this bit of background and with what you have learned from your own study and discussion in mind, sit down and write your letter. Make its tone a personal one - not "formletterish"- get your husband to sign it with you if he will. And get it off today. Do it preferably as a private citizen rather than as a League member.

In the few days following see how many of your friends you can interest in writing similar letters. The 2/3 vote is going to be most difficult to get. There are special interests now protected in the constitution who will strongly oppose it; a considerable lethargy exists on the part of many of the legislators themselves. However, the legislators who worked on the Commission and have been doing some thinking on the subject, strongly favor revision - and it will not be an impossible job to get the 2/3 vote. This is our major item of work on the State Program. Let's make it a successful one!

Sincerely,

*Evelyn Thomas*

Mrs. Lincoln Thomas  
Chairman State Constitution Legislation

## CONSTITUTIONAL REVISION

### Item I. on State Current Agenda

As presented to the State Convention by Mrs. Reuben C. Brustuen  
May 19, 1949

#### I. Primary Objective of the League of Women Voters - Good government for all the people.

Recognizing the fact that government to be good must rest on a sound and secure foundation, the League has turned its attention this past two years to a study of our State Constitution. From this study we learned; the document is pitifully inadequate being born out of political controversy and compromise 91 years ago. It was admittedly inadequate even then and has never been up for reappraisal by the people. The League believes it to be high time for such an appraisal. People of each generation are entitled to solve their own political problems, to make their own mistakes, rather than be saddled with errors of the past. Our Constitution dates back over almost a century of progress culminating in the atomic bomb, non-stop round the world flights and trans-oceanic telephone calls.

We learned also from our study that a good Constitution should be:

1. A brief but broad statement of principles clearly and logically developed.
2. Flexible enough to change with the times.
3. In reality be nothing more than a blueprint for legislation.
4. A guide to efficient, modern, economic government.
5. Should provide for fairly simple uncomplicated method of future revision.

How does our Constitution measure up to these criteria? Very badly indeed! Let me cite some points where it falls sadly short:

- a. It is too long. Full of statutory details (better settled by law-makers), Listing of State highways.
- b. It is confusing and contradictory. Obsolete, and ignored provision. Material dealing with taxation and finance found in 6 Articles instead of one.
- c. It is outdated and even its 75 amendments have not succeeded in remedying this. Prevents introduction of more efficient means of government into the Executive, Judicial and legislative branches.
- d. It sets up an unnecessarily difficult process of amendment and revision. These we discovered this past year when the two amendments we supported were defeated because they did not receive a "Yes" vote from the majority of all voting in the election - and when the proposal to call a Constitutional Convention failed to poll a 2/3 vote from the House.

It is unnecessary to go into more detail on the short-comings of our basic law because we know what they are. But have we let the people know - made the people care - helped the people act? What we must do now is just that. Must cry Constitutional Revision and its needs to our neighbors, our law-makers and our leaders. [If we do our job well enough to create public demand for revision, our work is almost finished.]



We must analyze the reasons behind the defeat of the three League supported measures of last year and devise the means for future victory.

We must contact our present legislators either commending them on their support of the Convention call or asking them to state their objections to it. We must solicit their support when the machinery for revision is once more set in motion, as it surely will be.

Mrs. Thomas and the State office have prepared roll call voting record of your legislators. Will you please contact them. Information gained from contact with legislators added to what we learn from our study and analysis of the objections and obstacles to revision, by any method, should enable us to plan a more effective campaign in the future.

What are the obstacles history shows us to exist? How can we surmount them? There are three methods - amendments dealing with one matter only - amendments revising a whole article at once. Consider first the amendment process:

What we may call a rule of the minority - Requirement of "Yess" votes from a majority of all voters voting has resulted in the defeat of 42 amendments from 1900-1926, all but one of which received a 3/5 to 5/6 majority of the votes cast on the proposition. As we can see - in reality a minority of the voters defeated them by either not knowing or not caring enough to vote on the amendment. Therefore, it would seem that the solution of this difficulty is an energetic and steady educational campaign.

Prof. Anderson in his article "The Need for Constitutional Revision in Minnesota" has further suggested that perhaps we must amend the amending process - reverse the 1898 amendment, making it harder and again make it easier. It would be hard to pass, but if necessary it could be presented to the voters more than once. This would require as much education, but once passed, the way is paved for more amendments such as the one providing that a whole article such as Judicial or Financial be revised in one amendment. If such an amendment were passed it would result in:

The Legislature actually revising the Constitution by a series of amendments, each one revising a whole section. Objections to this method are:

It would take too long.

Legislature is not the proper body to revise.

Should be done by a duly elected Constitutional Convention.

This leads us to Convention - The avenue through which revision will most likely come. Obstacles besetting the Convention route are generally speaking - 3 types of barrier - legal, political and psychological. These exist in varying degrees any place revision is contemplated. Certainly we found some of all of them here. Let's look briefly at each one.

#### I. Legal

Refers to legal procedures provided in present Constitution for calling a Constitutional Convention. Requires that 2/3 of both Houses propose to call Convention (45 of 67 Senators - 88 of 131 Representatives). The call is placed on ballot in next election. Yes votes from majority of all voters voting in the election. If passed the next legislature must call the Convention and delegates are elected in the following election (Minimum of 4 years from proposal to call Convention) and must meet within 3 months after their election. The Convention shall be the same size as the House and delegates shall be elected in the same manner.

The 2/3 requirement is difficult to meet and we couldn't this year but perhaps if we work diligently to surmount the political and psychological barriers which I shall discuss next, we shall be successful.

- II. Political barriers refer to opposition from minority groups and groups receiving special protection under the present Constitution ie. railroads-gross earnings. Opposition from groups who do not wish to see reapportionment considered. The New Jersey Convention agreed not to consider it. It may not be necessary here considering that rural areas are assured of the same majority as they have in the House.

#### III. Psychological

This barrier is made up of a number of attitudes - "Good enough for grandpa" etc. "Why rewrite the Bible" and "State's grown big, why worry" etc. These attitudes arise from lack of thought and knowledge, smugness and complacency. Education is the only thing to combat them.

Another and more serious barrier is mistrust of the people, funny in a democracy, and manifests itself this way - we heard it here - Fear expressed that in view of recent voting trends the Convention would fall into the hands of radicals. History proves otherwise for the Convention is a conservative device for:



League of Women Voters of Minnesota  
84 South Tenth Street, Room 417  
Minneapolis 2, Minnesota  
December 28, 1949

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## THE MINNESOTA COUNTY AND CONSTITUTIONAL REVISION

### THE COUNTY - AN IMPORTANT UNIT OF GOVERNMENT

The county is a unit of government created by the Minnesota state Legislature under Article 11 of the state Constitution for the purpose of administering 1) state laws at the local level and 2) certain local functions such as roads and welfare. There are 87 counties in Minnesota.

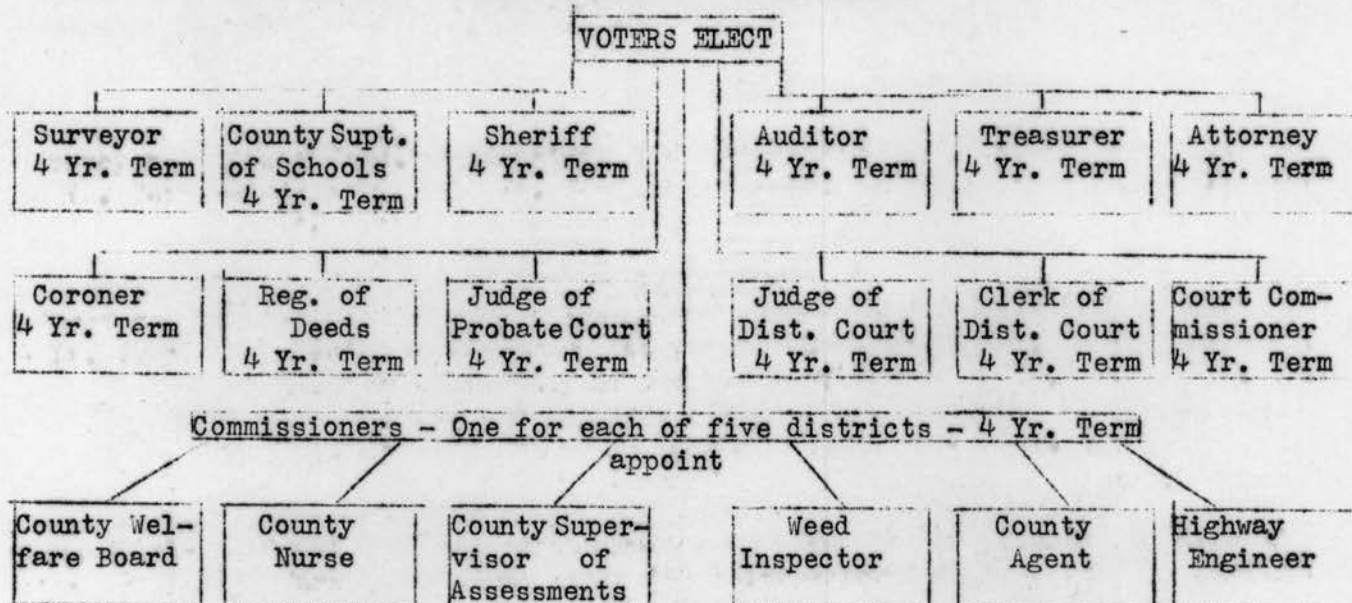
### WHY IS A STUDY OF COUNTY GOVERNMENT IMPORTANT TO LEAGUE MEMBERS?

- I. \$78,708,000 were the total revenue receipts of the counties in Minnesota from federal, state and local sources in 1947. With counties spending millions of dollars each year, it behooves us to investigate and analyze county administration and expenditures.  
Question: What were the total revenue receipts and how were they spent in your county last year? Ask your county auditor.
- II. The county administers services of great importance to the citizens, such as health, welfare, probate and district courts, legal services, law enforcement, registration of deeds, tax collection, surveying, highway engineering, agricultural extension services, etc. The present national trend is toward entrusting the county with the administration of still wider services especially in the fields of public health, highways, parks, public welfare and county planning.
- III. A study of county government will reveal certain weaknesses some of which are due to provisions of our state Constitution. Any fundamental modernization of our county government must be preceded by REVISION OF OUR STATE CONSTITUTION. To know why we need change, we must be aware of present weaknesses in Minnesota county government.

### THE STRUCTURE OF COUNTY GOVERNMENT

All counties in Minnesota have approximately the same form of government regardless of size, financial condition, urban-rural relationships, etc. The following chart of county government structure was taken from "You Are the Government", p. 50.



COUNTY GOVERNMENT IN MINNESOTAWHAT ARE THE WEAKNESSES OF COUNTY GOVERNMENT?I. Division of Administrative Responsibility.

No single person or group is completely responsible for county administration. The administrative power is shared by:

1. The county commissioners who have wide but by no means complete administrative power.
2. Numerous minor administrative officials elected, according to our state Constitution with no prerequisites of education or experience, share the administrative power with the county commission (see state Constitution, Art. 7, Sec. 7 and Art. 11, Sec. 4). None of these minor officials is under the jurisdiction of the county commission and may be removed only by the governor for misfeasance and malfeasance (see III below).

II. The County Government Lacks Legislative Power.

There is no ordinance-making power in the county government. The result is that much valuable time in the overcrowded state legislative session is spent in determining petty legislative details for specific counties. This practice of "special legislation" is contrary to the spirit of our state Constitution (see state Constitution, Art. 4, Sec. 33; also, "Report of the Constitutional Commission of Minnesota", Art. 11, Secs. 4 & 5).

III. County Election Lists Too Long.

The list of elected county officials includes one commissioner for each district of a county, the sheriff, auditor, treasurer, surveyor, register of deeds, coroner, clerk of courts, court commissioner (the same person may also be probate judge) and judges of the district and probate courts. The trend in modern government is toward the election of a few well chosen officials, responsible to the electorate and who have the power of appointing qualified minor officials responsible, in turn, to the appointing authority.

IV. Lack of A Complete Merit System.

Only fragments of a merit system exist in the counties of Minnesota. Under the present system of county employment, patronage with its attending evils exists.

Question: How much of a merit system exists in your county?

V. Antiquated Business Methods.

Modern business methods are lacking in some counties.

VI. Non-Integration of Services Within a County.

The responsibility within the counties for the administration of services such as health, highways, and welfare (in approximately one-third of Minnesota's counties) is divided between the county and the smaller units of government within the county.

Note: City-county consolidation is offered as a means of integrating services for the purpose of efficiency and economy. Experience in other states indicates that consolidation may not be politically feasible. However, it is possible to integrate certain city-county services such as law-enforcement, parks, planning, health and welfare for greater efficiency or to set up metropolitan districts for the same purpose.

WHAT CHANGES ARE NECESSARY FOR MODERN COUNTY GOVERNMENT?

The form of our county government is frozen into our state Constitution. Provisions for counties in our present state Constitution are brief. They have, however, been implemented by the state Legislature by means of general law. It is apparent that the state Legislature has considerable power to reorganize county government, but constitutional provisions for such reorganization are somewhat ambiguous. To clear up such ambiguities and to accomplish any fundamental modernization of county government, important constitutional revision is required. The LOCAL GOVERNMENT SUB-COMMITTEE of the MINNESOTA CONSTITUTIONAL COMMISSION has made recommendations for constitutional revision with regard to counties.

Note: See "Report of the Constitutional Commission", Art. 4, Sec. 33, Art. 7, Sec. 7 and Art. 11.

As a yardstick in evaluating the recommendations of the Local Government Sub-Committee of the Constitutional Commission, the weaknesses of county government should be kept in mind. The Commission advises a constitutional amendment which would give home rule to counties. This amendment would enable individual counties to choose charters which would solve their own governmental problems and which would make appeals to the state Legislature for special legislation unnecessary.

DID YOU KNOW THAT

Statistics show that, nationwide, only one out of every ten qualified voters vote in county elections? This lack of citizen interest is one of the very important reasons that the county is the most backward of all units of government in Minnesota, as well as in other states of the nation. Study and education of the voters concerning the importance of county government and its retarded position as a unit of government can improve this situation.

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12/28/49

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## DISCUSSION OUTLINE ON LOCAL GOVERNMENT

### I. Local Government

A local government is any political sub-division of the state for which provisions have been made by law for self-government and for the holding of elections (for example: village, city, township, county, school district).

Note: For definition, classification and discussion of these forms of local government, see "You Are the Government", League of Women Voters of St. Paul, pp. 49-81 and "Report of the Constitutional Commission of Minnesota", Art. IX, Secs. 1 & 3, p. 59.

### II. General Legislation

Any law passed by the Legislature affecting all the members of any class of local government is general legislation.

Note: See Art. IX, Sec. 2 of the Commission's proposals.

### III. Special Legislation

Any law passed by the Legislature affecting one member only of any class of local government is special legislation.

Note: Our present Constitution prohibits the passage of such laws but many have been passed under the guise of general legislation. See Comment under Art. IX, Sec. 4 of the Commission's proposals; also note the proposal requiring local referendum before special law can go into effect.

### IV. Village Government

Village government has been prescribed by general laws and takes the form of mayor-council. The council may consist of 5 members including the mayor who has no special authority other than what goes with being president of the council.

Note: Although village government is government by remote control, it has the advantage of uniformity throughout the state. See "Advantages and Disadvantages of a Home Rule Charter". Information Service of the Municipal Reference Bureau and League of Minnesota Municipalities.

### V. Home Rule

The "relationship between cities and/or counties and the state in which the cities and/or the counties enjoy the fullest authority to determine the organization, procedures, and powers of their own governments and a maximum freedom from control by either the Legislature or state administrative officers". (Mott, "Home Rule for America's Cities", p. 6).

A home rule charter thus may frame any type of government which will best provide for necessary services to the community within its boundaries and which is not inconsistent or contrary to the Constitution of the laws of the state.

#### A. Constitutional Home Rule

Local governments are given the power to frame their own charters by the Constitution. There are today 80 cities in Minnesota operating under home rule charters.

The Home Rule Amendment was added to our Constitution in 1896 (Art. IV). It gives any city or village the power to frame its own charter and orders the Legislature to pass the necessary laws to supplement this grant..

Note: This is a mandatory provision because the Legislature must pass enabling legislation before it can take effect. A self-executing home rule provision has been proposed by the Commission in its place which, of course, does not require legislative action. See Commission proposals (Art. IX, Sec. 5).

. B. Legislative Home Rule

Local governments are given the power to frame their own charters by the Legislature.

Until 1895 cities had to rely upon legislative enactment of individual special charters or govern themselves under general laws. We have, at the present time, in Minnesota 22 cities with special charter type of government. They range in size from Henderson (population - 820) to Winona (population - 22,490). All village government, of course, is set up under general law.

VI. Objectives of Home Rule

- A. To prevent legislative interference with local government.
- B. To permit local self-government by enabling cities (and/or counties) to adopt the kind of charter and government they need and desire.
- C. To provide cities with sufficient power to furnish the services demanded by the community.

Note: For further discussion, see Mott, "Home Rule for America's Cities". pp. 11 & 12.

Home rule satisfactorily provided for legally does away with government by remote control and fosters local interest and initiative; and places the responsibility and authority for performing necessary services where it belongs - at home.

VII. Advantages of Home Rule

- A. A home rule city may operate under the form of government and with the range of powers its citizens desire it to have. These are provided for in its own charter which is framed and adopted by its own citizens; thus assuring a government tailor-made to fit its needs.
- B. Whenever a change is needed or desired, the charter may be amended by the people on the spot without waiting for legislative action.
- C. The Legislature is relieved of the time-consuming and expensive practice of passing special legislation.
- D. A home rule charter arouses and maintains citizen interest and participation in government. To vote upon a charter or amendment, the voter must learn at least a little about it.
- E. A charter may provide for a sound budget system and levy new taxes not inconsistent with the state tax policy.

- F. A home rule charter city has broader powers to give service.
  - 1. A city may assume new powers if the state has not already entered the field.

- 2. Legislative interference is decreased in purely municipal matters.

Note: Background material for above section VII: Mott, "Home Rule for America's Cities". pp. 53-55.  
 "Advantages and Disadvantages of Home Rule Charter", Information Service, Municipal Reference Bureau & League of Minnesota Municipalities.

#### VIII. Difficulties in Operating a Home Rule Charter in Minnesota.

##### A. Method of Adopting Charter.

- 1. Our Constitution requires that a new or revised charter receive a 4/7 majority vote of those voting in the election.
- 2. The Constitution states also that once a charter is adopted it may never be repealed nor may a new one be passed in its place. (Supreme Court decision on Minneapolis Charter, 1948)

##### B. Method of Amending Charter

Our Constitution requires that an amendment receive a 3/5 majority of all voters voting in the election.

Note: This required majority is too high and it is so difficult to make changes in their charters that most cities have been forced to importune the Legislature to pass special laws (as witness St. Paul's action on the Independent School Board bill, 1949).

- C. A home rule charter must relate only to municipal affairs and may not change the boundaries of a municipal corporation. This limitation seriously affects metropolitan areas, as the city's police force, fire department and other services may operate only within the city's boundaries.

- D. There is no provision in our Constitution for consolidation of a city and a county, or for the formulation of a city-county. This would solve, in part, the problems of a large metropolitan area and provide for more and better services more efficiently and economically provided.

#### IX. Constitutional Provisions Necessary for Effective Home Rule.

- A. "Protect cities against the enactment of special or local laws".

- B. "Grant cities authority to frame their own charters".

- C. "Give cities powers broad enough to provide maximum services for their citizens."

Note: Mott, "Home Rule for America's Cities", pp. 6-9.

#### X. Suggestions for Revision of the Minnesota Constitution's Local Government Provisions.

- A. Limitations on Legislative power over cities.

- 1. Provide that a general law may not supersede a local charter unless specifically stated in the law.
- 2. Require a popular referendum on any special law affecting the locality.



B. Home Rule section.

1. Provide that the grant of power be self-executing rather than mandatory (i.e., no enabling act should be required for local governments to frame their charters and that it apply to all cities or villages regardless of size and to all counties.).
2. Provide that local governments may frame their own charters and outline the subjects which may be included.
3. Provide a general outline of procedure in:
  - a. establishing a charter commission
  - b. submitting a home rule charter
  - c. adopting a home rule charter
  - d. amending a home rule charter
4. Liberalize the majority vote required for the adoption or amendment of a home rule charter.

Note: The size of the majority vote required may well be omitted from the Constitution and set forth in the charter itself; but wherever dealt with, it should not be so high. Probably a simple majority of the voters voting on the issue would be sufficient.

C. Provisions for consolidation of two local governments.

1. City-county consolidation.
2. Organization of any first class city as a city-county.

D. Provisions stating that the power to submit a home rule charter be a continuing one and that a county or city may repeal its charter and adopt a statutory form of government.

Note: See Art. IX of Commission's proposals and "Some Suggestions about Constitutional Provisions on Local Government", Information Service of Municipal Reference Bureau & League of Minnesota Municipalities.

\* \* \*

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Numbers 4 through 13 are published by the Information Service of the Municipal Reference Bureau, League of Minnesota Municipalities, Library 15, University of Minnesota, Minneapolis 14, Minnesota. Numbers 4 and 5 accompany this outline.

The starred numbers are the most helpful if you must choose.

Numbers 9 through 13 would be extremely helpful in a local project study of local government. The first seven are especially pertinent to study of the local government provisions of our state constitution.

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LEAGUE OF WOMEN VOTERS OF MINNESOTA

84 SOUTH TENTH STREET, ROOM 417

MINNEAPOLIS 2, MINNESOTA

Atlantic 0941

December 28, 1949

Dear President:

"One of these years, if supporters of the movement just keep plugging away, Minnesota may get a new or at least a well revised Constitution". So said Professor Bennett M. Rich of Rutgers University in a speech to the National Municipal League Conference. The League of Women Voters is certainly among the "ardent supporters", so we must "keep plugging away".

In order to do this more effectively, we must adopt for support at our state convention specific proposals for revision under the present broad statement. To aid you in formulating program recommendations dealing with item one, Constitutional Revision, your committee on Structure of Government has compiled the following bibliography and prepared supplementary materials on local government.

1. Report of the Constitutional Commission of Minnesota, Oct. 1, 1948.

A very comprehensive pamphlet containing not only the Commission's proposals, but a comparison, article by article, with the present constitution and comments by the commission on each change and reasons for it.

2. League of Women Voters of Minnesota, "Is A New Constitution Needed?" Oct. 5, 1948.

Summary reports of proposals of the sub-committees of the Constitutional Commission of Minnesota. This summary lists briefly each important change and its effect.

3. William Anderson, "The Need for Constitutional Revision in Minnesota".

Title is self-explanatory. A very comprehensive statement written in laymen's language.

4. League of Women Voters of Minnesota, "Suggested Speech on Minnesota Constitutional Revision". Oct. 1, 1948.

Sets forth briefly the historical background of the present Constitution, presents five arguments for its revision and discusses necessary changes and reasons for them. Could be read at a public meeting.



Affiliated with the  
League of Women Voters of the U. S.



December 28, 1949

These four publications you should have in your files. Send for them if you don't. Study and discuss them. You'll find them invaluable in your re-examination of the Commission's proposals.

Of course we are not so naive as to believe that these proposals will be adopted as they stand by a constitutional convention, but the history of constitutional revision in other states shows us that such proposals form a solid foundation for convention consideration. Let us use them, then, as our home base for further exploration.

As they so often do, the items on our present agenda tie in together. Thus, when you study the League outline on the Economic Item which you have already received, apply it to the provisions in the present Constitution and the Commission's proposals on Taxation and Finance (Article IX) and study it also in the light of what Professor Anderson says in "The Need for Constitutional Revision in Minnesota" (pp. 203-205).

The Civil Rights material (item three) can assist us in our study of the Bill of Rights article. Coordinate your discussion of this item with revision.

All four of the publications listed above, but especially "The Report of the Constitutional Commission of Minnesota" and Professor Anderson's above-mentioned pamphlet are excellent background material for recommendations you may wish to support dealing with the amending process, the legislative, judiciary, executive articles and others. Your committee cannot emphasize their worth strongly enough.

Many local Leagues have chosen as their local project a study of their city or county government or charter. To aid in such projects, your committee has compiled a comprehensive bibliography and a discussion outline of local governments in Minnesota under the present constitution along with a list of necessary and desired amendments which should be passed in order to make Home Rule more effective. Discuss this material and apply it to your locality. How can we revise the Constitution to attain "home rule at home"?

Well, there you have it. Does it sound like a lot of work? It won't be if you have the publications we listed. It will be fascinating and easy.

The information is all there. Study it, discuss it, compare it, and when the time comes to make state program suggestions, support items and send them in to the state office.

Sincerely,



Mrs. Reuben C. Brustuen  
Structure of Government Chairman