League of Women Voters of Minnesota Records

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LEAGUE OF WOMEN VOTERS OF NEW MEXICO

2295 B 47th St.
Los Alamos, N. Mex.
February 28, 1954

League of Women Voters of Minnesota
84 South Tenth St., Room 406
Minneapolis 2, Minnesota

Dear Mrs. Newstrom,

I am enclosing copies of the material provided by the State Board of the New Mexico League for the local leagues. Our study of Reapportionment is not complete, nor will it be until next fall. We hope that the local leagues will have made their recommendations before the next session of our state legislature in 1955. At that time we hope to obtain some redress from under-representation, but do not expect to accomplish more at that time.

Thank you for your material. Won't you please keep us informed of developments in Minnesota?

Sincerely yours,
Phyllis F. Wallis
(Mrs. Malcolm Wallis)
State Resource Chairman

2230 B 47th Street
Los Alamos, New Mexico
October 26, 1953

From: Mrs. Malcolm Wallis, State Resource Chairman
To: Local League Presidents and Resource Chairmen
Subject: Reapportionment Item of State Agenda

The League of Women Voters of New Mexico is beginning its study of the reapportionment of the State Legislature. What is meant by reapportionment? For our study, it means the redistribution of shares of representation in the State Legislature. Two Unit meetings should be sufficient time to cover the material. Here is a suggested rough outline for the study:

A. First Unit
   1. Reapportionment in general
   2. Apportionment in other states (select a few examples of various methods along with instances of success and failure to reapportion)
   3. Methods of reapportionment including mathematical formulae
   4. History of reapportionment in New Mexico including an explanation of the present situation

B. Second Unit
   1. Report on your findings from your conversations or correspondence with local government leaders and your legislators in regard to a reapportionment plan for our State Legislature.
   2. Discussion of the best plan for New Mexico

The present apportionment of the New Mexico Legislature was determined by a constitutional amendment in 1949. There are 31 senators, one from each county, except Los Alamos. Therefore, each county has an equal voice with every other in the senate. The House of Representatives consists of 55 members apportioned to the various counties as shown on the following table:

Representation per County in the New Mexico House of Representatives 1950

County	1950 Population	Number of Representatives	Average Population Representation
Bernalillo	145,673	6	24,278
Catron	3,533	1	3,533
Chavez	40,605	3	13,535
Colfax	16,761	2	8,380
Curry	23,351	2	11,675
DeBaca	3,464	1/2	6,928
Dona Ana	39,551	2	19,775
Eddy	40,640	2	20,320
Grant	21,649	1	21,649
Guadalupe	6,772	1 3/4	3,727
Harding	3,013	1	3,013
Hidalgo	5,095	1	5,095
Lea	30,717	2	15,358
Lincoln	7,409	1 1/3	5,557
Los Alamos	10,476	1/4	41,904
Luna	8,753	1	8,753
McKinley	27,451	2	13,725
Mora	8,720	2	4,360
Otero	14,909	1 1/3	11,182
Quay	13,971	2	6,985
Rio Arriba	24,997	2 1/2	9,999
Roosevelt	16,409	1/2	32,818
Sandoval	12,438	1 1/2	8,292
San Juan	18,292	1	18,292
San Miguel	26,512	3 1/2	7,575
Santa Fe	38,153	2 1/4	16,712
Sierra	7,186	1	7,186
Socorro	9,670	1 1/3	7,252
Taos	17,146	2	8,573
Torrance	8,012	1 1/4	6,409
Union	7,372	1	7,372
Valencia	22,481	2	11,240
New Mexico	681,187	55	12,385

Representation is supposedly based on population within counties, but the table shows a variation of one representative per 3,013 people to one per 41,904 people. If the total number of representatives (55) is divided into the population of the state (681,187), the proportion is one representative to 12,385 people. However, as long as the counties are used as legislative districts, inequities will continue.

Since reapportionment of the legislature would require a constitutional amendment, would it not be wise to set up a system which would assure regular reapportionment and not just provide a more equitable allocation for the moment.

In the preceding (21st.) legislature there were several bills introduced. They are summarized as follows:

House Joint Resolution No. 24 - Each county is given one senator -- House consists of 69 members --nEach county shall constitute a representative district and each district allotted at least one representative -- Creates an Apportionment Commission composed of President of N.M.A.M., President of Highlands, and a member of N.M. Supreme Court -- Secretary of State prepares and submits after each federal census a statement showing the population of each county and number of Representatives to which each county is entitled by the Method of Equal Proportions -- Legislature then enacts legislation providing for apportionment -- Should legislature fail to act Apportionment Commission certifies the statement of the Secretary of State and notifies the counties of apportionment.

House Joint Resolution No. 10 -- Each county given a senator -- House consists of 56 members -- Each county given at least one representative.

Senate Joint Resolution No. 21 -- Each county is given one senator except Los Alamos -- House consists of 55 members -- Each county given at least one representative.

H.J.R. No. 24 did not come out of committee, but H.J.R. No. 10 was passed by the house amended to change only the senate. The reapportionment of the house was eliminated. S.J.R. No. 21 was the senate's answer to the attempt by the house to change the senate. The senate wished to change the house. In the end no reapportionment was accomplished. These resolutions are worth noting only because they show to some degree the feeling of the last legislature toward reapportionment.

It is also apparent that the legislators did not wish to change the long tradition of representation by counties; that is, each county is a legislative district or in some cases a part of a district. The major change proposed in these resolutions was the elimination of the so-called "shoe-string" districts (several counties combined in one district). A reapportionment plan which would eliminate the "shoe-string" districts and give each county at least one representative would have a chance of success, but any attempt to establish legislative districts ignoring county lines would meet with great opposition. The tendency to "sanctify" county lines not only constitutes a chief obstacle to fair and regular apportionment, but interferes with policies which might effect improved and more economical administration of the laws of the state. It would probably take years of re-education in the state to break down the county lines and effect a truly equitable reapportionment. Therefore, we must be realistic and work toward an improvement, and look forward to a more perfect solution, perhaps when there is a constitutional convention.

In order to determine the forces at work in New Mexico for or against reapportionment, ask league members, local government leaders, and especially your representatives and senators the following questions:

1. How much do factors such as wealth, influence, religion, race, and local pride as well as population distribution influence a reapportionment plan?

2. Do we have here in New Mexico a north-south rivalry? A Spanish-American-Anglo rivalry? A rural-urban rivalry? A religious rivalry? In short, what rivalries can and may obstruct reapportionment?

3. Would there be significant changes in the political complexion and policy in New Mexico, were a more equitable reapportionment obtained?

4. Does our state legislative apportionment figure as an issue in the following situations:

a. Labor and management
b. Support of public education
c. Highway Fund Distribution
d. Local government subsidies and support
e. Social welfare programs
f. Taxation and public finance
g. Legislative organization itself
h. Imbalance of party strength

These are not easy to determine but your elected legislators should know how much these influence reapportionment.

5. Should a constitutional amendment specify the number of representatives allowed in the House? At present there are 55. There are about seventy desks in the House so the number of representatives cannot be increased beyond this number without rebuilding the state house.

6. Should each county be allotted at least one representative, assuming that counties are maintained as legislative districts?

7. By what method should the remaining representatives be apportioned?

8. Should a constitutional amendment provide an automatic method of reapportionment? For example: a commission be established to reapportion the House according to the method of equal proportions after each federal census.

9. Would the number of registered voters or the number of votes cast in the last gubernatorial election be a better basis for reapportionment than total population?

It is important that we know the temper of the people of the state in regard to reapportionment before we attempt any lobbying in the next session of the legislature, and that is the ultimate goal of this study. Therefore, will you send your findings and decisions to your State Resource Chairman?

BIBLIOGRAPHY

Source material enclosed:

1. "Legislative Apportionment and Congressional Districting in New Mexico" New Mexico Legislative Council

2. "Legislative Apportionment in Oklahoma" Bureau of Government Research, University of Oklahoma, Norman

3. "Law and Contemporary Problems" Duke University, Vol.17, No. 2, Spring 1952 All of the articles of this symposium are interesting and fine background material. The following pages are of particular interest to our study: Pages 253-267, pages 302-313, pages 364-377, 427-439

This has been our "Bible" on Reapportionment

The following material is of interest, but is not essential for a thorough study because it either duplicates the books listed above or because it deals with problems peculiar to other states. These are listed merely to show the quantity of material available.

1. "Legislative Apportionment in Wisconsin" Wisconsin Legislative Reference Library Research Report 101, September 1950

2. "Legislative Reapportionment" Minnesota Legislative Research Committee

3. "Legislative Apportionment in New Jersey, A Survey of Modern Methods Available" Rutgers University, January 1952

4. "Legislative Apportionment in Illinois" Publication 112, Illinois Legislative Council, Springfield

5. "Study of Legislative Reapportionment in Utah" Utah Legislative Council, December 12, 1952

6. "Reapportionment" Alabama Legislative Reference Service

7. "Reapportionment of the Kansas House of Representatives" Publication No. 181, Kansas Legislative Council, December 1952

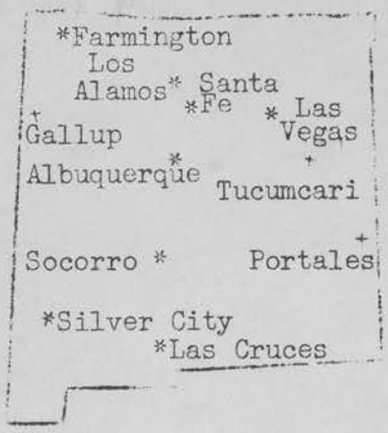
8. "Legislative Apportionment in Kansas" by Thomas Page, University of Kansas Publications, Governmental Research Series No. 8, Lawrence, Kansas

9. "Methods of Reapportionment" by Kenneth C. Sears, University of Chicago Law School

10. "Legislative Reapportionment" by Margaret Greenfield, Bureau of Public Administration, University of California, Berkeley

11. "Congressional Apportionment" by Laurence F. Schmeckebier, The Brookings Institution, Washington, D.C.

There is an interesting article in Harper's Magazine, August 1953 entitled "Inflation in Your Ballot Box" by John Creecy. Recommended reading.



THE NEW MEXICO VOTER

Issued by the League of Women Voters of New Mexico

VOLUME IV NUMBER 3 FEBRUARY 1954

Mrs. Elmer Wald, Editor
Albuquerque, New Mexico

Mrs. R.D. Jameson, President
Las Vegas, New Mexico

REAPPORTIONMENT OF THE LEGISLATURE OF NEW MEXICO

State Agenda Item: A study of the Reapportionment of the Legislature of New Mexico in order to obtain more equitable representation.

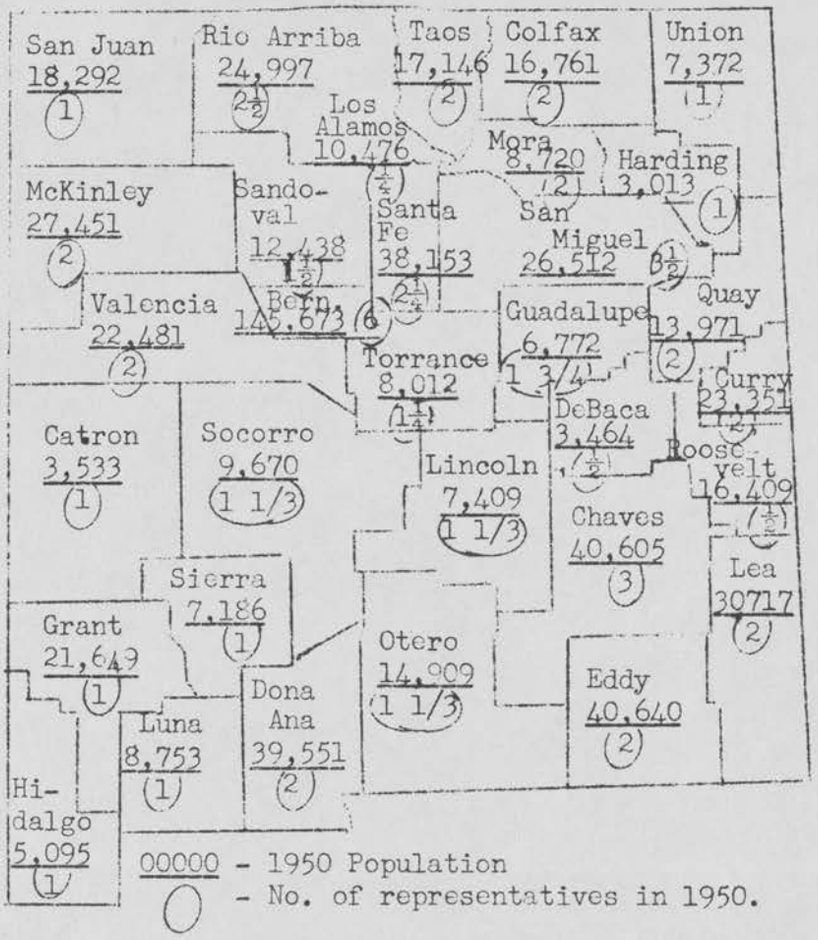
In October, material was mailed to the resource chairmen of all local leagues. This contained a guide as well as a bibliography. According to the latest reports all leagues, except Los Alamos, will study reapportionment in their Units in February. Los Alamos has tackled the problem in January, and the study will be topped off by a talk on the intangible factors affecting reapportionment in New Mexico by Dr. Thomas Donnelly of Highlands University. It has been suggested by your State Resource Chairman that your study include the general theory of reapportionment, apportionment in other states with emphasis on various methods used, and the scientific approach. Many people may ask why bother with all that? The answer is that the League must make a thorough study of any subject before taking a stand, and only by examining all the practical and idealistic methods can we become fully informed.

Some people have expressed surprise that the League is studying reapportionment with the view to action in the next Legislature. It is true that only a little over four years ago, the people of New Mexico passed a constitutional amendment reapportioning both houses. This served to completely change the apportionment of the Senate by making each county a senatorial district instead of combining counties into districts. This is according to the "Federal Plan" The House of Representatives was changed enough to give the thickly populated areas some redress from under-representation. Nevertheless, inequities still exist. There is also the problem of the so-called shoe-string districts, which is a combination of several counties comprising a district. This is considered a poor method of representation. Ideally, representation is a relationship between a designated official and a citizen in which the actions of the official accords with the desires of the citizen. In practice, there is no device of representation which extends to all persons equally, but we can work toward a more equitable apportionment within the House. It must be remembered that with each county equally represented in the Senate, no legislation is likely to be passed which would be detrimental to any county. This system of checks and balances puts holes in the argument that if a county loses representation through a reapportionment plan, its interests will be overlooked or damaged. After all, the citizens of this state are all in the mineral, farming, livestock, and other businesses <u>together</u> and their continued well-being assures the well-being of the state. As a matter of practical politics, any area which can keep its population interested and well informed will have a tremendous influence in the legislature, regardless of any possible decrease in representation.

MATERIAL FOR FEB. UNITS

REPRESENTATION - NEW MEXICO HOUSE OF REPRESENTATIVES

1950



In our preliminary study of reapportionment, it became apparent that there are factors other than population distribution which may affect a reapportionment plan. In order to determine these forces, letters have been written to various people throughout the state asking the following questions:

1. How much do factors such as wealth, influence, religion, race and local pride, as well as population distribution influence a reapportionment plan?

2. Do we have here in New Mexico a north-south rivalry? A Spanish American-Anglo rivalry? A rural-urban rivalry? A religious rivalry? In short, what rivalries can and may obstruct reapportionment?

3. Would there be significant changes in the political complexion and policy in New Mexico, were a more equitable apportionment obtained?

4. Does our state legislature apportionment figure as an issue in the following situations:

a. Labor and management.
b. Support of public education.
c. Highway fund distribution.
d. Local government subsidies and support.
e. Social welfare programs.
f. Taxation and public finance.
g. Legislative organization itself.
h. Imbalance of party strength.

It was hoped that there would be sufficient answers to give you a summary of the opinions. Unfortunately, only one-third of the letters have been answered at this time. It would be wise to postpone a discussion of these factors until such time as we can treat them fully. If anyone, League member or not, wishes to give us answers to these questions, please send them to your State Resource Chairman, Mrs. Malcolm Wallis, 2295B 47th St., Los Alamos.

After the Local Leagues have studied reapportionment in their Units and the recommendations have been received by the State Board, a summation of the decisions will appear in a future Voter. However, the intangible factors must be fully explored before the League would be in a position to present, support or oppose a reapportionment plan. Your contribution in your February Unit Discussion will do much to clear the way.

Mrs. Malcolm Wallis, Los Alamos
State Resource Chairman

**** From the President ******

Now is the time to be thinking of the State Program for 1954-55. Do we want to add any new items to our State Current Agenda? 1955 will be a legislative year again. Do we want to concentrate in our state program on action rather than study in this year? We have still work to do on the Reapportionment Study before we come to agreement. There is more work to be done if we expect to get the absentee ballot adopted in the next legislature. The State Board feels we should take another look at the Election Code and see if we still want to back the direct primary. Are there other areas of agreement in the Election Code on which we may want to take action?

Next fall we should be working on these questions with our local legislators before the legislative session opens.

What are we going to do about getting a personnel bill--or a better budget procedures bill? Such bills may or may not come up in the 1955 Legislature. If they do, we must be prepared. If they don't, do we want to attempt to get bills introduced?

In the 1951 convention in Las Vegas an amendment to the By-laws proposing a biennial convention (with a Council Meeting in the intervening year) was defeated. The Convention felt that an annual convention was good for all of us while we were still a new State League. HAVE WE REACHED THE POINT where we can plan two years in advance as National does - the Convention setting the pattern with the Council reviewing progress and emphasis in the intervening year? If so, who should compose the Council? Or--is our annual convention still serving its good purposes?

These are all questions on which the State Board would like your views. Send them to us individually or by Leagues. The next State Board meeting will be about the middle of February. If By-law changes are to be considered it will have to be at this meeting to allow time for circulation to the Local Leagues two months before the Convention.

Mrs. George Lavender, Box 2008, Santa Fe, is Chairman of the 1954 Nominating Committee. She will welcome any suggestions you have for officers and directors for the next two years. These do not have to be members of your own League but may be anyone you think suitable. Consult your Local Leaders Handbook for duties and qualifications. They are practically the same on the state level as on the local level. Silence may be golden in some cases, but who is on the gold standard any more? The idea of the League is to have vocal members. Don't get program or officers you don't like just because you haven't expressed your opinion. You stand a much better chance of getting what you want if you let it be known what you want. Besides, it is good League procedure.

* * * * * * * * * * * * * * * * * * * Mrs. R. D. Jameson, Las Vegas,
President

CLIPPED FROM THE LOS ALAMOS NEWSLETTER:

Apropos our current and intensive study of Reapportionment in the New Mexico State Legislature, Dr. Thomas C. Donnelly, President of the New Mexico Highlands University and author of "The Government of New Mexico," has very kindly consented to address the League on various aspects of that subject--the more intangible facets which are not readily discoverable. To add to our pleasure, Mrs. R.D. Jameson, State President, has promised to come!

WHAT MAKES ALBUQUERQUE TICK?

A Local Government Workshop sponsored by the League of Women Voters of Albuquerque and open to the public was held in Albuquerque, January 27. The all day session featured competent speakers on such subjects as "The Basis of Operation of the City Manager Form of Government," "An Appraisal of the City Manager Form of Government in Albuquerque," "City Planning and Zoning," and a panel discussion covering Personnel, Finance and Reporting to Citizens on Public Affairs.

from the Albuquerque Voter

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LAS VEGAS CITY COUNCIL

RECOGNIZES LEAGUE'S RESEARCH

When the Las Vegas City Council started writing a Garbage Collection Ordinance, the League was invited to the drafting sessions. The January Las Vegas League Bulletin states, "Board members and others who had worked on the study of garbage collection met in December with Mr. Noble Irish, chairman of the ordinance committee for the City Council, and discussed the proposed ordinance. At this time Mr. Irish stated that he would like complete approval of the League before he presented the ordinance to the City Council."

The proposed ordinance is now ready to be presented to the City Council. The January Unit Discussions in Las Vegas were devoted to the study of the proposed ordinance so that League support would be representative of the total membership.

from the Bulletin, League of Women Voters
Las Vegas, New Mexico

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MESSAGE TO SOCORRO -- TELL US HOW YOU DID IT ---

The Socorro Voter reports that the receipts from non-member contributions (The Finance Drive) exceeded the amount budgeted by ONE HUNDRED TWENTY percent.

One clue to this remarkable success can be found in the same Socorro Voter in the report of Kitty Bejnar, Membership Chairman, to-wit: "Most of the members themselves have worked actively on at least one of the many activities of the League. Some have spent a small amount of time in several areas; others, more concentrated efforts in fewer areas. However, the WHOLE is a picture of a cooperative, enterprising group of thinking women citizens intent on 'making Democracy work' rather than paying mere lip service to an ideal."

from The Socorro Voter

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

September, 1954

Tips for Use in Duscussion of

LEGISLATIVE REORGANIZATION IN MINNESOTA

What is the Problem?

The rapid increase in state legislative responsibilities during the 20th century has imposed heavy burdens on state governments. Faults and defects in legislative organization have been magnified by the pressure of modern conditions. Growth in the functions of public works, welfare, health, and education; the complex interrelationships of federal, state, and local governments; the analysis of huge budgets - all these have been thrust upon state legislatures in a relatively short period of time. It is not surprising, therefore, that adjustments and changes have become necessary in order for the legislature to perform its duties efficiently and effectively under these changing conditions.

In Minnesota as well as other states, the need for reorganization has been felt. As early as 1913, an Efficiency and Economy Commission was initiated by the Governor. Significant changes in the executive department were made by the Reorganization Act of 1939. In 1947 the Constitutional Commission of Minnesota was set up by the legislature, resulting in a detailed and exhaustive report which recommended many changes in the constitution and also recommended that these changes be made by means of a constitutional convention. In 1949, the legislature created the Minnesota Efficiency in Government Commission (The "Little Hoover Commission"), which made recommendations mainly for changes in the executive branch, but also touched briefly on the legislative and judiciary branches. A growing interest in the problems of the legislature has also been shown in recent years by citizen groups, educators, and individual citizens.

In this study, the League becomes acquainted with the present organization of the legislature; attempts to determine how well the legislature fulfills its function of policy-making with its present organization; learns what proposals for improvement have been made; and tries to evaluate these proposals against a set of standards evolved over a period of years by national and state organizations devoted to the study of government.

Areas for Study and Discussion

1. Present organization. Facts relating to the present organization of the Minnesota legislature may be found in the most recent Legislative Manual, "Ninety Days of Lawmaking", in the material we are discussing here, and many other sources. Up to date comparisons of our organization with that of other states may be found in the Book of the States, 1954-55. In reviewing these facts, we may concern ourselves with the size of Senate and House, length and frequency of sessions, purpose and number of standing committees and interim committees, function of the Legislative Research Committee, and with how the members of these committees are chosen. In actual practise, the procedure of the legislature does not always adhere strictly to rules and constitutional provisions. Legislators themselves and on the spot observers such as t the League of Women Voters lobbyists are the best sources of information on the actual practices.

In our discussion of the legislature, we may be guided by a series of questions, the answers to which may give us an insight into some of the problems which face the legislature.

Senators and representatives are elected on a non-partisan basis. How then does the legislature divide up politically? Is this division always clear cut? What takes place in the pre-session caucuses of the two main groups, and how do these caucuses

affect committee assignments, the choice of Senate and House leaders, the course of legislation?

Why is the committee stage of a bill of such importance? What may happen to a bill in committee? How can the voice of the public be heard at this stage of legislation?

Knowing the steps through which a bill must pass before becoming law, is it possible to forsee everything that may happen to it along its route through the legislature? What influence may the Speaker of the House bring to bear on committee membership; on the assigning of bills to committee; on the passage or defeat of bills?

What is the constitutional provision on the time limit for the introduction of new bills? Why are so many bills introduced after this time?

2. Relationships within the organization. The state executive is recognized as a leader in the formulation of policy. There is an ever increasing number of bills introduced in the legislature which are sponsored by the executive department. The administration depends upon the funds appropriated by the legislature to carry out the state services for which it is responsible. Clearly there must be a working partnership between the two branches if the public interest is to be served.

How is this cooperation to be attained? Does the non-partisan legislature promote cooperation or does it tend to decrease the feeling of responsibility on the part of the legislators to carry out the program of the governor? Is the Minnesota legislature truly non-partisan?

Could fear on the part of the legislature of a too-powerful executive department be a cause of tension between the two departments? How could this fear be diminished so that the two could work together more harmoniously and effectively? Would it ease the situation if the legislature were to have more clear-cut avenues of oversight of the executive such as a post-auditor responsible to the legislature, and a better research staff of its own for fact-finding, without overstepping the bounds of the separation of powers?

3. Function of legislature. We may define the functions of the state legislature as:
   The right and the responsibility to determine broad policies
   To make appropriations and levy taxes to administer these policies
   To review the effectiveness of these policies and the way they are administered
   To manage its own organization, personnel, and powers

The aim of reorganization might be defined as the assurance that the state government is carrying out for the people the policies laid down by the legislature through their elected representatives. If we accept this definition, then the fixing of responsibility, improvement of the quality of legislation, a more smoothly working organization, the strengthening of popular control, an effective and efficient government in which the people can have confidence - would have the main emphases, with economy as a by-product.

In discussing our reasons for studying reorganization, do any other goals come to mind? Will a definition of our aims help in evaluating suggestions for improvement?

4. Defects. What defects in the organization of the Minnesota legislature have been pointed out by individuals; by commissions set up by the legislature; by the privately financed Minnesota Institute for Governmental Research?

What specific recommendations have been made by the "Little Hoover Commission", and the Constitutional Commission of Minnesota?

How do these proposals compare with the criteria set up by the National Municipal League, the Council of State Governments, and by other groups interested in the betterment of government?

How would the legislature be better able to carry out its functions if these defects were abolished? How would popular control be enhanced and strengthened?

5. Evaluation. In evaluating some of the reorganization proposals which have been advanced, we might ask ourselves:

Would longer and more frequent sessions of the legislature allow legislators to make more thoughtful and considered decisions on increasingly complex legislation?

Would a change in the time limit for introduction of new bills solve the problem of the log-jam at the close of the session, or would other factors also influence this situation?

Would improved legislative staff and research services help committees and individual legislators to make informed decisions independently from the executive department and from pressure groups?

How would reduction in the number of standing committees and in the number of committee assignments for individual legislators promote more effective consideration of bills?

Why is special legislation concerning local communities undesirable?

Does the lack of party designation place the governor in a position where he has to bear the whole responsibility for getting his party platform adopted? Does the nonpartisan legislature enable the citizen to fix responsibility for success or failure of important measures?

Why does the state legislature not feel obliged to follow the rule of the United States Congress in providing for proportional minority membership on all the standing committees, including the rules committee?

What avenues of participation in government are open to the citizen? Why is it increasingly important that he does participate as government grows larger and more complex?

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

September, 1954

Additional copies 10¢

LEGISLATIVE REORGANIZATION

C O N S T I T U T I O N A L B A S I S O F S T A T E L E G I S L A T U R E S

Introductory Material pertinent to the study of those aspects of the State Constitution which relate to the Legislature.

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C O N S T I T U T I O N A L B A S I S O F S T A T E L E G I S L A T U R E S

Introductory Material pertinent to the study of those aspects of the State Constitution which relate to the Legislature.

I. Historical Background

Earliest Constitutions. When the founders of the first thirteen states framed their constitutions, the memory of oppression by the executive branch of government was vivid in their minds. Their experience with representative assemblies, on the other hand, had been one of protest against the oppressive acts of the Crown. It was natural that the constitution framers of that day should translate their experiences into practise. An outstanding characteristic, then, of the earliest state constitutions, was the curbing of executive power and the conferring of almost unlimited power on the legislative bodies.

These original constitutions were short, concise, and limited to a statement of fundamental principles. Universal suffrage as a concept of democracy had not yet been born, and these constitutions restricted greatly the number of offices which could be elected by the people, besides setting up strict qualifications for voters. Although the three branches were rendered independent of one another, most of these constitutions hampered the executive with a council, and in nine of the states, the governor was chosen by the legislature.

Vast changes in state constitutions have taken place in the intervening years since those early times, although the basic principles of the bill of rights, the principle of separation of powers, the check and balance system, and the concept of the relation of the executive and legislative branches have remained much the same and have become a part of the American political tradition.

Mid-19th Century. Of the 48 state constitutions which exist today, 12 were drafted prior to 1870 (including Minnesota 1857), 23 were drafted between 1870 and 1900, and 13 have been drawn up during the 20th century. Those which were framed between 1850 and 1900 are in general lengthy and filled with a mass of detail, a large share of which is in the form of restrictions and limitations on the power of the legislature. The theory that all public officers should be elected by popular vote was predominant in constitutions of this era. The more recent movement to enhance the power of the executive branch and fix responsibility on the executive by the shorter ballot is not reflected in these constitutions. Gradually, however, the relative positions of the legislature vs. the executive have been reversed in the minds of the people, and this trend has continued up to very recent years. In part, this reversal has been due to the failure of the state legislatures to live up to the trust that had been placed in them in colonial times. Failure to deal adequately with pressing problems, and actual instances of fraud and dishonesty have combined to undermine the confidence of the people in their legislative bodies. As a consequence, the executive departments of many states have been reorganized with emphasis being put on increased power and responsibility for the governor. This movement has speeded up since the turn of the century and is reflected in a few recent constitutional revisions. In the years since World War II, also, there has been an awakening to the need for strengthening the legislative branch and easing the restrictions on it.

Recent trends. Those states, however, which still retain their century old constitutions, have found themselves with their hands tied in times of emergency. They have been unable to cope with the vital issues of modern times, and power has moved steadily from the states to the Federal government. Allocations of money by the Federal government to the states for specific programs; increased leadership by Federal administrative agencies toward cooperation with the states in programs concerning roads, food and drug standards, agriculture, welfare, health and safety, etc.;

the priority of Federal court decisions over state courts; decisions by the courts favorable to the Federal government through the years - all have diminished the power of the states to the extent that they have increased the powers of the Federal government. In many ways this has been the inevitable result of the increasing complexity of our needs and of the inability of the states to shoulder new responsibilities and meet emergencies with the resources and organization at their disposal. In addition, the enormity of many governmental services has required the leadership of the Federal government.

In recent times a new interrelationship between the Federal, state, and local governments has grown up, with the states as the key units of administration. More and more frequently, the states have been called upon to enact legislation providing for the organization and administration of Federal programs within the state. The rapid growth of state services has made demands on state government never dreamed of in the days of the founding fathers or even a century ago. Population shifts of enormous magnitude during the war years, and growth of population, have created school, housing, and welfare problems. It is generally recognized that there is great need for reorganization on the state level if the states are to be able to fulfill these new requirements. Many of these adjustments to modern conditions can be made by the legislatures themselves, but many others will require constitutional changes.

As an antidote to undue pessimism in regard to the condition of the states at this critical time in our history, a paragraph from "American State Government", by W. B. Graves of the Library of Congress, is quoted here:

"Even so, there is no reason to entertain any serious doubts as to the future of the states. They have been here for a very long time, and they will be here for a long time to come. They are considerably different now from what they once were, and they are still changing. Like all human institutions they have had their periods of progress and retrogression. The mid-period of the 20th century finds them operating as going concerns, relatively strong and vigorous, performing many new functions at a high standard of administrative efficiency, needing many important changes and improvements, but nevertheless looking forward with confidence to the years that lie ahead."

II. Constitutional Limitations on State Legislatures

10th Amendment. The tenth amendment to the Federal constitution states that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." This amendment firmly establishes our American government as "federal" in form, with a further provision in the constitution that national laws take precedence over any state law. The U. S. Constitution therefore is the basic and fundamental law of the land. Acts of Congress and treaties with other nations as authorized by the Constitution, are national law and stand above all types of state law.

Federal limitations. The tenth amendment establishes the national government as having "enumerated powers", and the state governments as having all the remaining powers. In other words, we may determine the powers of the states by the process of elimination. If a certain power has not been given to the national government in the constitution, nor denied to the states, then we may assume it belongs to the states. These residual powers are diminished by certain limitations in the national constitution on the states, such as that they may not make treaties with foreign nations, levy duties on imports or exports between themselves, and many others. Some restrictions are implied, or have been determined by court decisions.

Hierarchy of laws. Thus the states are bound by the provisions of the national constitution, but each state has its own constitution which serves as the fundamental law of that state. This document provides a set of governmental machinery and protects citizens from improper use of governmental authority. State constitutions

must not conflict with any provision of the Federal constitution, nor may any state legislative statute or state executive rule conflict with the state constitution. In this way, a hierarchy of laws has been set up in the U. S.

State limitations. "The state legislature is a repository of the residual powers of the people. Unless restricted by provisions in the state constitution itself, it can do anything that has not been delegated to the national government or expressly or impliedly denied to the states by the federal constitution."[1] However, as mentioned earlier, in many state constitutions framed in the latter half of the 19th century, many specific provisions relating to legislative action have been included or added, which have the effect of limiting the power of the legislatures.[2] These restrictions are found throughout the constitutions and are not confined to the legislative article. Many of them refer to local government, education, taxation, budget procedure, and other aspects of finance, in addition to the more commonly known restrictions on length and frequency of sessions, period for introduction of new bills, how special sessions may be called, and others. In the opinion of many students of government, the more detailed these restrictions are, the more difficult it is for legislatures to meet future problems and adapt to changing conditions. Furthermore, the more detailed these restrictions are, the greater the need for an easier amending process than most state constitutions provide. In times of crisis such as depression and war, and even in "normal" times, it is often necessary to make constitutional changes with reasonable speed.

Amending process. The extreme difficulty of the amending process (including that of Minnesota), has oftentimes prevented the legislatures from taking effective action in meeting emergencies. Whether by piecemeal amendment or by constitutional convention, the obstacles to be overcome in revising a state constitution are tremendous, requiring a great deal of time, leadership, courage, and some financial support in order to be successful. The multitude of problems confronting a constitutional convention make it necessary to prepare in advance detailed information and working materials for the delegates. It is the responsibility of the legislature to provide that this type of research on all subjects concerning the constitution be carried out prior to a convention.

III. Essentials of a State Constitution

We may well ask, what, properly, is constitutional law, and what should be left to statute? Chief Justice Marshall expressed the concept of the fundamental purpose of a constitution thus:

"A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution .... could scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves."

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1 "American State Legislatures", American Political Science Association, 1954

2 "A provision of the (Minnesota) constitution which puts obstacles in the way of the legislature's developing and from time to time amending a modern scientific revenue system is to be found in section 32 (a) of Article 4. By this provision, the system of gross earnings taxation on railroads is practically written into the constitution, and any law for the repeal or amendment of any law upon this subject cannot take effect unless approved at an election by the same majority of voters as is required for a constitutional amendment, i.e. a majority of all voting at the election." (Wm. Anderson, "Need for Constitutional Revision in Minnesota", Minnesota Law Review, 1927).

Statutory vs. Constitutional law. Thus we might think of constitutional law as a framework of basic and fundamental concepts, unhampered by details best left to the discretion of the legislature to enact into statutes that can be more easily adapted to changing conditions. Some laws we traditionally think of as constitutional just because they have been in our constitution for such a long time, such as the length of the legislative session, which is not necessarily a basic concept at all. Other subjects we think of as statutory perhaps just because they have never been included in the constitution. An example of these would be the Legislative Research Council, a statutory action in Minnesota, but thought to be a basic concept and therefore properly constitutional, by the National Municipal League in its Model State Constitution.

Essential features. Certain features are essential to a constitution if it is to meet the needs which led to its adoption.[1] These are:

A. An enumeration of the basic rights of citizens.
B. Provisions outlining the framework of government.
C. An enumeration of the powers which may be exercised by the established governmental machinery.
D. A workable method of amendment.

Inasmuch as the state legislature is our main concern at this stage in our study of the constitution, we shall largely confine ourselves to the features B.and C.

IV. Legislative - Executive Relationships

The provisions of a state constitution outlining the framework of government must provide for the establishment of the three branches of government, and should provide for necessary extensions of governmental service by legislative act, and for the means of electing state offices. The framers of the original state constitutions established a system of checks and balances at the same time that they provided for three distinct branches. Although these two principles are somewhat insonsistent, the framers believed this arrangement would prevent the concentration of power in any one department of government. An interrelationship between the branches has existed to the present day, with each branch holding some control over the other two. An understanding of these relationships properly falls into our study of the legislature, as they constitute acutely practical problems which must be taken into account in any revision.

Legislative supervision over executive. Theoretically the legislature is responsible for exercising a general surveillance over the general administrative efficiency and fiscal operations of the executive department. In actual practise, this responsibility is not always fully carried out; for example, the post - audit of Minnesota's administrative expenditures is carried out by an appointee of the governor.[2] The legislature also has the constitutional power of impeachment of executive or judicial officers in cases of dishonesty or inefficiency. In actual practise, this has rarely happened, and it is generally thought that other means of control are more effective in promoting a working partnership.

Except for the powers delegated by the state constitution to the executive branch, the legislative branch provides for all the powers of the executive, by statute. Legislative influence over the executive, therefore, is very great, as it may modify these powers at will, eliminate administrative agencies, and determine the means and methods of its own supervision over the executive branch. The most certain method the legislature has bf curtailing executive power is to reduce appropriations or to itemize in detail the use to which the appropriations will be put.

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1 W. Brooke Graves, American State Government, 4th edition 1953.

2 It has been recommended by the Constitutional Commission of Minn. that this situation be changed and that a position of postauditor responsible only to the legislature be provided by the constitution.

Constitutional executive powers over legislature. Likewise, the executive branch has certain constitutional powers which may act as restrictions on the legislature. In all states but one (North Caroline), the governor has the power of veto over legislation. In Minnesota, as in the majority of the states, the governor has the power to veto specific items in bills. The executive veto, in Minnesota, may be overriden by a 2/3 rds vote of both houses of the legislature.

In 39 states, including Minnesota, the constitution imposes on the governor the duty of reporting to the legislature information on the condition of the state. These executive messages at various times before and during the legislative session do not of course, act as a "power" of the executive over the legislature, but rather as an influence on the legislature to enact the program of the current administration. The executive may suggest legislation, but the legislature must take full responsibility for determining the law. The effectiveness of these messages in promoting legislation often varies according to the political climate in the legislature.

The power to call special sessions is delegated to the governor in most state constitutions. The governor of Minnesota has this power but he does not have the power to limit the subjects which may be considered, as is the case in some states. The Constitutional Commission of Minnesota has recommended that he be empowered to limit the subjects when he calls a special session, but that the legislature also be allowed to call special sessions for consideration of subjects of its own choosing.

The power of appointment by the governor relates to the legislature only insofar as appointments must be approved by the Senate. The trend of modern reorganization tends to give more responsibility to the governor in his power of appointment, believing that in this way, citizens will be able to fix responsibility for government action, and that more effective and responsible government will result.

ExtraConstitutional powers of executive over legislature. Some legislative powers of the executive department are not enumerated in the constitution, but are of such importance that some mention should be made of them when considering the relationship between the two branches. One of these concerns the leadership which the governor may exert on the legislature in order to promote and advance legislation which will implement his program. The extent of his influence and the means which he uses may gain him a reputation for courageous leadership or, in some cases, determined opposition by the legislature. The number of important measures originating with the executive has risen steadily in recent years, an indication of the extreme complexity of governmental problems, and the ability of a responsible executive to see these problems perhaps sooner and more clearly than the legislature which meets infrequently and for short periods.

Another extra - constitutional power of the executive is that of rule - making, Being a body whose function is to lay down fundamental principles and policies, the legislature must of necessity leave matters of detail to the executive branch whose duty it is to enforce the laws. As state services have increased, these rules have necessarily become more intricate. In many cases, the law as the citizen finally meets it contains a great deal more than the original statute - it consists largely of the rules and regulations issued by administrative order. This power of the executive to translate the laws into practise by means of rules has caused some to fear that the intent of the legislature might be changed and that inconsistencies in policy may result. Others urge a continuence of this practise because of the availability of expert knowledge in the executive departments, the absence of partisan conflicts over details, and the inadvisability of freezing regulations which may need frequent change, into laws. The recommendation frequently made is for the legislature to be allowed to consider and approve rules made by the administration, and for the provision that there be a central filing and publication of rules and regulations.

It can be seen from the fore-going that the problems of legislative - executive relations are of extreme importance if the government is to operate smoothly and effectively in the public interest. "Realistic students of government have

recognized that the formulation of public policy is essentially an indivisible process that should be shared by both the legislature and the administration."[1] A balance must be maintained whereby the legislature retains its responsibility to properly supervise the executive and yet the essential independence of both branches is assured.

Certain provisions have been suggested[2] for the achievement of a closer and more co-operative relationship between these two branches:
1) A post - audit of fiscal transactions of all executive departments and agencies should be made by an agency of the legislature.
2) Legislative leadership should be strengthened by giving legislative leaders year - round responsibilities and an adequate staff.
3) All executive vetoes should be reviewed by the legislature.
4) Rules made by the administration in enforcement of statutes should be reviewed by the legislature.
5) All administrative proposals or requests for legislation by executive departments should be cleared through the office of the governor and receive his approval. This would tend to eliminate duplication and controversy when bills reach the legislature.
6) Bills submitted by the administration in the above manner should receive serious consideration and special treatment in the legislature.
7) The Governor's research staff should work closely with the legislative reference and bill - drafting services of the legislature on pending legislation.
8) Participation of both legislators and representatives of the governor in interim legislative committees and executive commissions should be encouraged.
9) A flexible arrangement of personal consultation between the governor and legislative leaders on pending legislation would lead to increased mutual respect and confidence.

In the field of legislative - executive relationships as in all other aspects of government, it can thus be seen that constitutional provisions alone will not insure efficient government. The constitution can, however, provide the framework necessary for the development of good relationships and cooperation in the public interest.

V. Enumeration of Powers in a Constitution

Implied limitations on legislature. It has been the practise of state courts for many years, generally speaking, to interpret broad constitutional provisions as limitations on the legislature. As a result, detailed provisions as to what the legislature may do in special cases have found their way into the constitutions in increasing numbers. Some examples of these detailed provisions in the Minnesota constitution are the road and bridge amendments passed between 1898 and 1912, and the trunk highway amendment of 1920. In the words of William Anderson, Prof. of Political Science, Univ. of Minn., "while these amendments authorized the state to engage in internal improvements which had formerly been forbidden, at the same time they stated definitely the amount or the method of taxation, and definitely restricted the expenditure of the proceeds to specific purposes."

Although provisions of this nature serve to extend the power of the legislature in a specific instance, in the long run they have been interpreted by the courts as further limitations on different or extended action in the same field. For example, a constitutional amendment authorizing the establishment of a particular type of workmen's compensation is, under the decisions of this country, almost certain to be held to prohibit the establishment of any other type of workmens' compensation. In short, the view has usually been taken that every grant of power to the legislature limits legislative action to just that particular thing. To offset this further detailed provisions have had to be added through the years, resulting in numerous matters

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1 American State Legislatures, Amer. Pol. Sci. Assoc.
2 American State Legislatures, Amer. Pol. Sci. Assoc.
Donald Axelrod, New York state Joint Committee 1953 Report.

not properly fundamental being found in state constitutions. "Commands to the legislature and grants to the legislature have both in many cases found their way into the constitutions for the purpose of enlarging legislative power, although it should again be emphasized that when they are once placed in the constitution they almost certainly come by (court) interpretations to be also limitations upon that power."[1]

Types of Constitution. In the manual prepared by Martin L. Faust, University of Missouri, for the Missouri constitutional convention of 1943, two alternatives as to the type of constitution which could be framed, are listed as:

1) The state may continue in the path of providing a detailed constitution which shall prescribe a good deal in the way of state legislative policy, or
2) The state may return to a brief constitution containing only matters of fundamental importance, seeking at the same time to lay down principles in such a way that they will not be construed as unduly restricting legislative power.

Dr. Faust enlarges upon these two alternatives by saying that if the first plan were adopted, it would be essential to provide a simple amending process (such as that which existed in Minnesota prior to 1898)[2] to enable these detailed provisions to be changed with changing conditions. It would also be necessary to prevent the imposing of implied limitations on the legislature by including a statement such as that of the Oklahoma constitution which states: "The authority of the legislature shall extend to all rightful subjects of legislation, and any specific grant of authority in this constitution upon any subject whatsoever shall not work a restriction, limitation, or exclusion of such authority upon the same or any other subject whatsoever".

Concerning the second plan, Dr. Faust states that a constitution of this kind could be construed favorably to state legislative power and to the theory that a legislature has all powers not clearly denied. Even yet, however, the possibility would exist that a simple constitution could be construed so as to prevent legislation which the people of the state may desire, unless the broad provisions are clearly stated.

The relationship between the legislature and the judicial branch centers mainly in the final responsibility of the courts for the fate of legislation in cases of controversy. In situations of this kind, the courts may determine the legislative intent in passing certain legislation, and may determine whether the statute is in conformity with the constitution. Unless an unconstitutional law is challenged, however, it does not come under the jurisdiction of the courts and hence may remain in use and be enforced in the same manner as a valid law. The courts are loath to interfere in the exercise of legislative discretion, as a rule, as can be seen in the reluctance of the courts to intervene in the problems of reapportionment and redistricting.

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[1] Manual on the Legislative Article for the Missouri Constitutional Convention of 1943.

[2] Prior to 1898, Minnesota's Constitutional amending process was relatively easy, requiring a simple majority of both houses to propose amendments and a simple majority of those voting on the question at the regular election, to pass. During this period there was a steady flow of amendments passed, few of which have been repudiated, and most of which have amply proved their worth down through the years. In 1898, however, an amendment was passed by this easy method, which made the amending process much more difficult, requiring a majority of all those voting at the election to pass an amendment. In the intervening years few amendments have passed, and time and again the will of the majority of informed and active voters has been defeated. "Need for Constitution Revision in Minnesota". William Anderson
Minnesota Law Review Feb. 1927.

VI. How These Theories may Apply in our Study of the Minnesota Constitution

Summary. We have discussed briefly some of the characteristics of early constitutions, and some of the reasons why constitutions of the age of ours were framed the way they were. We have discussed the fundamental limitations on state legislatures, and have attempted to understand why so many additional restrictions have been incorporated into the constitution, and the effects of these restrictions. We have attempted an overall view of the relationships between the executive and legislative branches because these relationships are vital to efficient government and should be taken into consideration when evaluating proposals for any one branch. We have considered the essential features of a state constitution.

With this birds-eye view of some of the theories relating to the legislative aspects of state constitutions, we may direct our attention specifically to Minnesota, and to those suggestions which have been made in regard to the legislature in the event of a constitutional convention or in the event of revision by amendment.

Constitution Commission of Minnesota. We are fortunate in Minnesota in that the groundwork for a constitutional convention has been laid by the Constitutional Commission of Minnesota, created by the 1947 legislature, This commission consisted of 8 members of the House of Representatives, appointed by the Speaker, 8 members of the Senate appointed by the Senate Committee on Committees,* 1 member from the executive branch appointed by the Governor, and 3 citizen members appointed by the Governor. The commission began its work in July, 1947 and held its final meeting in Sept. 1948. The report is a result of diligent research and study and may well serve as a basis for effective constitutional revision in this state. All in all, the commission recommended 40 major changes in the constitution. It seems proper that the League should use these recommendations as a starting point in its study, using additional material as necessary to shed light on the many points which must be brought out if we are to obtain a well rounded picture of the problems in their entirety. (Insert: 1 member from the Supreme Court appointed by the Chief Justice)

Plan for Study. Provisions relating to the legislature which the commission considered in need of change are listed below to give us a broad idea of the subject we will be working on this year:

1) Frequency and length of sessions
2) Time limit for introduction of bills
3) Special sessions
    a. how they may be called
    b. limitation on matters which may be considered
4) The provision concerning a legislator holding other office during the time for which he is elected
5) Origin of revenue bills
6) Enactment of bills
    Time allowed for executive veto
    Roll call votes
7) Reading and passage of bills
8) Enrollment and presentment of bills
9) Form of taxation of railroads
10) Special legislation
    With regard to individuals or corporations
    With regard to local government
11) Executive offices - elected and appointed
    Approval of appointments by the Senate
12) Restrictions on legislature regarding disposition of funds
13) Powers of taxation
14) Powers relating to highways
15) Creation of post - auditor responsible to legislature
16) The amending process

In addition to consideration of these major items, the commission has recommended that numerous obsolete sections be removed and has suggested many minor changes in conflicting or misplaced provisions.

The "Little Hoover Commission" made only one recommendation in regard to the legislature which would require constitutional change. This concerned the Legislative Emergency Committee, which will also be considered in our subsequent material, as well as other overall aspects of the position of the legislature in the fremework of government.

* *

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A STUDY OF

Reapportionment in Minnesota

DEMOCRACY DENIED

JUNE, 1954

LEAGUE OF WOMEN VOTERS OF MINNESOTA

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REAPPORTIONMENT IN MINNESOTA: DEMOCRACY DENIED

In 1936 an indignant Chicagoan petitioned the Circuit Court to declare the Illinois legislature illegal because great inequities in apportionment prevented its being a representative body. When a judge refused to hear the case, the petitioner shot at the judge, and shot and killed the opposing attorney—because, he said, "Something drastic has to be done to awaken the people."

The League of Women Voters would hardly agree that such drastic action is justified—even to awaken the people. Instead it is calling on you, in more patient, informed League fashion, to awaken the people in your community to Minnesota's need for reapportionment, beginning with your family and your neighbors, reaching out to your local organizations, and finally, we hope, catching your legislators' ears.

Apportionment in a Representative Democracy

Basic to the democratic system is the right of every adult citizen to vote. A corollary is that every vote carry the same weight. When legislative districts become as grossly uneven as they have in many states, including Minnesota, the inevitable result is a grave distortion of public opinion in our legislative assemblies and a corresponding departure from truly representative government.

In commenting on an apportionment case, the Kentucky Supreme Court said:

> He has studied our constitution in vain who has not discovered that the keystone of that great instrument is equality—equality of men, equality of representation, equality of burden, equality of benefit. . . . Equality is a vital principle of democracy. Without equality, representative institutions are impossible. Inequality of representation is a tyranny to which no people worthy of freedom will tamely submit. To say that a man in Spencer County shall have seven times as much influence as a man in Butler County is to say that six men out of seven in that county are not represented in the government at all. They are required to submit to taxation without representation. . . . Equality is the basis of patriotism. No citizen will, or ought to, love the state which oppresses him; and that citizen is arbitrarily oppressed who is denied equality of representation with every other of the commonwealth.

With this broad principle of equality every American must agree. How is it, then, that in many representative bodies we have a government not of men but of acres? How has the city voter come gradually to be looked upon as dangerous, or at least as so inferior to his rural cousin in intelligence, honesty, and patriotism that the state must be protected from him? The answer is complicated, bound up not only with regional conflicts and vested interests, but with traditions, with legal, administrative, and even mathematical difficulties. We shall try below to explore some of the answers.

Fitting Minnesota into the National Picture

Time has compounded the apportionment problem. What started out in our state constitutions as only a minor slight to much smaller urban areas has ended up with gross inequalities to 84,000,000 city dwellers; these 59% of our citizens

elect only 25% of our representatives.[1] For several generations, the problem of representation for growing urban areas could be met by simply giving them additional legislators; the unwieldy size of legislatures finally made this impossible.

Minnesota increased its legislature from 63 to 198 in the period between 1860 and 1913. Since then, our legislature has been caught on the horns of this dilemma—to add to a legislature already the ninth largest in the nation by giving under-represented areas more legislators; or to rectify inequities by redistricting and reapportioning the entire state. Ostrich-like, our legislature has responded by burying its head in the sand, where it can see neither need nor duty to change the gross inequalities surrounding it.

In this disregard of duty how does Minnesota fit into a national picture which we know gives a far from flattering view of democracy in our state assemblies? Answer: Minnesota is one of only six states[2] which have taken *no* action on reapportionment in the last 40 years (though some of the other 42 states have made changes in but one house).

Analyzing the situations in these five other states we find that in only three besides Minnesota is periodic reapportionment a *duty* of the legislature:

Alabama is longer overdue for change than Minnesota, her last apportionment having been made in 1901. However, her situation is complicated not only by the usual rural-urban split, but in addition by an emotionally charged racial issue and a north-south agricultural-industrial stress.

In *Delaware* no reapportionment could be expected, as it is the only state where districts are laid out and representation assigned by constitution, with no provision for reapportionment.

In *Illinois,* unapportioned since 1901, a long, bitter, and complicated fight has been in progress, with reapportionment a hopeful result of the 1954 election (see page 25).

At first glance, *Mississippi* seems to have been more negligent than Minnesota, since general reapportionment was last carried out there in 1890. However, (1) her legislature is given only the power not the duty to reapportion; (2) her constitution sets forth districts for both houses, so the margin of legislative discretion is narrow; (3) a system of rotating some legislators among counties and of electing others at large provides some *de facto* reapportionment.

Tennessee, it is true, has not reapportioned since 1901. However, in 1949 the

[1] Figures, from Conference of Mayors, are as of 1948. Generally quoted by most writers on the subject. Though some inequalities have since been corrected, urban growth has probably been sufficient to keep the percentages fairly constant. One of the confusing factors in working with such "urban" statistics is that any village or city over 2,500 is classed officially as "urban," yet we know that the sympathies of many places this size are rural—rather than urban—oriented.

Although we are not here concerned with Congressional apportionment, it may be noted that throughout the nation urban dwellers are just about properly represented in the U. S. House of Representatives. This is in spite of wide deviations in Congressional districts (which are laid out by state legislatures). In Minnesota, the Third District is most inadequately represented, having 30% more people than the average; note that in general this mostly metropolitan area is also badly under-represented in the state legislature.

[2] Connecticut missed this list by reapportioning her Senate in June, 1953, for the first time in 50 years; her House remains the same as in 1818. To these facts can be laid many of her urban woes, some cited below.

legislature submitted to the voters the calling of a limited constitutional convention to deal, among other things, with reapportionment. The measure was rejected by a narrow margin, like every other amendment that had ever been submitted in this state, where the amending requirements have been termed "impossible to meet." A recent change in Tennessee's amending process may now ease the path to reapportionment.

We can hardly be satisfied that in its refusal to meet a constitutional mandate, Minnesota's record is only not as bad as Alabama's.

We shall be challenged in use of the word "mandate" by legislators who prefer to think reapportionment is a privilege, not a duty, of the legislature. The constitution says "the legislature shall have the power" to reapportion, which permits of some interpretation, it is true. However, in 1914, the state Supreme Court construed this language as "imposing a *duty* of reapportionment, and that the duty so imposed continues until performed" (State ex rel. Meighen v. Weatherill, 125 Minn. 336). In 1945, asked to pass on inequities existing under the 1913 law, the Court reiterated this position: "The remedy lies in the political conscience of the legislature, where lies the burden of the *constitutional mandate*" (Smith v. Holm, 220 Minn. 486).

It must be admitted that all the reapportionments carried out by other states since 1913 have not been good ones. Some of the worst discrepancies exist in states recently or frequently reapportioned—and are the result either of constitutional difficulties, of niggardly concessions to urban areas, or of a population-area compromise reached in order to secure any reapportionment at all. But even where it fails to bring about all desired improvements, periodic reapportionment almost always accomplishes something: *concessions are quite uniformly made to under-represented areas.*

What Apportionment Laws Deal With

Two types of factors are responsible for malapportionment: first, inadequate apportionment laws; second, community stresses and strains—political, economic, regional. To understand the first type of difficulty we shall have to look at the common provisions of reapportionment laws.

1. *Basis upon which number of representatives shall be figured.* The word most frequently mentioned in state constitutions is "population." (A few states exclude aliens, or military personnel, or Indians not taxed; in Minnesota this latter provision has been negated by a Supreme Court decision that all Indians are subject to some form of taxation and should be counted.)

"Area" is the other word to remember. Area representation usually results from giving counties representation, with complete or modified disregard for their populations. (See pages 21-22 for particulars.)

In 14 states, including Minnesota, population is the basis specified for reapportioning both houses.[3] In 14 states population is the basis in one house; in the

[3] This figure, which changes rapidly, is given as 16 in the 1951-52 studies used in preparation of this section (mainly Greenfield, *Legislative Reapportionment,* University of California, 1951). But Michigan and Nevada have recently dropped into the next category and Illinois is preparing to do so.

other, area prevails. In 20 states straight population is the basis in neither house.

2. *Restrictions on the laying out of districts.* Framers of our state constitutions took firm measures to prevent gerrymandering (laying out districts for the benefit of one political party). Districts must be "compact," "contiguous," "as nearly equal as possible," and/or "with no division of counties." Most important to remember for practical purposes: the *county* is the basis for districting in most states.

3. *A limit on legislative size* is often specified in the constitution, added by later statute, or observed by common consent.

4. *Reapportionment agencies* are, in the large majority of states, the legislatures themselves. In some states provisions are made for another body to act if the legislature does not. In a few, the power is in a separate commission, with the legislature quite divorced from the proceedings. States which have recently made basic changes in their reapportionment laws vary widely in other respects, but all specify some sort of "self-enactment provisions" to assure automatic periodic changes in the future.

5. *Time for reapportionment* is specified as every ten years in 42 states (six and five in two others).

It can be seen from the above provisions that most constitutions aim at excellent broad principles, designated by several writers in the field as:

a. Equality of representation (i.e., equal districts).
b. Convenient geographic basis for districting (i.e., county).
c. Flexibility to meet population changes (i.e., periodic reapportionment).
d. Stability of membership (i.e., limit on size of legislature).

It can also readily be seen that these four admirable principles are far from compatible. The difficulty in reconciling them has become more difficult with each year. Those who complain of unfair apportionment claim that *equality and flexibility have been sacrificed to geographic considerations and stability.* Let's examine why this has happened.

Why Reapportionment Laws Don't Work

There is a wide gulf in many states between the theory and practice of reapportionment, between what constitutional framers laid down and what legislators are able or willing to carry out. The following factors either prevent legislators from effecting a fair apportionment or offer a legal cover-up for their unwillingness to do so:

1. It is sometimes impossible effectively to reconcile the provisions of a reapportionment law. More than one constitution lays down an "equal population" formula, and then prohibits cutting up counties, which would be the only way of making equal districts. Consider, for example, difficulties to be met in Kentucky, where the law provides that 76 counties be divided to make 100 representative districts, yet no county may be divided unless large enough to make two districts, and no more than two counties may be joined. Indeed, two of Kentucky's four reapportionments since 1900 have been thrown out by the Supreme Court on grounds of gross inequality.

The use of county lines in redistricting is perhaps the most maddening of all barriers to equal apportionment. The practice would seem so easy to get rid of, yet has become sort of a sacred cow demanding eternal obeisance.

Arguments against county districts: Rigidly drawn county lines were originally intended to prevent gerrymandering, but they allow so little discretion in redistricting that we now have "gerrymandering by inaction." The importance of the county as a unit in pioneer society has almost disappeared with modern modes of transportation and communication. The county hasn't the same significance in state legislatures as has the state in Congress, since states are policy-making bodies, counties purely administrative. County districts come easily to serve as tools of political party control; we have all heard impolite references to "the courthouse gang." In short, most writers on reapportionment feel that rural supremacy is well served by county lines. (See also page 20.)

Proponents of the county line have, and need, only two short arguments: the psychological hold of the county on the American political imagination; and convenience of election procedures.

None of the states with new apportionment laws have disturbed the county line.

2. We have come to see the doubtful wisdom of most state constitutions in giving the reapportioning power to the body affected by the process—the legislature itself. In judicial procedures, a judge is not allowed to preside over a case in which he has an interest. Yet legislators make decisions in a matter in which they have the closest personal interest. It is only human nature not to change the status quo if it is favorable to you—and of course it is only charity not to change it if it is favorable to your friend from the next legislative district!

3. The problem is complicated by two legal considerations which are not defects in apportionment laws themselves. On first becoming aware of the need for reapportionment most people say, "Well, why don't the courts do something about it?" Courts have had regretfully to decline the honor whenever approached —on the basis that our government is one of separation of powers. The legislature is a separate and distinct branch of government, and cannot be coerced into action by either the executive or judicial branch.

As in Minnesota, many supreme courts have underlined in clearest language the absolute duty of the legislature to reapportion. In some cases they have thrown out reapportionment laws which violated constitutional requirements as to number of legislators, compactness of districts, etc. But they have consistently refused, and must, to issue a writ of mandamus forcing a legislature to reapportion. (That courts are becoming a factor under some new apportionment laws will be seen on page 23.)

4. Difficulty of amending the constitution is the other legal handicap to reapportionment in many states. Says Dr. Lloyd M. Short:[4]

[4] Of the University of Minnesota, in *Legislative Reapportionment,* Volume 17 of *Law and Contemporary Problems,* Duke University, 1952. These 13 studies by national authorities on both Congressional and state reapportionment come to have almost the validity of Scripture to anyone working in the field. This volume will hereafter be referred to simply as the Duke University study.

If present state constitutional provisions are unworkable, inconsistent, and outdated, why are these constitutional barriers to reapportionment permitted to continue? The answers to this question are pretty obvious to anyone familiar with recent attempts to amend or revise state constitutions. The amending process, frequently made difficult for the purpose of providing constitutional stability, stands in the way. Except in those few states which permit use of the initiative and referendum, proposed amendments must run the gauntlet of a hostile or indifferent legislature and require an extraordinary majority in both houses before they can be submitted to the voters. If they pass the first hurdle, they must then often win an extraordinary majority of the popular vote to become a part of the constitution.

(Relation of the amending process to Minnesota's problem is discussed on page 17 below.)

Community Pressures Opposing Reapportionment

We pass now from the rusty, creaking legal machinery inherited by many states to a consideration of those interests which profit from keeping it in unusable condition. "The apportionment struggle compounds other important partisan, economic, sectional, class, and racial pressures, depending upon the historical background of the particular state." [5]

1. *The rural-urban controversy* is the bogey-man of reapportionment. On the one hand, we have to concede that this feeling is the most difficult obstacle to reapportionment both in Minnesota and throughout the country. On the other hand, it is our present task to make both the agrarian and the metropolitan citizens aware of their interdependence. We must convince the people of Minnesota that the rural-urban split is founded less on reality than on inherited mistrust; that the sharp demarcation between town and country is fast disappearing as farms become more mechanized and industry spreads into rural areas; that a healthy economy in a rural state demands stable metropolitan and industrial centers; that satisfactory settlement calls mainly for good will on both sides.

States which have done a reasonably fair job of reapportionment find no evidence of damage to their rural areas.[6]

The rural-urban split is deliberately fostered by some urban interests who find it convenient, and by many rural legislators honestly mistrustful of urban motives. As a practical matter, rural legislators from over-represented counties naturally dread campaigning in an enlarged district, quite probably against another veteran legislator.

The feeling of many rural and small-town dwellers also runs deep; and is reinforced by the more conservative urban dweller, who would rather see what he calls his "conservative" country cousin in the saddle than a more "liberal" member of his immediate urban family. The extreme position has been somewhat startlingly stated by Herbert Nelson, then president of the National Association of Real Estate Boards: [7]

Today the greatest threat to democratic institutions, to the republican form of government, and ultimately to freedom itself, lies in our big cities. They are populated for the most part with the mass-man devoid of intelligence and devoid of civic responsibility. . . . Our one hope of survival as a free country is that rural and semi-rural areas still dominate most of the state legislatures. . . . Our best hope for the future is to keep it that way.

(See page 15 for evidence that fear of big-city domination is groundless in Minnesota.)

2. *Sectional interests* are often not rural-urban. In Alabama, for instance, an important stress is north-south, with an additional "white supremacy" factor. San Francisco–Los Angeles rivalry has been so strong as to make rural-urban division take a back seat in California; in 1927 northern urban centers accepted a compromise limiting their Senate representation in order to curb the influence of rapidly expanding southern cities. New York has a strong upstate–New York City rivalry.

3. In some places *emotionally charged issues* such as prohibition, blue laws, or racial supremacy have complicated change.

4. Resistance to reapportionment has a strong *partisan* basis in many states. "The shameful reason for this nullification of representative government is clear: currently successful political organizations don't want to risk loss of control." [6] In northern states this reluctance is primarily based on fear of increased Democratic influence from properly represented urban centers. In Minnesota, although our legislators are not chosen by party, the struggle is translated into Conservative-Liberal terms.

Lashley G. Harvey contends that the rural-urban split in Minnesota is intensified because our legislators have no party affiliations; parties are the one force capable of merging city and farm elements.[8]

5. Lord Bryce long ago pointed out that "the *money power,* which is most formidable in the shape of large corporations, chiefly attacks the legislatures of the states." "Large tax-paying interests frequently gain from rural domination and will go to great lengths to maintain existing apportionments." [8] Banks, private utilities, transportation systems, and insurance companies come in for most of the blame. These economic interests all too often use the rural-urban controversy as a covering smoke screen for their behind-the-scenes activities; the rural legislator whose district has no direct interest in a problem may become its arch-defender or opponent.

We shall see that in Michigan the constitutional plan for reapportionment lost by being identified with labor groups, and that city industrialists teamed up with rural areas to defeat it.

6. While rural feeling presents an almost solid front, *urban areas are not united* on reapportionment. Business and partisan interests have already been mentioned as breaks in the front. Also to blame are some urban legislators who do not relish the thought of unknown constituencies in which to campaign. Seldom would the legislator from an under-represented area cast a vote against reapportionment. However, many can be charged with failure to study reapportionment bills presented by others, or use their influence with fellow legislators,

[5] Thomas Page, *Legislative Apportionment in Kansas,* 1952. This report, by a University of Minnesota graduate, goes far beyond the situation in Kansas to an interesting, theoretical, even philosophical treatment of the problem in context.

[6] "Self-Destruction by the States," *National Municipal Review,* 34:534 (Dec., 1945).

[7] Madison (Wisc.) *Capital Times,* Aug. 26, 1947. Quoted by Page, p. 332.

[8] Lashley G. Harvey, chairman, Department of Government, Boston University. First quotation is from *Western Political Quarterly,* 3:428 (1950); second from Duke University study.

or impress their constituents with the seriousness of the problem. Only too often these legislators count on public apathy.

From public apathy to public knowledge to public action are long steps—peculiarly suited to seven-League boots!

Evils Attending Legislative Disproportion

When opponents of reapportionment run out of arguments on the principle of the matter, they often take refuge in a type of question which demands prompt and specific answer—or it may be widely assumed they have the best of the debate. This type of question we have long been familiar with in arguing the need for constitutional revision. What difference does it make, anyway? Isn't our state pretty well governed? If not, how is unfair apportionment to blame?

Around the nation, we may point to the following evils which authorities on reapportionment uniformly point to as being intensified by malapportionment. They are applicable to Minnesota in varying degree.

1. *Decline in legislative prestige,* described thus by Robert Kramer: [9]

> When the United States, in 1790, began its career as a nation, the legislatures, both state and federal, stood high in public esteem. One of the chief reasons for this was the fact that, unlike most colonial governors and judges, the legislatures had been that part of the government most closely associated with and representative of popular sentiment and feeling for independence. . . . But subsequent to the high point of congressional power immediately following the Civil War, a rapid decline in legislative prestige and, to a limited extent, even in legislative power, occurred. This decline has continued even until today. . . . The causes for this decline in American legislative prestige and leadership are numerous and complex. Certainly one factor was various structural defects in the typical American legislature. . . . *Equally if not more important was the widespread feeling among the electorate that for various reasons the legislature had ceased to be truly representative of the wishes of all the people and had become frequently a tool for certain favored classes or interests. Substantially contributing to this feeling of nonrepresentation was the patent under- or over-representation of many localities in the state or federal legislature arising from the failure properly and periodically to reapportion the seats in that body.*

2. *Concentration of power in the federal government.* One of the complaints most frequently, indeed most noisily, heard in state legislative halls, is the tendency to bypass local government channels and look to Washington for the solution of local problems. Legislators should hardly express either surprise or disapproval, since the situation is largely of their own making. Under-represented areas, finding no help at home, naturally journey to Washington. "There is much clatter in state circles about federal encroachment upon the domain of the states. That is pure balderdash. The federal government has not encroached upon state government. State governments have defaulted." [10]

Says Douglas H. MacNeil,[11] Director of Division of Statistics and Research of New Jersey: "It cannot be doubted that the trend toward encroachment upon fields of service heretofore reserved to the states has been accentuated by the long-continued reluctance of legislative bodies in many states to accord to cities representation proportionate to their population."

[9] In introducing the Duke University study.
[10] According to Robert Allen, in *Our Sovereign States* (1949).
[11] "Urban Representation in State Legislatures." *State Government,* 18:59 (Apr., 1945).

3. *Insoluble urban problems.* A large share of the problems which plague legislatures all over the nation are the result of rapid urbanization and industrialization of our society: social welfare legislation, home rule, housing, labor-management problems, transportation, traffic control, consumer protection, metropolitan planning, etc. The increasing demand for services is strained on one hand by limited taxing powers, on the other by suburban developments which deprive cities of property development and improvement and thus decrease their tax base. Commented the Conference of Mayors in 1948: "The matter is not now one of theory or nebulous ideals. It has become almost a case of life or death for cities."

Can a legislature top-heavy with rural interests be expected to treat these problems with either the knowledge or sympathy they deserve?

Of America's 67 largest cities, Douglas MacNeil points out that 45 have less than their proper representation, including all 10 of the largest; 12 of the 45 have less than one-half their true share. Los Angeles, for example, with 39% of California's population, has 2½% of its senators. St. Louis has 18 representatives for its 816,000, the same number as 18 rural counties with 158,000. Atlanta has 1 representative for 131,000, neighboring rural counties 1 for 3,000.[12]

Typical of the countless injustices to American cities cited in the literature are these three examples: [13] In Oregon, the recent fight for true population representation was sparked by rural-engineered defeat in 1949 of a state-supported junior college in Portland, a bill to repeal the oleo tax, and a bill which would have cut milk costs—all "discriminatory against low-income city families" (Rep. Richard Neuberger).

Knoxville, Tennessee, has twice (1937 and 1947) had its city manager form of government taken away by the legislature, which replaced it with a mayor-council form more to its liking.

In New Orleans in 1946 Mayor Chep Morrison's reform government went about routing out the vice, corruption, and inefficiency left by the Huey Long machine. Immediately the rural-Long controlled legislature rammed through one hamstringing bill after another: city courts were abolished and re-established under legislative control; merit system was wrecked; sales tax was cut in half; five-man city commission was replaced by a seven-man council elected by districts, with much greater pork-barrel potential.

4. *Home rule is often denied, limited, or taken back* by rural-dominated legislatures. Under our federal constitution jurisdiction of state government extends to municipal affairs of all kinds; powers granted to cities are completely at its discretion. An unsympathetic legislature can exert power over a city that is close to tyranny.

In Ohio, where rural-urban cleavage is sharp, cities were granted home rule in 1912. The legislature soon repented and took away: in 1918, right to fix

[12] *Ibid.* The alarming discrepancies in the three cities mentioned are in one chamber only, and are on basis of 1940 census.
[13] Many of the urban injustices cited throughout this section are from "Our Plundered Cities," *This Week,* Aug. 28, 1949.

gas and electricity rates; 1925, right to create municipal courts; 1941, right to prescribe qualifications for city policemen; 1943, right to establish a retirement system for firemen.

In Minnesota, Prof. William Anderson[14] cites these legislative acts which have had the effect of overruling provisions of our fairly adequate home rule legislation: limiting the amount of wheelage tax which cities can levy on cars to one-fifth of the state tax thereon; putting a per capita limit on municipal taxes and local school taxes.

Weak home rule charters also crowd the legislative calendars with special bills, diverting time and attention from matters of statewide importance. Thomas Page[5] points out that although legislatures usually yield to requests of local governments, urban legislators must often trade for these concessions to their constituencies, a favorable attitude toward some more important and general program. In general, rural legislators enjoy their power of special legislation, as it "facilitates their keeping the upper hand in tax matters." Another evil of overcrowded calendars is cited by Robert Allen:[10] It is when legislatures are harassed by lack of time that "self-seeking and obstructive forces have their greatest sway."

In Minnesota, in spite of quite liberal home rule provisions, 653 (30%) of bills introduced between 1929 and 1937 fell into the class of special legislation, 179 dealing with municipalities. Minnesota's chief needs are for change in the charter amending process, now so difficult that cities take the easier course of applying to the legislature for needed change; and increased powers to cities and villages without home rule.[15]

Persons close to Minnesota's legislative scene say that objections to home rule liberalization come less from rural, than from certain urban, legislators—which leads to three observations and questions: (a) This is excellent proof that urban areas do not vote in a bloc. (b) Is this an example of urban economic interests siding with like-minded rural legislators, out of fear that liberalized enabling legislation might provide cities with power to levy new taxes? (c) The best interests of small cities throughout the state are here identical with those of large urban areas, yet they are served by "rural" legislators—a rebuke to those who emphasize the sharp cleavage between urban and rural interests.

5. *Elimination of unnecessary local government units* has often been opposed by rural blocs. Multiple small units, of course, make it impossible to use centralized budgeting, purchasing, and other modern administrative methods, and consequently impose much heavier tax burdens than are justified by their services.

Minnesota now has the largest number of local units (9,026)[16] of any state in the union. Of these the majority are school districts. Under enabling legislation passed in 1947, such great progress has been made in school reorganization

[14] "Municipal Home Rule in Minnesota," *Minnesota Municipalities,* 23:408 (1938). Those interested in home rule will find suggested remedies for home rule inadequacies in this article and the one cited in note 15.

[15] Horace E. Read, "Congestion in the Minnesota Legislature," *Minnesota Municipalities,* 23:405 (1938).

[16] Table 1, p. 11, of *Government in the United States in 1952* (Census Bureau Publication).

that an original 7,800 school districts now stand at 5,300. This is still two or three times too many, according to our Commissioner of Education.[17] In the face of these great accomplishments and these great needs, determined opposition to renewal of the reorganization bill developed in the 1953 legislature, led by rural legislators from the southern part of the state.

6. *Unfair distribution of taxing power and receipts.* It is easy to make unfair accusations in this complicated field. For instance, the 1948 Conference of Mayors charged that under-represented cities pay 90% of state taxes, and raised the war cry "Taxation without representation!" The fact is, of course, that corporations pay taxes on income earned in both urban *and* rural communities through their metropolitan offices.

However, it *is* obvious that there is too much taxation with too little representation. The *Wall Street Journal* points to the fact that state governments are monopolizing lucrative sources of taxation and starving municipal governments for revenues. The states lay heavy taxes on city business, while cities are restricted largely to property and "nuisance" taxes. *Between 1932 and 1941, federal revenues increased 313%; state 138%; city 2½%.*

An extreme example of how rural domination has set unfair tax patterns is provided by Connecticut, in whose House six rural towns with a population of 10,000 can out-vote five cities with 700,000. City schools get $30 in state aid per pupil; rural schools $100. Union (population 234) receives $50,000; so does Hartford (1950 population 177,397). Connecticut is also renowned for her "gold highway law." Waterbury, the fourth largest city, is taxed over one million dollars annually for state road maintenance and gets back $26,000 for its 200 miles of streets. Rural Canaan with 555 persons pays $6,000 and receives $26,000, which it can't even use. "About as democratic," comments the *Waterbury Republican,* "as election day in a concentration camp."

Minnesota's municipalities share in the general revenue dilemma of all American cities. It is suggested that proper representation of urban areas in our policy-making bodies is one, if only one, of the ways in which Minnesota may find a just solution to the thorny problem of state-local sharing of financial burdens and proceeds. Problems common to local units are:

a. The property tax, to which municipalities are largely confined, though once adequate, has "become *less equitable* as a measure of either benefit or ability to pay taxes, *less productive* of revenue, and *more difficult* of administration."[18] It is obvious cities must look elsewhere.

b. The inadequacies of the property tax system are intensified by the fact that railroad and freight lines, telephone and telegraph companies are exempt from the local property tax, in lieu of which they pay a gross earnings tax to the state (in 1944-45, $14,040,000). These utilities thus pay no direct share of

[17] Radio broadcast, Listen with the League, KUOM, Nov. 11, 1953; *An Analysis of Projected Public School Building Needs in Minnesota* (Dept. of Education, 1953).

[18] C. C. Ludwig, "The Case for Local Sharing in the Gross Earnings Taxes," *Minnesota Municipalities,* Jan. 1945.

the cost of local services demanded from the community. It is "the unanimous recommendation of tax experts, municipal associations, committees, and authorities which have studied federal-state-local fiscal relations"[18] that 40% of these gross earnings taxes be allocated to local units.

To quote from the Report of the Mayor's Tax and Finance Commission (Minneapolis, 1947): "Minneapolis might have nearly adequate funds if Minnesota did not divert such large proportions of income, gasoline, automobile, liquor, gross earnings and other taxes collected in Minneapolis to other parts of the state." (With more recent increases in basic state aid to schools, inequities in income tax distribution have been somewhat ameliorated. For instance, in the period 1942-46 Minneapolis received back only 13.3% of what it paid in state income tax; figures from the city engineer's office show this has now increased to 40%.)

7. It is questionable whether any of the above evils commonly attributed to disproportion is potentially as grave as the following two general considerations: *A disrespect for law* on the part of legislators, sworn to uphold that very law, is conducive to a like disrespect on the part of the ordinary citizen for any law he happens not to like.

8. *Democracy gone to seed* is the phrase used by one Minnesota economist to describe legislative neglect of its manifest duty.

Thomas Carlyle, whose whole political trust was in the hero-leader, once cynically remarked, "Democracy is, by the very nature of it, a self-cancelling business." Carried far enough, self-perpetuating legislative disproportion could easily prove him right.

On the other hand, "if legislators perform their task of reapportionment in a statesmanlike fashion, they will go far toward enhancing the prestige of their profession. In a time when representative government is fighting for its very life throughout the world, when the very idea of political democracy is upon the defensive as it has not been for two or three centuries, it behooves legislative bodies to look with great care to their own composition. If narrow partisan advantage or personal or sectional interest is put above the general good, the means employed will have destroyed the vitality of the end set up. Dishonest apportionment is a direct invitation to subversion and treason."[19]

Disproportions Under the Minnesota Law[20]

Constitutional provisions on apportionment are contained in Article IV, Secs. 2, 23 and 24, of the 1857 Constitution and read as follows:

> The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the representation in the Senate shall never exceed one member for every 5,000 inhabitants, and in the House of Representatives, one member for every 2,000 inhabitants. The representation in both houses shall be apportioned equally throughout the different sections of the state, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law (Sec. 2).
>
> [After each census] the legislature shall have the power to prescribe the bounds of congressional, senatorial and representative districts, and to apportion anew the senators and representatives among the several districts according to the provisions of Sec. 2 of this article (Sec. 23).
>
> The senators shall also be chosen by single districts of convenient, contiguous territory, at the same time that members of the House of Representatives are required to be chosen, and in the same manner; and no representative district shall be divided in the formation of a senate district (Sec. 24).

Although the law itself is just, simple, and flexible, the impossibility of enforcing it upon an unwilling legislature makes it empty legislation. The true state of affairs under it is this:

Over 50% of our legislators are chosen by less than 35% of our population.[21] *This means that ⅓ of Minnesota's voters can impose their will on the entire state.*

In order to judge disproportions among Minnesota legislative districts, it is necessary to find the population figure of a fairly apportioned district. This is arrived at in the following manner:

House: 2,982,483 (population of Minnesota) ÷ 131 (number of House districts) = 22,767 (ideal House district).

Senate: 2,982,483 (population of Minnesota) ÷ 67 (number of Senate districts) = 44,515 (ideal Senate district).

There is, even in a fairly apportioned state, unavoidable deviation between districts. This is due to difficulties in cutting up districts according to county or ward lines. The amount of acceptable deviation is put at 15% by the American Political Science Association. Thus, in Minnesota, a fairly apportioned House district would contain a population varying from 19,352 to 26,182 (22,767 minus or plus 15%); a fairly apportioned Senate district would contain a population varying from 37,838 to 51,192 (44,515 minus or plus 15%).

Using this 15% standard, we find that inequities in representation are of five types:

1. Under-representation of fast growing districts.
2. Over-representation of districts with declining population.
3. Under-representation of the three largest cities.
4. Under-representation of suburban areas amounting almost to non-representation.
5. Unequal districting within counties and senatorial districts.

1. *Under-represented Districts.* The population of Minnesota increased by 43% from 1910 (basis of our last apportionment) to 1950. Because this growth has been very unevenly distributed, the following districts and counties are at present seriously under-represented in the *Senate* (using the 15% permissible deviation standard):

[18] *Legislative and Congressional Redistricting in Kentucky* (University of Kentucky Bureau of Governmental Research, 1951).

[19] For these figures we are greatly indebted to an unfinished Ph.D. thesis by John A. Bond of the University of Minnesota. Figures for Dists. 19, 28-42, 45, 46, 55, and 57-62 were compiled by him from census tracts and enumerations.

[21] In the House, 50% of the legislators are chosen by 31.4% of the state's population; in the Senate, by 35.3%.

5 Dodge, Mower
29 Hennepin
32 Hennepin
33 Hennepin
34 Hennepin
35 Hennepin
36 Hennepin
41 Ramsey
42 Ramsey
45 Benton, Stearns (E. part) Sherburne (minor part)
50 Otter Tail
52 Cass, Itasca
53 Crow Wing, Morrison
57 Cook, Lake, St. Louis (S.E. part)
59 St. Louis

This under-representation is further pushed out of line by over-representation in the districts listed under (2) below, so that the lopsided picture *really* looks like this: Senators represent districts that range in population from 16,878 in Dist. 3 (Wabasha) to 153,455 in Dist. 36 (rural Hennepin). The Wabasha County voter is thus over nine times as important in the Senate as the voter from rural Hennepin.

In the *House,* population has increased so rapidly in Dist. 4 (Olmsted) and Dist. 20 (Dakota) that 53% of the people are not represented at all. In Dist. 44 (Anoka, Isanti) 52% of the citizens are without representation; in Dists. 28-36 (Hennepin average) 39%; in 18 (Rice) 37%; in 6 (Freeborn) 34%; in 37-42 (Ramsey average) 23%.

The following districts are seriously under-represented in the House:

4 Olmsted
5 Mower
6 Freeborn
18 Rice
20 Dakota
25 Kandiyohi
29 Hennepin (2)
32 Hennepin (2)
33 Hennepin (2)
34 Hennepin (2)
35 Hennepin (2)
36 Hennepin (2)
40 Ward 7, St. Paul
41 Ramsey (2)
42 Ramsey (2)
44 Anoka, Isanti
45 Stearns (eastern part)
49 Clay
52 Itasca
57 St. Louis
59 St. Louis (2)
62 Beltrami, Lake of the Woods

The smallest and the largest House districts are found within Ramsey and Hennepin Counties, respectively. Deviations run from 7,290 voters in Ward 4 of Dist. 40 in Ramsey County to 107,246 in the south half of rural Hennepin (36). This is more than a 1-14 ratio for un-representative democracy.

2. *Over-represented Districts.* Using the 15% deviation, 29 of Minnesota's 67 districts are over-represented in the *Senate:*

3 Wabasha
6 Freeborn
7 Faribault
10 Cottonwood, Jackson
11 Nobles, Rock
15 Nicollet, Sibley
16 Steele, Waseca
17 LeSueur
18 Rice
19 Goodhue
21 Carver, Scott
22 McLeod
23 Renville
24 Lac qui Parle, Chippewa
26 Meeker
27 Wright
28 Hennepin
37 Ramsey
43 Washington
46 Stearns (central and western parts)
47 Douglas, Pope
55 Mille Lacs, Kanabec, Sherburne
56 Chisago, Pine
58 St. Louis
61 St. Louis
63 Becker, Hubbard
64 Mahnomen, Norman
65 Clearwater, Pennington, Red Lake
66 Polk

The following districts are seriously over-represented in the *House:*

Aitkin
Benton
Big Stone
Blue Earth
Brown
*Carver
*Chippewa
*Chisago
*Clearwater
Cook
*Cottonwood
Dodge
Fillmore
*Goodhue
Grant
Hennepin (Dists. *28, 30)
Houston
*Hubbard
*Jackson
*Kanabec
Kittson
Koochiching
*Lac qui Parle
Lake
*LeSueur
Lincoln
Marshall

*Meeker
*Mille Lacs
Morrison
Murray
Otter Tail
*Pennington
*Pine
Pipestone
*Polk
*Pope
Ramsey (Dists. *37-S, 38-S, 40 ward 4)
*Red Lake
Redwood
*Rock
Roseau
St. Louis (*Dists. 58 and 61)
*Scott
Sherburne (*Dist. 55)
*Sibley
*Stearns (central and western parts)
Stevens
Swift
Traverse
*Wabasha
Wadena
*Waseca
*Washington
Watonwan
Wilkin
Winona (not city)
*Wright
Yellow Medicine

(* The starred districts are over-represented in both houses by over 15%.)

3. *Under-represented Cities.* Minneapolis, with 17.5% of the state's population, has 12% of the representation in the Senate, or 68% of its rightful share; in the House it has 70% of its rightful share.

Ramsey County has a population of 355,332 (St. Paul making up 311,349 of this figure); this is 12% of the population of Minnesota. Ramsey County has a little less than 9% of the representation in the Senate, or 75% of its share; a little less than 9% of the representation in the House, or 77% of its share.

Duluth makes up the major part of three legislative districts. Of these the 57th and 59th are greatly under-represented, although the 58th, in the center of the city, is greatly over-represented.

Two points need emphasis: (a) The metropolitan areas are badly in need of adjustment. (b) In Minnesota, the reapportionment battle should not center around domination by one large urban center as in Illinois and New York, where the largest city in the state contains over half of its population.

Together, Minneapolis and St. Paul have only 28% of the state's population. Minnesota's three largest cities contain less than 32%. Even with their rural areas, Minnesota's two largest cities together have less than 35% of the state's population.

4. *Under-represented Suburban Areas.* The Twin Cities are surrounded by mushrooming areas which are not only inadequately represented in the legislature, but practically *non*-represented. In 1950 suburban Hennepin County had only 29% of its rightful representation in the Senate; 30% in the House. Even this unfavorable ratio has now been much further reduced. For instance, on the basis of building permits, allowing about 4% error, the 1953 population had increased by the following proportions: Crystal from 6,000 to 15,000; Golden Valley from 5,551 to 9,600; St. Louis Park from 22,604 to 31,000; Richfield from 17,415 to 30,000; Edina from 10,000 to 15,000.

The plight of south rural Hennepin becomes apparent from this comparison. It has 1 representative for its 107,246 people; 11 representatives are elected by practically the same number of voters (108,969) in Ward 4, St. Paul, Traverse, Grant, Big Stone, Kittson, Lincoln, Wilkin, Cook-Lake, Hubbard, and Stevens counties, and Dist. 37-S, St. Paul.

What is more, these almost totally unrepresented areas are faced with particularly difficult problems of schools, transportation, road-building, fire and police protection, etc. Their need for a voice in the legislature is currently very acute.

5. *Discrepancies within Counties and Senatorial Districts.* In Hennepin County, Senate districts vary from Dist. 28 with a population of 27,574 to Dist. 36 with a population of 153,455, a ratio of approximately 1 to 6. Dist. 28 is over-represented by 38.1% and Dist. 36 is under-represented by 244.7%, a variation of 282.8%. Other discrepancies between districts within a county can be found in Goodhue, Ramsey, St. Louis, Sherburne, Stearns, and Winona.

In some senatorial districts which contain more than one county, there are population deviations between the representative districts. In the first-mentioned of the paired counties below the representative speaks for about twice as many people as the representative in the last-mentioned: Martin-Watonwan; Kandiyohi-Swift; Todd-Wadena; Carlton-Aitkin; Beltrami, Lake of the Woods-Koochiching. Wider deviations in representation can be found in Dist. 63 (Becker-Hubbard) 60.4%; Dist. 52 (Itasca-Cass) 60.9%; Dist. 45 (eastern part of Stearns-Benton, minor part of Sherburne) 71%; Dist. 49 (Clay-Wilkin) 87%; Dist. 5 (Mower-Dodge) 130.3%; and Dist. 57 (St. Louis-Cook, Lake) 150.9%.

Even in districts which are over-represented in both Houses (and from which opposition to reapportionment might be expected) there exist discrepancies between House districts as high as 49% for Nobles-Rock.

There are two possibilities of ironing out these discrepancies between House districts: One is to depart from the county line (as has been done in Sherburne and Stearns). The other is to elect representatives at large.

Ways of Achieving Reapportionment in Minnesota

What we expect of reapportionment in Minnesota and the ways in which we hope to achieve it are inextricably bound up together.

1. Achieving reapportionment as part of a constitutional convention is the League ideal. The chicken-egg aspect of the situation, however, is emphasized by many League members who feel a constitutional convention will never be called until the legislative climate is changed by reapportionment.

This point is raised by Professor Short: "A recent attempt in Minnesota to secure favorable legislative action upon a proposal to submit to the people the question of calling a constitutional convention was unsuccessful, at least in part, because of the fear of some legislators that a convention, once called, would in some way effect a change in the present apportionment and districting.[22]

It may be pointed out that New Jersey, where apportionment is on a population basis in neither house, had high hopes of a 1943 constitutional convention—only to have the legislature prohibit the convention from even considering the subject of reapportionment. Thomas Page, considering the same question in Kansas, warns that a constitutional convention must have other purposes so important to legislators that probable reapportionment would not be likely to block a whole group of changes.

2. Under the framework of our present constitution we can achieve reapportionment on a population basis in both houses. The method is simple; the difficulties are herculean. The strategy would have to be flawless. The entire state

[22] Duke University study, p. 379.

would have to be mobilized in no less than a crusade for democracy. What has been done so far by a few legislators, the metropolitan papers, and the League of Women Voters would be a mere starting point for a long, bitter, dedicated, and uncertain fight. It *has* been done, as we shall see later on.

3. It is quite possible that a compromise plan with greater chances of success could be achieved under our present constitution. The carefully drawn bill (H.F. 525) presented to the House in 1953 was *in effect* a compromise measure, retaining some metropolitan under-representation in both House and Senate while adjusting rural inequities. (Hennepin and Ramsey Counties would have been given 19 as against the 22 senators to which their population entitles them; and 38 as against 45 representatives.)

There is some opinion that the constitutionality of such a bill would be challenged on the basis it is not the true population reapportionment our constitution calls for (of four persons polled, a legislator, an administrative officer, a political scientist, a law professor, the second felt such a bill would be declared unconstitutional; the other three felt quite sure it would be upheld by the courts).

4. A constitutional amendment is viewed by many Minnesotans who have studied the problem as the only practical way to reapportionment. The rural areas would find reapportionment quite palatable if sufficiently seasoned with compromise, retaining population base in one chamber and using some sort of area arrangement in the other. This sort of compromise could be achieved only through constitutional amendment.

An amendment would also be necessary to incorporate the reinforcement provisions necessary to insure future periodic reapportionment.

Pertinent to this part of the discussion is this question: Does Minnesota's amending process pose such difficulties to constitutional change that it must be modified before we work for other reforms? Constitutions in Illinois and Tennessee presented such obstacles to amendment that Illinois had to work for its Gateway Amendment (easing the amending process) for over half a century before making headway on reapportionment and other reforms. In Tennessee an amendment had never been passed until November, 1953; in that election voters approved several changes in the constitution, one intended to facilitate amendment.

While not faced with these insurmountable obstacles, Minnesota is one of eight states still requiring for ratification a majority of those voting at the election rather than a majority of those voting on the amendment. Of these eight, Arkansas and Oklahoma give voters power to initiate amendments by petition, and for initiated amendments only a majority voting thereon is required; Tennessee has made recent modifications.

The *Book of States* points to Minnesota, Indiana, Illinois, and Arkansas as states where noncontroversial and nonpartisan measures with no real opposition have been defeated by blank ballots. Is W. Brook Graves in his textbook classic, *American State Government,* also referring to Minnesota when he says: "Unworkable amending provisions in many states constitute a serious barrier to their progress. Government is a changing, growing, developing, dynamic institution,

in need of continuous adaptation to changed social and economic conditions. A constitution whose amending process makes it impossible to make necessary modifications comes to be a sort of strait-jacket."

The Minnesota Constitutional Commission (1948) advocated a two-thirds vote of the legislature to submit amendments to the voters, instead of the present one-half; but only a majority of those voting on the amendment for ratification. The Model Constitution[23] advocates proposal of amendments by initiative or by a simple majority of the legislature. Ratification would be by a majority of those voting thereon if 20% of those participating in the election vote affirmatively.

5. Whether reapportionment is achieved through constitutional convention, under the present law, or by amendment, auxiliary methods used in other states should be explored:

a. In a few states where the power of *initiative* exists, petitions were used by voters to place reapportionment on the ballot, thus bypassing unwilling legislatures. This was done with notable success in Colorado, Oregon, and Washington, with notable failure in California. Minnesota hasn't this channel.

b. *Gubernatorial leadership.* The governor has an actual role in securing reapportionment only in Florida, where he is to call a special session if the legislature fails to reapportion. However, the governor of Kentucky is held largely responsible "through prestige and patronage" for the 1942 reapportionment in his state. Governor Dewey called a special session in 1951 for congressional reapportionment. Governors in Illinois, particularly Horner and Stevenson, played a significant role in that state's fight. Governor Kohler's personal influence was crucial in Wisconsin's reapportionment. Recently, Governor Battle called the Virginia legislature into special session because it had neglected reapportionment during the *first* session after the 1950 census. There is evidently a wide difference in the sensitivity of legislative consciences, as the legislature immediately obliged with a new apportionment bill.

In Minnesota the governor has the prerogative of calling a special session when emergencies require it.

c. *Committees.* The Rosenberry Committee, composed of legislators and laymen, provided the impetus to reapportionment in Wisconsin. An interim commission is given great credit for the fair and systematic reapportionment Virginia has enjoyed after each federal census. In California an interim commission was appointed to carry out planning and research for the apportionment due in 1951.[24] A bill with the power and prestige of a committee in back of it should have easier sledding than a one-man bill which the legislators have no chance to study before the hustle and bustle of the session—and consequently never study at all.

d. *Party influence.* Although political parties could be powerful allies for reapportionment because their financial support comes largely from underrepresented cities, parties usually split into rural-urban segments on the matter. Thomas Page[5] also attributes some of the decline in party pressure for reapportionment to the highly complex, even technical subject matter involved. However, he does recommend recourse to the young people's sections of both parties as having "potentialities for imaginative action"; and in Oregon this approach worked well. We in Minnesota are fortunate that both political parties have in their platforms strongly worded statements favoring fair and periodic reapportionment. .

[23] Published by the Committee on State Government of the National Municipal League.

[24] See the Duke University study, p. 440, for a detailed account of the scope and activities of such a body.

6. Getting reapportionment in Minnesota is like weaving her a new cloak. Only the warp can be supplied by the legal methods described above. The woof must be filled in by the perserverance and purpose of her people. The *Fort Wayne News-Sentinel* describes the task thus:

> [Disproportion] won't get any better until the pressure of an aroused public goes to work on our legislatures. It won't be done by editorials or by a few isolated complaints from scattered sources. The subject will have to be talked about in homes, on street corners, in organization meetings, in business, professional, and labor circles. The case for reapportionment will have to be carried through in an organized way, on a nonpartisan basis, and in support of a fundamental principle of democracy.

Page looks to "segmental pressures, organized around *persons, institutions, occupations,* and *lines of endeavour* to press for legislation at present." Pressure groups for constitutional reform would need a broad membership, crossing party lines and including both rural and urban leaders.

Should Area Be Accepted as a Basis in One House in Minnesota?

Before we can consider what kind of a reapportionment law would be desirable in Minnesota, we have to make up our minds on this highly debatable question: Should we follow other states which have accepted an area basis in one house to achieve reapportionment?

The principle of apportionment based on population is that democracy rests on a vote for every citizen rather than representation of area or group interests. The principle of apportionment based on area is that weight should also be given to territorial, sectional, and occupational interests.

Here are arguments most frequently advanced for and against area consideration:

Pro—In order to obtain a "true equilibrium" between rural and urban constituencies, it is desirable for the latter to forego full representation. This is because city dwellers vote more cohesively than rural ones. Also representation is only one of the avenues by which citizens have access to the legislative ear; city dwellers are better organized into pressure groups for purposes of lobbying and better situated geographically to engage in its activities.[25]

[25] Alfred de Grazia, of political science and government departments at Indiana, Northwestern, Minnesota, Brown, and Stanford universities, says: "Since reapportionment is only one stage of the process of representation, values that are blocked entrance into politics at that level may seek and find other levels on which they may enter and be counted. . . . The most conspicuous example of such interests in American experience is the pressure group and its lobby. The lobby, practically viewed, is based on a functional constituency, self-apportioned" (Duke University study, p. 265).

Con—There is no more evidence that city groups vote cohesively than rural ones. Indeed, on levying and division of taxes, grants-in-aid, etc., country dwellers have voted much more consistently as blocs. The resistance to reapportionment is *per se* a proof of this cohesiveness.

Pro—In varying degrees in most states geographic factors (semi-arid and fertile lands; valley and mountainous terrain) and economic factors (grazing and agriculture; mining and manufacturing) represent such different outlooks they have been given consideration in reapportionment.

Con—Even in a legislature based strictly on population, we have representation by area interests because legislators are elected *by districts*. Only if all legislators were elected at large, would area not be represented. Also, too much emphasis has been put on sectional interests, too little on the health of the state as a whole.

Pro—In our federal government one house is based on area. This has worked well, preserving an excellent system of checks and balances. Indeed, two houses based on population cannot be justified, but are simply duplications of the same interests, involving extra expense.[26]

Con—This argument from tradition is a false analogy. There is no parallel between the position of states in the upper house of our Congress and of counties in our state legislatures. States are *sovereign*, policy-making bodies, the original sources of power in our union, which is a federation of states. Counties are mere administrative units, without autonomy, almost lacking in corporate power. Anyway, the federal plan was never looked upon as an ideal solution, but as a necessary compromise in attaining any union at all.[27]

In 1787, the very year the federal constitution was adopted, Congress passed the Northwest Ordinance, basing all representation within states to be created from the Northwest Territory on *population*.

Pro—To quote the New York Joint Legislative Committee on Reapportionment (1950): A state legislator can more easily represent 290,000 constituents in a New York City district than a legislator in upstate New York can represent 130,000 citizens living in three cities and fifty-six towns, requiring services of 77 post offices with their many rural delivery routes and scattered in villages, farms, and hamlets over a mountainous territory of 5,000 square miles.

Con—It would be impossible for any representative, rural or urban, to maintain a personal relationship to his constituency unless districts were made so small as to make legislatures unwieldy in size.

[26] To anyone interested in a unicameral legislature, this quotation from Professor Short (p. 378 of Duke University study) will be provocative: "It is the view of this writer that one of the most powerful deterrents to the spread of unicameralism in the states will be the pressure for compromise in the bases of legislative representation for which bicameralism is perhaps the most convenient though certainly not the only vehicle."

[27] Hamilton in *The Federalist*, Paper No. 62, termed this provision of the Constitution, "a concession which the peculiarity of our political situation rendered indispensable. . . . The only option lies between the proposed government and a government still more objectionable. . . . The advice of prudence must be to embrace the lesser evil."

Pro—City voters are more likely to be dominated by party machines, are more exposed to influence of graft and corruption. Rural legislators have usually been officeholders on the local level and bring more direct experience with self-government to legislative bodies. Urban communities provide such multiple outlets for ability that the ablest city dwellers are not drawn to political service.

Con—Rural legislators have all too often shown themselves more responsive to economic pressure groups than urban legislators. Also the rural viewpoint is too often circumscribed by lack of experience, is over-conservative, resistant to change. This whole argument as to the wisdom of any group of voters runs counter to deepest American principles—equal representation in government to every citizen no matter what his qualifications for the franchise. Is a man's vote to be expressed as a fraction because he is either a Democrat or Republican, a member of the N.A.M. or the C.I.O., owns a dairy farm or delivers milk in the city?

* * * * * *

Political scientists find themselves in fairly wide agreement on these facts: that political, social, economic, and geographic factors need consideration; that population deserves greater consideration than at present; that whatever the theoretical merits of the arguments, reapportionment is seldom to be accomplished without some compromise.

The whole area-population conflict can be summed up in this somewhat comforting paradox: *In most states where concessions have been made to the area principle, they have been made with the purpose of securing greater recognition of the population principle.* A state may well change its requirements from "population in both houses" to "population in one, area in one," and still serve the interests of greater population representation, because the legislature will then carry out the constitutional provisions.

What Kind of Reapportionment Law for Minnesota?

The answers to these two questions: What kind of law do we *want* for Minnesota? and What kind of law can we *get* in Minnesota? may be miles apart or they may be closer together than we sometimes think. The gap is composed of many intangibles over which citizens' groups have no control. It is also composed of at least three tangibles *very much* under their control: a thoughtful study and presentation of the case, with possible recommendations; public pressure upon the legislature; and hard work.

If the League and/or other groups decided to press for a population basis in both houses, then we must prepare for the kind of fight just won in Wisconsin and Oregon and lost in Michigan (see page 26).

Compromise Plans Accepted by Other States

If we decide that compromise is desirable or necessary, then we must ask: What kind? Once that is answered, we would at least have some basis for supporting or opposing any bills offered in the next legislature. Our answer may be aided by a quick look at the plans adopted by other states. Some provide very

wide, others only slight, concessions to the area principle. Unless otherwise indicated, the following restrictions apply to one house only.

1. The most complete representation of area is provided by allowing each county one representative, *regardless of population* (eight states, including Vermont, in which towns rather than counties are represented). This works two ways: it cuts down representation from urban centers and increases that from sparsely settled areas.

2. In five states, "population" is specified as the basis but no county may have more than 1 representative. Smaller counties are combined into single districts. This plan cuts down representation from large centers of population (and is the plan which makes Los Angeles so unhappy).

3. The most frequent area concession (23 states) is to base representation on population but guarantee that each county have at least one member. This increases small-county representation. (Both Rhode Island and Wyoming use this system in both houses; in Rhode Island, cities or towns, not counties, are represented.)

4. Although these 3 plans are the most common guarantees of area interests, 14 other states have adopted individually devised plans for area representation or population restriction. For example, Georgia and Florida both divide counties into three groups, the most populous getting 3 representatives, the intermediate 2, and the smallest 1. New York restricts New York City by providing that no county have more than ⅓ nor any two adjoining counties more than ½ of the Senate membership. Missouri provides an example of a ratio plan.

As previously pointed out, 20 states use one or another of these 4 general types of plans in *both* houses.

Missouri Plan

Missouri should be singled out for special attention. Its new constitution (1945) contains an apportionment law pointed to by many political scientists as providing speedy reapportionment every 10 years on a clearly specified, yet flexible basis. The *Senate* is based on population, with 34 districts to be divided equally, with no more than 25% deviation between districts. The *House* makes concessions to rural areas through a ratio system of representation. This gives each county at least one representative and the more populous counties considerably less than true representation.

The House ratio is determined like this: the population of the state is divided by 200. Counties having 1 ratio or less elect 1 representative; counties having 2½ times the ratio elect 2; counties having 4 times the ratio elect 3; counties having 6 times the ratio elect 4. Above 6, 1 representative is allowed for each 2½ additional ratios.

The legislature has nothing to do with reapportionment. The *Senate* is reapportioned by a 10-member bipartisan commission appointed by the governor from lists submitted by party committees. Should this commission fail to reapportion within six months, all senators would be elected at large in the next election, and a new commission thereafter appointed. For the *House*, the secretary of state,

after each federal census, applies the ratio system and informs each county of its representation; the county court draws the districts if the county has more than one representative. (In St. Louis city both House and Senate districts are drawn by the bipartisan Board of Election Commissioners.)

Reinforcement Provisions

That some sort of "self-enacting" clause is essential to insure that a reapportionment law is carried out is strikingly illustrated by the following comparison:

All of the states which employ non-legislative bodies in connection with reapportionment actually reapportioned between 1951 and 1954. Only *one-third* of the other states have done so.[28]

1. In the following states the reapportionment power is initially in the legislature, but within a specified period passes to some other body. In *California,* if the legislature fails to act within the first session after each federal census, power passes to Lieutenant Governor, Attorney General, Secretary of State, State Controller, and State Superintendent of Public Instruction. In *Michigan* the alternate body is the State Board of Canvassers (Secretary of State, Treasurer, and Superintendent of Public Instruction). In *Oregon,* if the legislature fails to pass a reapportionment bill by July 1 of the session following the federal census, the Secretary of State intervenes. In *South Dakota,* if the legislature does not reapportion during the first session after each census, a committee of Governor, Superintendent of Public Instruction, a presiding judge of Supreme Court, Attorney General, and Secretary of State must do so in 30 days. In *Texas,* if the legislature fails in its duty after the federal census, the Lieutenant Governor, Speaker, Attorney General, Comptroller, and Commissioner of Public Lands must act in 150 days.[29]

2. In the following states reapportionment is entirely divorced from the legislature:

Arizona—County Boards of Supervisors.
Arkansas—Governor, Secretary of State, Attorney General.
Missouri—Secretary of State, County Boards for House; a bipartisan commission for the Senate.
Ohio—Governor, Auditor, Secretary of State, or any two of them.

An inherent danger is seen by some political scientists in boards composed entirely of state officials, as they are frequently all of one political party.

3. Court review is specifically provided in New York, Oklahoma, and Oregon. Arkansas goes even further, allowing the Supreme Court to devise and proclaim a substitute plan.[30]

[28] *Book of States,* 1953-54.

[29] The Illinois amendment, to be voted on in Nov. 1954, provides that if the legislature fails to act by July 1 of the session following the census, a bipartisan commission of 10 members, chosen by the Governor from lists prepared by State Central Committees of both parties, will act. If this commission does not act within 4 months, all legislators shall be elected at large. (See similar recommendations of the Minnesota Constitutional Commission below.) Colorado initiated an amendment in 1953 providing for a committee to be appointed by the Chief Justice.

[30] "Has worked perfectly"—Kenneth Sears, *Methods of Reapportionment* (University of Chicago Law School, 1952).

Other Necessary Provisions

A limit upon the size of the house and senate might be considered.

"Total" population is generally used as the basis for reapportionment, but there might be discussion of "legal voters," or of exclusions, as of aliens, or of "votes cast in last election," as in Arizona.

Recommendations of the "Model Constitution"

The *Model Constitution* [23] might be of more help if it were less of a "model" and closer to accepted legislative traditions and procedures. It specifies a unicameral legislature (accepted only in Nebraska), to be chosen by proportional representation (a system totally unaccepted at the state level, except for a modified system in Illinois). The state would be divided into contiguous and compact territories, from each of which three to seven legislators would be chosen at large in accordance with population. The secretary of state would reallot membership after each federal census.

Recommendations of American Political Science Association's Committee on American Legislatures [31]

1. Disregard of counties in laying out districts insofar as consistent with efficient election machinery (since counties strengthen importance of local units as against the unifying influence of the states).

2. In bicameral legislatures, use of single-member districts for one house; large, multi-member districts, with election at large, with or without proportional representation, for other house.

3. Reapportionment after each federal census, either immediately by an administrative body or by such a body if the legislature fails to act.

Recommendations of the Minnesota Constitutional Commission

Minnesota's Constitutional Commission report of 1948 recommended achieving reapportionment by means of a constitutional amendment providing some area compromise in the Senate.

1. Limitation on size of legislature.

2. Representation in both houses to be apportioned "as nearly equal as practicable," with, however—

3. Limitation of metropolitan representation in the Senate by restricting any one county to ⅛ of all senators or any two contiguous counties to ¼.

Two observations, quite unrelated to each other, might be made at this point. (a) This 25% limit, as compared to the 35% of the state's population contained in these two counties, would mean Hennepin and Ramsey would have about 70% full representation in the Senate. (b) Would Hennepin County accept as fair the possibility of an equal division of Senators between herself and Ramsey County, since her population is not far from twice as large?

4. Reinforcement would be provided by a 10-man bipartisan committee appointed by the governor from lists submitted by party committees. This commission would function if the legislature did not reapportion within the first regular session after each federal census report. Its recommendations would remain in force until the legislature reapportioned. Should the commission fail to reach agreement, five senators would be elected from each Congressional district and one representative from each county.

5. The Supreme Court would review the validity of any reapportionment within 30 days on petition of any qualified voter. If the court declared the law invalid, the legislature would have to reapportion within 90 days; otherwise the commission would function as provided in (4).

[31] The full report of this committee, *American State Legislatures* (Belle Zeller ed., 1954), contains chapters on numerous aspects of modernization of state legislatures, which should be of great interest to League members in their present study of Legislative Reorganization.

A Tale of Four States

The dubious honor of being one of the last states to tackle reapportionment gives Minnesota at least one advantage: it may be possible to profit from experiences elsewhere.

Four states which have had recent widespread campaigns provide particular help because they had situations like Minnesota's: constitutional provisions specifying a population base (somewhat modified in Michigan and Oregon) in both houses; reapportionment power in the legislature, with no provision for reinforcement; and decided urban under-representation. Two of these states, Wisconsin and Oregon, have won reapportionment on their constitutional basis of population in both houses. Illinois' peculiar situation led her to offer compromise from the outset. Michigan staged an area-population battle, with the former winning out.

Illinois—In Illinois reapportionment is not yet attained; but there is well-founded hope that an amendment to be submitted in 1954 will assure it. A thorny problem had to be disposed of first: The usual rural-urban split was intensified by the fact that Cook County dominates the state population-wise (51.9%); thus any hope of reapportionment demanded that Cook County be limited in one house; limitation demanded a constitutional amendment; an amendment, to have any hope of passage, demanded a change in Illinois' peculiarly difficult amending process. A Gateway Amendment, easing this process, was finally passed in 1950 (though it had been on the ballot intermittently since 1896). Under the Gateway Amendment it is now possible for an amendment to be passed by either ⅔ of those voting thereon or ½ of those voting at the election, whichever is less.

The subsequent legislature voted to submit a reapportionment amendment to the voters in 1954. Under its terms Cook County will be accorded a majority in the House (30 out of 59); of the 58 Senate districts, 34 will go "downstate"; 24 to Cook County. A 10-man bipartisan commission will reinforce reapportionment.

The Illinois League, while recognizing "certain weaknesses" in the law (some inflexibility in future districting needs; cumbersome self-enacting clause; no limit on deviations), supports it as a "long step forward." Opposition to the amendment can be expected not only from rural areas whose representation is decreased but from some districts on the industrial west side of downtown Chicago now over-represented at the particular expense of suburban Cook County.

Michigan—Here a bitter struggle took on the hue not only of a rural-urban contest but of a management-labor fight. Two reapportionment plans were presented to the voters in 1952. One bill called for reapportioning both houses on a population basis, and was supported by urban centers, liberal organizations, the League of Women Voters, and large segments of the Democratic party. This became dubbed the "C.I.O. Plan" by opponents, who backed a "Citizens' Plan" or "Balanced Plan." This was backed not only by rural areas, but by metropolitan papers, various conservative and Republican groups in Detroit, and industrialists who look to rural legislators for support in lobbying. This compromise plan won by a narrow majority. Under it Wayne County, which has 38% of the state's population, will have 20% representation in the Senate.

Warns John Creecy, a Detroit newspaperman who gives a highly readable account of the struggle in the August, 1953, *Harper's:* "It becomes clear that the embattled farmers have a trick or two up their sleeves—and disillusioningly clear that fair representation for city dwellers is the last thing that some city dwellers want. . . . One generalization can be made. The proposal should be as simple as possible. If the city campaigners allow the ruralites to outsimplify them, as happened in Michigan, they won't stand much of a chance."

Oregon, whose legislature had neglected to reapportion since 1911, was fortunately armed with the initiative and thereby forced reapportionment. In the spring of 1952 petitions were circulated (by the League) to assure a reapportionment measure appearing on the ballot in the November general election. The League, which had been studying the matter since 1949 and had rejected a 1950 area compromise bill, was joined by the Young Republicans, Young Democrats, the important daily papers, the State Grange, and the labor unions. The League took major responsibility for informing the public, using all possible techniques, "press, radio, parades, gimmicks, flyers." The result was an overwhelming victory.

It must be noted that "population" was not the flaming issue in Oregon it is in many states. The constitution contained a "major fraction" proviso which did in reality effect some compromise with "area." (When a county or district has over ½ of the ratio necessary for a member, it is entitled to a member. Also, since the Senate is limited to 30 and the House to 60, there are not enough members to go around; the smaller counties get theirs first and Multnomah (Portland) what is left. Multnomah County now has seven senators, instead of the 9½ her population would allow; 16 representatives instead of 19. Also, Oregon hasn't the one very-large city problem of Illinois and Michigan; Portland has only 25% of the state's population in contrast to 50% for Chicago, 38% for Detroit, 28% for Minneapolis and St. Paul).

Wisconsin—The Wisconsin drama has an extremely complicated plot, with villains, a rescuing hero, and a seemingly happy ending.

Scene 1—In 1951 the Legislative Council's reapportionment committee drafted the Rosenberry Plan to reapportion the legislature on the population basis prescribed in the Constitution. After much opposition the plan was adopted by the legislature; however, an important concession was extracted by its enemies. An

advisory referendum was to go on the ballot in the November, 1952, election: "Shall the constitution be amended to provide for re-establishment of either assembly districts on an area as well as population basis?" Passage of this referendum would kill the Rosenberry Plan.

Scene 2—The referendum was rejected by a majority of 64,000 voters. This meant that the Rosenberry Plan would go into effect January 1, 1954.

Scene 3—To go back a step, the same legislature which passed the Rosenberry Plan had also passed three constitutional amendments, embodying some sort of area compromise. (In Wisconsin an amendment must pass two successive sessions of the legislature, then be submitted to the voters as a referendum.) When the legislature convened in January, 1953 (after voters' approval of Rosenberry Plan), the first matter of business was to pass for the second time one of these "areacrat" amendments, to be submitted to the voters in April, 1953.

Scene 4—This April, 1953, election was cunningly timed by rural legislators to coincide with local elections in small cities, villages, and townships, at a time when Milwaukee was holding no election. As a result, only 33% of the eligible voters went to the polls and the areacrat referendum passed by a margin of 25,000.

Scene 5—The legislature then implemented the amendment with the Rogan Law, apportioning the Senate on a 70% population, 30% area basis (the sum total of which, according to its opponents "was to give the veto power to a majority of senators representing a minority of voters").

Scene 6—(The Rescue). In the meantime the Supreme Court had been asked to decide on the constitutionality of this amendment, inasmuch as the Rosenberry Law was already on the books. In October, 1953, the Supreme Court unanimously declared invalid the Rogan Act and the amendment it implemented. (The decision was based on the fact that actually *three* separate questions had been submitted in the April, 1953, referendum, whereas only one was proper. In addition to putting the area-population decision up to the voters, the referendum also contained a provision discontinuing exclusion of certain Indians and the military, and a drastic change in boundary limits of assembly districts).

The Rosenberry Plan is now Wisconsin law.

Epilogue—The legislature, meeting in special session in November, 1953, passed three rural-inspired resolutions, one of which weighted rural representation in the House, another in the Senate. You remember that before being submitted to the voters, any of these resolutions would have to be passed by the next regular session; and in the next session legislators will be chosen on the population basis of the Rosenberry Law. Supposing that one of the resolutions did pass, it is doubtful that going to the voters with a third referendum would be successful.

Thus, although the Wisconsin situation bears future watching, there is much hope that the final curtain will come down on a happy ending.

We in Minnesota may decide the Wisconsin experience is discouraging in that it proves how overwhelming are the odds against securing true population reapportionment. Or we may take inspiration from the words of one of her

League members: "The League in Wisconsin felt that if Wisconsin could reapportion on a population basis and finally have a legislature representative of all the people, we could prove to the rest of the states that government by the people still works; I'm sure the year of study was a real opportunity for each League member to reaffirm her faith in representative self-government even in the face of terrific odds. . . . And, all in all, we did get a lot of people to think about government who otherwise never would have thought about it at all."

Present Apportionment of Legislative Districts in Minnesota [a]

The table below shows the population each legislator represents and the percentage by which population deviates from that of the ideal district. An ideal district is arrived at in the following manner:

House: 2,982,483 (population of Minnesota) ÷ 131 (number of House districts) = 22,767 (ideal House district)

Senate: 2,982,483 (population of Minnesota) ÷ 67 (number of Senate districts) = 44,515 (ideal Senate district)

A district is not considered unfairly apportioned unless the deviation is greater than 15%, the amount of acceptable deviation set by the American Political Science Association.

Sen. Dist.[b]	Pop. Represented by Each Sen.	Deviation from Ideal	Representative District	No. of Reps.	Pop. Represented by Each Rep.	Deviation from Ideal
1	38,900	+12.6%	Fillmore	1.63[c]	15,018	+34.0%
			Houston	1.37[c]	10,529	+53.8%
2	39,841	+10.5%	Winona (except city)	1	14,810	+34.9%
			City of Winona	1	25,031	— 9.9%
3	16,878	+62.1%	Wabasha	1	16,878	+25.9%
4	48,228	— 8.3%	Olmsted	1	48,228	—111.8%
5	54,901	—23.3%	Dodge	1	12,624	+44.6%
			Mower	1	42,277	—85.7%
6	34,517	+22.5%	Freeborn	1	34,517	—51.6%
7	23,879	+46.4%	Faribault	1	23,879	— 4.9%
8	38,327	+13.9%	Blue Earth	2	19,164	+15.8%
9	39,536	+11.2%	Martin	1	25,655	—12.7%
			Watonwan	1	13,881	+39.0%
10	32,069	+28.0%	Cottonwood	1	15,763	+30.8%
			Jackson	1	16,306	+28.4%
11	33,713	+24.3%	Nobles	1	22,435	+ 1.5%
			Rock	1	11,278	+50.5%
12	38,954	+12.5%	Lincoln	1	10,150	+55.4%
			Murray	1	14,801	+35.0%
			Pipestone	1	14,003	+38.5%
13	38,532	+13.4%	Lyon	1	22,253	+ 2.3%
			Yellow Medicine	1	16,279	+28.5%
14	48,022	— 7.9%	Brown	1.54[c]	16,823	+26.1%
			Redwood	1.46[c]	15,148	+33.5%
15	36,745	+17.5%	Nicollet	1	20,929	+ 8.1%
			Sibley	1	15,816	+30.5%
16	36,112	+18.9%	Steele	1	21,155	+ 7.1%
			Waseca	1	14,957	+34.3%
17	19,088	+57.1%	LeSueur	1	19,088	+16.2%
18	36,235	+18.6%	Rice	1	36,235	—59.2%
19	32,118	+27.8%	Goodhue (N. part)	1	18,109	+20.5%
			Goodhue (S. part)	1	14,009	+38.5%
20	49,019	—10.1%	Dakota	1	49,019	—115.3%
21	34,641	+22.2%	Carver	1	18,155	+20.3%
			Scott	1	16,486	+27.6%
22	22,198	+50.1%	McLeod	1	22,198	+ 2.5%
23	23,954	+46.2%	Renville	1	23,954	— 5.2%
24	31,284	+29.7%	Chippewa	1	16,739	+26.5%
			Lac qui Parle	1	14,545	+36.1%
25	44,481	+ 0.1%	Kandiyohi	1	28,644	—25.8%
			Swift	1	15,837	+30.4%
26	18,966	+57.4%	Meeker	1	18,966	+16.7%
27	27,716	+37.7%	Wright	2	13,858	+39.1%
28	27,574	+38.1%	Minneapolis (part)	2	13,787	+39.4%
29	65,344	—46.8%	Minneapolis (part)	2	32,672	—43.5%
30	38,048	+14.5%	Minneapolis (part)	2	19,024	+16.4%
31	45,461	— 2.1%	Minneapolis (part)	2	22,730	+ .2%
32	80,880	—81.7%	Minneapolis (part)	2	40,440	—77.6%
33	125,165	—181.2%	Minneapolis (part)	2	62,582	—174.9%
34	60,137	—35.1%	Minneapolis (part)	2	30,068	—32.1%
35	80,515	—80.9%	Minneapolis (part)	2	40,257	—76.8%
36	153,455	—244.7%	Hennepin (rural north)	1	46,209	—103.0%
			Hennepin (rural south)	1	107,246	—371.1%
37	36,955	+17.0%	St. Paul (37N)	1	25,716	—13.0%
			St. Paul (37S)	1	11,239	+50.6%
38	42,560	+ 4.4%	St. Paul (38N)	1	23,253	— 2.1%
			St. Paul (38S)	1	19,307	+15.2%
39	48,704	— 9.4%	St. Paul (Ward 5)	1	25,981	—14.1%
			St. Paul (Ward 6)	1	22,723	+ .2%
40	44,991	— 1.1%	St. Paul (Ward 4)	1	7,290	+68.0%
			St. Paul (Ward 7)	1	37,701	—65.6%
41	62,015	—39.3%	Ramsey (part)	2	31,007	—36.2%
42	120,107	—169.8%	Ramsey (part—42N)	1	57,538	—152.7%
			Ramsey (part—42S)	1	62,569	—174.8%

[a] These figures are from an unfinished Ph.D. thesis by John A. Bond of the University of Minnesota. Figures for Dists. 19, 28-42, 45, 46, 55, 57-62 were compiled from census tracts and enumerations.

[b] One senator is elected from each senatorial district.

[c] Fillmore and Houston Counties, Brown and Redwood Counties, and Crow Wing and Morrison Counties, in addition to each electing one representative, also elect a representative between them (at large). In the above calculations, the representatives at large were allocated to each county in proportion to the ratio of its population to the combined populations of both counties.

Sen. Dist.[b]	Pop. Represented by Each Sen.	Deviation from Ideal	Representative District	No. of Reps.	Pop. Represented by Each Rep.	Deviation from Ideal
43	34,544	+22.4%	Washington	2	17,272	+24.1%
44	47,702	— 7.2%	Anoka & Isanti	1	47,702	—109.5%
45	53,319	—19.8%	Benton & minor part of Sherburne	1	18,567	+18.4%
			Stearns (E. part)	1	34,752	—52.6%
46	35,929	+19.3%	Stearns (W. part)	1	16,599	+27.1%
			Stearns (Central part)	1	19,330	+15.1%
47	34,166	+23.2%	Douglas	1	21,304	+ 6.4%
			Pope	1	12,862	+43.5%
48	38,308	+13.9%	Big Stone	1	9,607	+57.8%
			Grant	1	9,542	+58.1%
			Stevens	1	11,106	+51.2%
			Traverse	1	8,053	+64.6%
49	40,930	+ 8.1%	Clay	1	30,363	—33.4%
			Wilkin	1	10,567	+53.6%
50	51,320	—15.3%	Otter Tail	4	12,830	+43.6%
51	38,226	+14.1%	Todd	1	25,420	—11.7%
			Wadena	1	12,806	+43.8%
52	52,789	—18.6%	Cass	1	19,468	+14.5%
			Itasca	1	33,321	—46.4%
53	56,707	—27.4%	Crow Wing	1.54[c]	19,991	+12.2%
			Morrison	1.46[c]	17,747	+22.0%
54	38,911	+12.6%	Aitkin	1	14,327	+37.1%
			Carlton	1	24,584	— 8.0%
55	32,362	+27.3%	Kanabec, Mille Lacs & major part of Sherburne	2	16,181	+28.9%
56	30,892	+30.6%	Chisago	1	12,669	+44.4%
			Pine	1	18,223	+20.0%
57	55,707	—25.1%	Cook and Lake	1	10,681	+53.1%
			St. Louis (S.E. part)	1	45,026	—97.8%
58	29,182	+34.4%	St. Louis (S. Central part)	2	14,591	+35.9%
59	54,489	—22.4%	St. Louis (S.W. part)	2	27,244	—19.7%
60	40,751	+ 8.5%	St. Louis (N.W. part)	2	20,375	+10.5%
61	36,614	+17.7%	St. Louis (N.E. part)	2	18,307	+19.6%
62	46,827	— 5.2%	Beltrami & Lake of the Woods	1	29,917	—31.4%
			Koochiching	1	16,910	+25.7%
63	35,921	+19.3%	Becker	1	24,836	— 9.1%
			Hubbard	1	11,085	+51.3%
64	19,968	+55.1%	Mahnomen & Norman	1	19,968	+12.3%
65	29,975	+32.7%	Clearwater, Pennington & Red Lake	2	14,988	+34.2%
66	35,900	+19.4%	Polk	2	17,950	+21.2%
67	40,279	+ 9.5%	Kittson	1	9,649	+57.6%
			Marshall	1	16,125	+29.2%
			Roseau	1	14,505	+36.3%

League of Women Voters of Minnesota
Room 406, 84 South Tenth Street
Minneapolis 3, Minnesota
October, 1954

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Membership material

PRIMER ON REAPPORTIONMENT

Apportionment is dividing up the population into districts for purposes of electing representatives to a lawmaking body.

Because population grows unevenly in different parts of a state, it is necessary to make periodic changes to keep the population of the districts equal, as our constitution provides.

Constitutions of most states (including Minnesota's) say this change, or reapportionment, should be made after each census.

Despite this provision, our legislature has not reapportioned our state since 1913.

Every census since then (1920, 1930, 1940, and 1950) has provided the legislature with a new challenge to carry out its duty.

Fitting our state into the national picture, we find that only Alabama has a worse record in meeting its constitutional requirements than has Minnesota.

Gerrymandering by inaction is the phrase used by political scientists to describe such legislative inaction.

Handicapping reapportionment in some other states has been one very large urban center, which if fairly represented could control the state; Minnesota has not this problem, since only 28% of our population resides in Minneapolis-St. Paul.

Inconsistent and complicated laws have made reapportioning difficult in still other states; Minnesota's law is simple and flexible.

Judges of the Supreme Court have twice said Minnesota's legislature has the "duty" to reapportion; but they cannot force an unwilling legislature to do its duty.

Knowing and caring; and informing our legislators of our concern is the democratic way of forcing our legislature to act.

Legislatures which are not representative of our citizenry lead to a decline in legislative prestige.

Moreover, unrepresented areas have increasingly bypassed state legislatures and gone to Washington for help in solving their local problems.

Need for reapportionment is not confined to one area; but is statewide.

Overrepresented voters in Wabasha County, for instance, have 3 times as much to say in both the House and Senate as the underrepresented voters across the county line in Olmsted County.

Political scientists say that if a district has 15% more or less inhabitants than the law provides its is fairly represented.

Qualifying as properly represented in both House and Senate are only 4 Minnesota counties; plus one corner of St. Louis.

Rural South Hennepin is underrepresented in the House by 371% as of 1950. This means they should have 4 representatives instead of 1. By 1960 they will undoubtedly deserve 6 or 7.

Serious under-representation exists in Hennepin and Ramsey Counties, as is well known; but other areas are equally or more badly off. 23% of Ramsey County voters have no representation in the House at all; 34% in Freeborn; 37% in Rice; 39% in Hennepin; 52% in Anoka and Isanti; 53% in Dakota and Olmsted.

Taxation without representation, the battlecry of the American Revolution, is also a valid complaint of Minnesota's underrepresented districts.

Unless and until the legislators of our state agree upon a compromise amendment, which would give area some consideration in one of our houses, submit this amendment to the voters, and find out the will of the people, they have the duty to carry out the reapportionment our constitution calls for.

Vital to any compromise settlement in Minnesota is agreement upon a single, specific plan by those citizens and legislators who believe in the principle of area representation.

Ways of compromising vary widely: from a plan such as Montana's, where each county has 1 senator regardless of population, to the compromise advanced by the 1948 report of Minnesota's Constitutional Commission, which would limit Hennepin and Ramsey Counties to one-fourth of the total representation in the Senate (about 70% of what they would get in that chamber under our present constitution).

XYZeal to replace apathy on the part of our citizens; swift action to replace long neglect on the part of our legislators - only then will fair and legal representation replace the inequities of our present system.

November 23, 1954

The Minneapolis Star & Tribune
Minneapolis, Minn.

To the Editor:

The League of Women Voters of Minnesota wishes to commend and thank the Minneapolis Star and Tribune for providing its readers with the facts surrounding the provisions and importance of Amendment 3, which received the approval of a majority of the electors at the November elections. This excellent publicity and support, together with the endorsement of both political parties, radio and Tv coverage, and the cooperation of many civic organizations with league members throughout the state, enabled the voters to judge this issue on its merits, and we would like to express our sincere appreciation to all who took part in this campaign, and to the voters for supporting this constitutional change.

We now have the guarantee that any new constitution that is written must be submitted to the people for approval before it can go into effect. It will also be impossible to reject a new constitution with blank ballots for ratifaction will require the approval of three-fifths of all those voting on the question rather than a majority of those voting at the election, the present requirement for the passage of amendments. Legislators now have the right to serve as delegates to a constitutional convention; this right was denied them by the provision that legislators may not serve in any other state or federal capacity during their term of office.

The removal of these major stumbling blocks opens the door to the next step in constitutional revision: Two-thirds of the Legislature must agree before the question of calling a constitutional convention to rewrite the constitution can be submitted to the people at the next general election. If a majority of all the electors voting at that election approve, the next legislative session must provide for calling a convention. Delegates to this convention will be elected in the same manner and number as our House of Representatives, and will be required to meet three months after their election to rewrite the constitution.

By their vote of 638,818 to 266,434, a winning margin of 54,767, the citizens of Minnesota have indicated their interest in this vital issue. This citizen interest and support is indeed heartening and encouraging to the League of Women Voters, a non-partisan organization, which seeks constantly to overcome apathy and promote active and informed citizen participation in government. May it continue to be manifest as we proceed toward our goal of revision and expressed to the members of the 1955 Legislature, urging them to give the people an opportunity to vote on the question in 1956. The end result may well be that Minnesota will eventually have a constitution it can be proud of, one that will permit better methods of administration, and insure justice and equality to its citizens. In the interests of democratic, efficient and responsible government, we sincerely hope so.

Sincerely,

Mrs. Basil Young, President,
League of Women Voters of Minnesota,
Hibbing

LWV
State Org Svs
Univ of Minn.
Mpls 14 Minn
[1955?]

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FORWARD

The current agenda of the League of Women Voters of Minnesota authorizes study of the content of our state constitution so that we may make recommendations as to what a new constitution should contain.

This pamphlet concerns certain sections of the legislative article and some other sections of the constitution which relate to the legislature.

It has seemed proper and expedient to make use of the extensive research done by the Constitutional Commission of Minnesota in 1947 on these legislative provisions. In most cases, other sources of information have also been used to further clarify the subject under discussion.

It is very possible that if and when constitutional revision comes to our state, some of these items may remain unchanged, or be altered differently than suggested by the Commission. Or, areas in which the Commission did not recommend any change, may be altered considerably, added to, or deleted.

It is hoped, however, that discussion of these parts of the constitution may lead us in some measure toward an understanding of the problems which will face a constitutional convention.

Postaudit - pp 22-27 -

pps 5-13 - adequate sessions

LEGISLATIVE ORGANIZATION

I. The Unicameral Legislature

During the century preceding the year 1934, the bicameral, or two-house system of state legislative organization, was used in every state legislature. In that year, Nebraska, under the leadership of Senator George W. Norris, adopted the unicameral, or one-house system, which became effective with the 1937 session. Nebraska thus became the first, and so far the only state since colonial days to adopt this form.[1] The results have been watched with interest throughout the country. Proposals of a similar nature have been made in the states from time to time, many especially in the years before the end of World War I, but with the exception of Nebraska, have always been defeated.

Although a proposal for this form of organization is not pending at the present time in Minnesota, nor was it suggested by the Constitutional Commission in 1947, nevertheless it is important that citizens understand the nature of the unicameral system and are aware of some of its merits and weaknesses.

The states are in no way bound to follow the organizational pattern of the Congress of the United States, in which the Senate represents the states and the House represents the people. The states being units in themselves, are free to experiment with their governmental machinery as they see fit as long as it remains a republican form of government. With a rapidly increasing number of complex problems facing already overburdened state legislatures, it is to be expected that more efficient methods of organization and procedure are being sought.

Unicameral city councils have been widely used in the last half century and are considered a great improvement over the bicameral form previously used. The one - chamber plan is in general use today in county boards, in business corporations in this country, as well as in all of the province governments of Canada.

[1] Graves, W. Brooke, AMERICAN State Government, 4th edition 1953, Heath Co. reports that "When, following the Declaration of Independence, governments were organized in the several states, bicameral systems were established in all but Georgia, Pennsylvania, and Vermont. Georgia changed to a bicameral system in 1789, Pennsylvania in 1790, while in Vermont the change was delayed until 1836."

Political scientists and persons with legislative experience, consultants and students in the field of government, are divided in their opinions on the unicameral form, some maintaining the unicameral is the ideal form, some favoring the bicameral. We might examine these different points of view by listing the arguments of the advocates for the bicameral system and countering each one by arguments for the unicameral.

John P. Senning,[1] Professor of Political Science at the University of Nebraska, and one of the leading advocates of the plan in Nebraska, has summarized these as follows:

The Bicameral Arguments

1) That it permits representation of areas as well as population.
2) That one house serves as a check upon the other, tends to more careful deliberation and to prevent hasty and ill-considered legislation.
3) That each house will remedy the defects in legislation passed by the other.
4) That it is more difficult to corrupt two houses than one.
5) That there is less inclination to accumulate governmental power into its own hands.
6) That it affords a means of granting representation to different classes and interests.

The Unicameral Counter - Arguments

1) A legislator cannot represent an area - he must represent the people who live in it. If fewer people live in an area represented by one man, than in an area represented by another, there is an undemocratic imbalance. Area - population compromise, however, is also possible under the unicameral system.
2) Research has shown that much proposed legislation is lost in the house in which it is first introduced. From 1/3rd to 7/10ths of legislation introduced is never subjected to examination by the second house. Neither house takes full responsibility for a bill, on the assumption that any defect will be detected by the other house - the result frequently being an unsatisfactory job.
3) One house is often unable to detect flaws in legislation coming from the other house, as its committee hearings are held at

[1] Senning, John P., The One House Legislature, McGraw Hill 1937

Although there is a revived interest in unicameralism for state legislatures, it is probably true

different times with different witnesses, it being impossible to arouse enough public interest over a long period of time for all sides to be presented at each hearing. If amendments are made in the second house, the bill is sent to a conference committee which sometimes can change the entire character of a bill. It is generally thought that defects in legislation are more often remedied by the governor's veto than by action of the second house; and that if a defective measure actually becomes law, the usual remedy is an amendment by subsequent legislation. These checks remain in the unicameral system and are better adapted to remedying defects than is a second house.

4) It is felt that if corruption is being practised, it is more likely to be found in conference committees ~~rather~~ than in either house or in the regular standing committees. In the unicameral legislature, there would be no need for conference committees. Every action must be taken in the open and the lobbyist has no advantage over the average citizen in presentation of arguments before standing committees.

5) Fear of a one - body legislature taking too much power into its own hands is a vestige of the same distrust of legislatures which has caused many constitutional restrictions such as limited sessions, biennial sessions, etc. Since those days, public confidence in state legislatures has risen a great deal and will continue to rise as organization and procedures are improved. It is felt that unicameralism would increase rather than decrease expression of the public will, and make the work of the legislature more, not less, democratic.

6) The progress of democracy has carried us beyond the concept of "classes". Property qualifications of colonial days have long since been abolished. The problem now is equalization of representation, present whether the legislature is one house or two.

The report[1] of the Committee on American Legislatures of the American Political Science Association has suggested further merits for the unicameral system of organization. This report, published in 1954, is the result of a 4 year study of state legislatures

[1] American State Legislatures, Report of the Committee on American Legislatures, American Political Science Association, Crowell, 1954

by a committee composed of professors of political science in American colleges and universities, and of professional personnel attached to the state legislatures and to Congress. The committee is headed by Belle Zeller, Professor of Political Science, Brooklyn College. Concerning the unicameral legislature, the report states:

> That membership in a single chamber carries greater prestige, dignity, and opportunity for public service.
>
> That a single chamber operates more efficiently than two, and is able to give more thorough consideration to proposed legislation.
>
> That friction between the two houses is eliminated.
>
> That responsibility can be more definitely fixed.
>
> That leadership is developed by being concentrated in one place.
>
> That a single house permits closer and more effective relationships between the executive and legislative branches because it substitutes one set of legislative leaders for two.
>
> That it facilitates public reporting of the work of the legislature and the issues and the course of legislation.
>
> That it results in substantial economies because of reduction in number of legislators and size of staff.

Although there is a revived interest in unicameralism for state legislatures, it is probably true that it will not be adopted by many states in the near future. The most noteworthy plan for its adoption by the states has been drawn up by the Committee on State Government of the National Municipal League in the form of the "Model State Constitution". Many of the provisions of this "Model" can, however, be readily adapted to a bicameral system. (Although Model provisions closely interrelated, etc.)

Unicameralism is not claimed to be a panacea for our legislative ills. To its advocates, however, it seems a more logical framework on which to build much needed reforms and improvements in legislative procedure and organization. The Report of the Committee on American Legislatures states, [1]

> Factors of prime importance in the success of any legislature are the election of the right kind of representatives, the assurance of proper leadership, and the maintenance of sound and effective traditions and practises in the conduct of legislative business. Perhaps the outstanding feature of the unicameral legislature is that it affords a better setting in which to effect other legislative reforms.

[1] Amer. State Leg., Report of Committee on Amer. Leg., (same as [1] pg.3)

LEGISLATIVE ORGANIZATION

II. Frequency and Length of Sessions

Present Constitutional Provisions

Article IV, Section 1 of the Minnesota Constitution determines the present frequency and length of sessions by the statement:

> The Legislature shall consist of the Senate and House of Representatives which shall meet biennially at the seat of government of the state, at such time as shall be prescribed by law, but no session shall exceed the term of ninety legislative days.

Recommendation of the Constitutional Commission

The Constitutional Commission recommended that this statement be changed to read:

> The Legislature shall consist of the Senate and the House of Representatives. The Senate shall be composed of members elected for a term of four years and the House of Representatives shall be composed of members elected for a term of two years by the qualified voters at the general election. Their terms shall begin on the first Monday in January next following their election.
>
> The governor shall issue writs of election to fill vacancies in the Legislature.
>
> The Legislature shall be a continuous body during the term for which the House of Representatives is elected. It shall meet at the seat of government at regular sessions on the first Tuesday after the first Monday of each odd numbered year and at other times as prescribed by law. No regular session shall exceed ninety legislative days unless, by concurrent resolution adopted within the first seventy-five legislative days, the session shall be extended to a definite time at or before which the legislature shall adjourn.

Reasons for this Recommendation

The Constitutional Commission Report states that this change would fix by constitutional provision what is now provided by statute only: the duration of the regular session. Other sessions would also be permitted, "as prescribed by law." It would also modify the present ninety day limit by allowing the legislature to decide within seventy-five days whether or not it needed longer than ninety days in which to complete its business.

History of the Frequency and Length of Sessions in Minnesota

Professor William Anderson, of the University of Minnesota, has given an excellent account of the events leading up to the present provisions in our constitution on the frequency and length

of legislative sessions in A History of the Constitution of Minnesota.[1] He states:

> The constitution originally provided that the legislature should meet at such times as shall be prescribed by law. Sessions were held annually and there was no limit to their duration. The first amendment to this article (IV) to be adopted, added to Sec.1 the clause, "but no session shall exceed the term of 60 days." In 1873 there were proposed two amendments, one of which would have established the system of biennial sessions and have limited them to 70 days, and the other of which would have made the terms of representatives two and four years respectively. Both were defeated. They were resubmitted to the voters in 1877, with the modification that sessions were not to exceed 60 days and this time they were adopted. This plan quickly proved impracticable; the 60 day session coming only once in two years was entirely too brief for the work to be done. In 1881 the legislature proposed that the time limit should be entirely removed, but this the voters refused to approve. Finally in 1888 was adopted the present section, under which the biennial sessions are now extended to 90 legislative days, with the proviso that "no new bill shall be introduced in either branch, except on the written request of the governor, during the last 20 days of such sessions, except the attention of the legislature shall be called to some important matter of general interest by a special message from the governor."

Frequency and Length of Sessions in Other States[2]

Among the states, annual sessions were the rule until state legislatures fell into disrepute during the 19th century. There was a gradual change until by 1900 almost all the states had adopted a pattern of biennial sessions. Increased legislative business has necessitated an increasing number of special sessions in recent years, however, and a very gradual trend back to annual sessions can now be seen. At the present time, fourteen state legislatures[3] Meet annually, ten of these having changed to annual in the past ten years, and the question is under consideration in several more.

Thirty two of the states place constitutional limitations on the length of the regular legislative session. The number of legislative days varies in these states from approximately thirty to one hundred and fifty. Minnesota, with ninety legislative days allowed, falls in the exact center of the states which have a limitation.

A few states have used the "split session" as a device for preventing over-crowding of legislation at the end of the session,

[1]Anderson, William and Lobb, A. J. A History of the Constitution of Minnesota, 1921

[2]Council of State Governments, The Book of the States, 1954-55 (Brought up to date by)Among the States, State Government January, 1955, p.1-2

[3]Ariz., Calif., Colo., Md., Mass., Mich., N.J., N.Y., R.I., S.C., Kan., La., Ga., and W. Va. Of these 14, 6 (Calif., Colo., Md., Kan., La., and W.Va.) limit the even year sessions to budgetary, revenue, FINANCIAL AND URGENT MATTERS.

California being the most notable example. Under this plan, the recess period is used for study and research on the bills which have been introduced.

Another device used in a number of states is the "adjourned session", which in practise achieves the same result as the split session, but does not require a constitutional provision in order to be used to give additional time for study.

The technique of "covering the clock" after the allowed number of days has been used up is well known in Minnesota and in some other states, an indication of the pressure of governmental problems which face legislators.

Opinions and Viewpoints

A. The report of the Committee on American Legislatures, American Political Science Association, American State Legislatures [1] has made the following statements in regard to frequency and length of legislative sessions:

> Limiting sessions intensifies all evils associated with legislative halls. Taking advantage of the short time for deliberation, a strong minority may thwart the interest of the majority through delaying tactics. Bills piled up at the end of a session are rushed through without adequate consideration. ~~The restrictions on~~ This tendency to defer action on bills until the closing days does not create a situation suitable for debate and deliberation. The restrictions on length of sessions are the real reason for bad laws - not extended periods of discussion. Certainly it would be impossible to say that legislation or the quality of legislators has been improved by limiting the sessions.
>
> No state constitution protects the interests of all the people when the question of length and frequency of legislative sessions is a forbidden topic for legislative determination. The purpose of lengthening sessions is not to deny to the governors the right to call special sessions, for they are frequently more aware of the necessity than a majority of the legislature. However, to freeze into a state constitution a restriction upon the length and frequency of sessions is a reactionary and negative approach to a problem that requires the most positive and constructive analysis and remedy.

The committee has made the following recommendations:

1) The substitution of annual regular sessions for the prevailing biennial regular sessions would be desirable for the more populous states. Legislation is now a continuous process and cannot be confined to infrequent intervals between long periods of inactivity. The frequency of special sessions in later years and the need for financial planning on an annual basis, demonstrate the necessity for a return to the original American principle of annual sessions. If need be, the regular sessions in even numbered years could be limited to financial and emergency matters.

[1] See p.3, bottom, chapter on Unicameral Legislatures

2) The elimination of time and pay limitations[1] on the regular and special sessions is equally necessary. The legislative process has become complex and time-consuming as well as continuous. Such limitations are conducive to hasty and ill-considered legislation, and have not proved to be the safeguards against excessive and bad legislation that the authors of such limitations originally anticipated. The subterfuges sometimes resorted to by legislatures in circumventing these limitations are demoralizing and disgraceful and should be rendered unnecessary.

B. The Committee on State Government of the National Municipal League which prepared The Model State Constitution[2], is headed by W. Brooke Graves of the Legislative Reference Service, Library of Congress, and is made up of political scientists and students of government from American Universities, members of the Council of State Governments, the Bar, and special consultants in the field of government. Although the Model is directed toward the unicameral system of state legislatures, it has made adaptations of this theory for those states which adhere to the bicameral form.

The Model recommends that the legislature be a continuous body instead of meeting as at present in a single session biennially. That regular sessions be held more than once a year, as often as quarterly if desired. The Model states:

> Normal legislative problems should be faced when the need arises as a regular process, not in periodic spasms nor as emergencies for special sessions. Moreover, legislative problems require study for solution. Research and discussion in advance of a legislative session are fundamentally as much a part of the legislative process as the actual session itself. With a legislative council constantly at work preparing material for future sessions and with improved procedure for committees and committee hearings, the preliminary preparatory aspects of legislation would be continuous. When material necessary for proper consideration was ready, the subject would come before the next regular session whenever it occurred. Legislative consideration would then be timely and informed, not periodic and unsystematic.
>
> It is necessary to visualize the situation which would result, and not to make the error of assuming that each of these more frequent sessions would be a miniature of the present biennial session. Priority could be given to those measures requiring consideration during the next quarter. Action on local matters could be timed in accordance with fiscal years, tax-levying, budget-making, or bond-issuing requirements of localities. The state budget could receive ample consideration at one session, without crowding other measures on the calendar which could obviously be taken up

[1]Minnesota has no pay limitations on length of either regular or special sessions, or time limitation on special sessions. Only a time limitation on the regular sessions.

[2]5th edition, revised 1948, p.28

at a subsequent session. Committees could plan their work with preliminary hearings and specific arrangements for further hearings at the next session or between sessions. An orderly process of distributing the work over the 24 months would provide greater opportunity for ample consideration and far less fear on the part of the public of hasty or ill-considered legislation.

C.) The Council of State Governments is a joint governmental agency established by the states, supported by the states, for service to the states. A committee within the Council, the Committee on Legislative Processes and Procedures, has made the following statement in its report, Our State Legislatures:[1]

> Unlike the executive and judicial branches of government, the legislature as a whole does not function on a year-round basis. It is, therefore, doubly important that it be free to fulfill its duties at the times when it is in session..... Probably no general rule as to the frequency with which legislatures should meet in regular session can be devised. The important consideration is that the legislature ~~is~~ be enabled to meet as often and as long as, in the judgement of its leaders, its responsibilities require.

D.) W. Brooke Graves, of the Legislative Reference Service of the Library of Congress has commented on the frequency and length of legislative sessions in his recently revised edition of ~~State~~ American State Government.[2] Dr. Graves states:

> Some legislators have advocated annual sessions, one in each two-year period to be devoted to general legislation, the other to be devoted exclusively to budgetary and financial problems. Although this proposal has now been adopted in California, Maryland, and Colorado (Kansas, Louisiana, and West Virginia have now also adopted this plan), it does not meet the need unless it be merely a step in the direction of annual legislative sessions. Financial considerations are so inextricably involved in most questions of public policy that the separation of the two is impossible, and the attempt to separate them highly superficial.
>
> Much criticism has been heaped upon the limited session plan; in practise there is probably little to choose between limited and unlimited sessions. The criticism of the limited session has been based mainly upon the terrific jam which clogs the legislative machinery in the closing days of the session. While there is much justification for this criticism, precisely the same thing happens where the session is limited not by constitutional provision, but by agreement of the leaders. The same dilatory tactics are followed in both cases in the early days of the session. In states with unlimited sessions, members begin to be impatient and to demand an early closing. In the effort to keep them in line, the leaders arbitrarily set a closing date and then struggle to work their way out of a legislative jam just as severe in many cases as that which develops in states with a limited session.

[1]Report of the Committee on Legislative Processes and Procedures, Council of State Governments, Our State Legislatures, revised 1948

[2]Graves, W. Brooke, State Government, 4th edition 1953, Heath, Boston

AMERICAN

Pros and Cons of Annual Sessions

The Wisconsin Legislative Reference Library has published an informative pamphlet entitled Annual vs. Biennial Legislative Sessions.[1] This pamphlet summarizes fairly completely the arguments for and against annual sessions, as follows:

Pro

1) Rapid changes in present day social and economic conditions require frequent legislative sessions to keep pace.
2) National and local governments recognise this by frequent or almost continuous sessions of legislative bodies.
3) The problem of convening is far less difficult than in 19th century
4) Would bring about closer legislative control of operations of state government.
5) Greater continuity to legislature and would permit establishment of permanent secretariat and research staff.
6) Would reduce end of session rush.
7) Would produce greater deliberation of legislation.
8) Special sessions will not solve the problem if called only by the governor. Annual sessions will permit legislature to maintain independence from executive department.
9) Biennial sessions were provided for in the 19th century when economic and social life of the states moved at a more leisurely pace. But annual sessions were common to the thirteen original states when they were first organized.
10) More economical administration from annual sessions, with present budgetary problems. Budgets could more nearly reflect actual needs of departments, and the cushion now frequently used would not be necessary.

Con

1) Annual sessions constitute a greater drain on time of legislators, thereby preventing many public spirited citizens from seeking office.
2) Would lead to more but not necessarily better laws.
3) Would increase costs of government.
4) Would result in reduction of public interest which can only be sustained for a limited period. Biennial session brings legislature into greater public focus.
5) Real crises may be met by special sessions.
6) Annual sessions cause legislature to concern itself with minutia of administration while biennial sessions tend to make legislature concentrate on important matters of policy.
7) Biennial sessions secure more results because it will be two years before a problem can be met again. Annual sessions have tendency to defer legislation till the next year.
8) Determination of state fiscal policy on a two year basis is a stabilizing influence in state government. Annual adjustments may stimulate runaway expenditures.
9) Annual sessions would necessitate that at least the major administrative departments assign more personel to provide liason with the legislature.
10) Normally there are few state problems which must be solved immediately.

[1]Wisconsin Legislative Reference Library, Madison, Wis., Annual vs Biennial Legislative Sessions, May, 1951

LEGISLATIVE ORGANIZATION

III. The Calling of Special Sessions

Present Constitutional Provisions

Article V, Sec.4 of the Minnesota Constitution determines the present method of calling special sessions by the statement:

> He (the Governor) may on extraordinary occasions convene both houses of the legislature.

This statement is made in the Executive Article, and is the only reference in the constitution to the calling of special sessions.

Recommendation of the Constitutional Commission

The Constitutional Commission recommended that reference to special sessions be made in two places in the constitution as follows:

1) Legislative Article IV

> A special session of the legislature may be called as otherwise provided by this constitution or may be called in the manner provided by law or by the joint rules of the Senate and House of Representatives.

2) Executive Article V

> He (the Governor) may on extraordinary occasions convene the Legislature; and on such occasions he may limit the matters to be considered at any such session, to those specified in the call.

Reasons for this Recommendation

The constitution now provides that special sessions may be called only by the governor, but does not allow him to limit the matters to be considered. The Commission recommendation would permit the Legislature also to call special sessions. It would also, however, give the governor power to limit the matters to be considered at a special session which he calls.

History of Special Sessions in Minnesota

In Minnesota, the special session is dependent upon executive action as to the call. This dependence of the legislature on the executive is sometimes criticised. Opinions vary as to the urgency of state affairs, as reflected by the wide variation in the number of special sessions held over the years. It will be seen by the table accompanying this chapter that Minnesota has had twelve special sessions of the legislature since it was admitted to the union. A marked increase in the frequency of such sessions has occured since the early days of the state. Economic factors, wars, growing population, and increasing financial problems can be seen to have had an effect on the necessity for additional legislation. Length

of these sessions has varied from just one day, in two cases, to sixty days, the longest in 1937.

Special Sessions in Other States [1]

In all states, the governor has the power to call the legislature into special session, but in only three states (Connecticut, Massachusetts, and New Hampshire), may special sessions be called at the discretion of the legislature.

Some states modify the power of the governor to call special sessions by also providing that he must call one on petition of two-thirds (Louisiana, Nebraska, Virginia, West Virginia) or three-fifths (Georgia) of the members of the legislature; or that he may not call one without the advice of the Council of State(North Carolina).

In twenty nine states the legislature does not determine the agenda of special sessions. In nineteen states it may extend their scope (in two, Alabama and Florida, this right is restricted to subjects approved by a two-thirds vote).

The number of extra sessions in the forty eight states has greatly increased, gaining momentum in the critical days of the 1930's and continuing to the present day. In general, those states which provide for regular biennial sessions have found it necessary to hold more special sessions than those which have regular annual sessions.

Opinions and Viewpoints

A. The report of the Committee on American Legislatures of the American Political Science Association [2] has made the following comment concerning special sessions of the legislature:

> The need of such (special) sessions is a matter that the legislature as well as the governor should be competent to determine.....In general, governors look with disfavor on lengthy sessions at any time and are loath to call assemblies unless they confine their deliberations to certain specified matters. In only twenty states are legislatures considered competent to determine their agenda.

B. Under the plan proposed in the Model State Constitution [2,3], special sessions would be rendered virtually unnecessary because the legislature would be a continuous body meeting several times a year to take care of normal legislative business when the need arises. The arguments presented in the Model by Frederick H. Guild, Director of Research, Kansas Legislative Council, for this procedure are as follows:

[1] Book of the States, Council of State Government, 1954-55
[2] See p.3,bottom, chapter on Unicameral Legislatures
[3] Committee on State Government,Nat.Munic.League, 5th edition 1948

(quotation from Model State Constitution, p.27)

Probably the most important change is the recommendation that the legislature be a continuous body instead of meeting as at present in a single session biennially or annually unless recalled by the governor for a special session. It is proposed that regular sessions be held more than once a year, as often as quarterly if desired. This would bring about a fundamental change in the present legislative procedure and in the attitude toward legislation on the part of legislators, administrators, and the general public.

The periodic piling high of the legislative hopper, the waste of legislative time waiting for committees to digest hundreds of bills, and the frantic congestion of the closing days of the session, all because legislation must come only once in two years, has long been noted as a grave evil. The holding of from four to seven regular sessions over a period of twenty four months need not mean a total length of session in excess of the number of days many legislatures now sit in regular session. Indeed, the growing practise of recessing and the increased frequency of special sessions have already been responsible for many more legislative days in the biennium in some states without removing the evils inherent in the present single, regular session.

SPECIAL SESSIONS
MINNESOTA LEGISLATURE

Intervals between Sessions

YEAR	LENGTH OF SESSION	PURPOSE OF CALL	MATTERS CONSIDERED
1862	September 9 to September 29 20 days	Indian Outbreak.	Suffrage for Military personnel; provide for organization, equipment of militia; regulate intoxicating liquor for Indians; and other laws.
19 yrs			
1881	October 11 to November 13 33 days	To consider previous legislation on state railroad bonds which had been declared unconstitutional by the supreme court.	Provide for payment of railroad adjustment bonds previously issued; and to provide for the issuing of new bonds, various other laws.
21 yrs			
1902	February 4 to March 11 35 days	To consider report of tax commission created by Chapter 13, General Laws 1901.	Amendment to constitution relating to power of taxation; taxation of real estate, inheritance, gifts, personal property; provide for public examiners, primary elections; and other laws.
10 yrs			
1912	June 4 to June 18 16 days	To enact a statewide direct primary law applicable to all state officers, a corrupt practices act, and a reapportionment law.	Provide for laws relative to statewide primary, description of party, filing, etc.; act pertaining to corrupt practices at primaries, elections, and candidates; reapportionment; and other laws.
4 yrs			
1916	October 28 1 day	To consider law to permit members of National Guard to vote at next election.	Provide for method by which legal voter member of National Guard may vote.
3 yrs			
1919	September 8 to September 19 11 days	To ratify the proposed Women Suffrage Amendment, to enact legislation to benefit W. W. I soldiers, to create a state board of relief, to amend election laws, to establish a better state budget system, and to pass laws to curb profiteering and reduce high cost of living.	Legalize county board action appropriating money for relief of flood sufferers; act relating to nomination and election of presidential electors; creation of state board of relief; provide for investigation of cost of living to be performed by commissioner of agriculture; bonuses payable to military personnel; and women suffrage.

YEAR	LENGTH OF SESSION	PURPOSE OF CALL	MATTERS CONSIDERED
1933	December 5, 1933 to January 6, 1934 (32 days)	To consider emergency situation of unemployment and cooperate with Federal concerning such, and to regulate the manufacture, transportation and sale of intoxicating liquors.	Amendment to act relating to care of poor; authorize board of supervision of certain organized towns to create department of highway engineering for road construction; temporance education in public schools, regulate manufacture, sale and distribution of intoxicating liquors; authorize state executive council to extend direct relief, work relief, and employment of citizens; and various other laws.
1935	December 2, 1935 to January 25, 1936 (54 days)	Provide for legislation relative to the Social Security Act of Federal government.	Statewide system of old-age assistance; and various other laws.
1936	December 17 to December 23 (6 days)	To legislate for social security.	An act to create an unemployment compensation fund and provide for cooperation with the Federal Social Security Board.
1937	May 24 to July 23 (60 days)	Enact tax program not passed during regular session.	Taxation and appropriations.
1944	March 8 to March 11 (3 days)	To consider suffrage of soldiers, change date of primary election.	Military personnel suffrage; and change of primary and general election dates.
1951	April 24 (1 day)	To pass necessary major legislation not passed during regular session.	Appropriations.

Prepared by The Legislative Research Committee, State of Minnesota. ~~date?~~ December 1954

LEGISLATIVE ORGANIZATION

IV. Dual Office Holding by Legislators

Present Constitutional Provision

Article IV, Sec. 9 of the Minnesota Constitution contains the following provisions on dual office holding by legislators:

> No Senator or Representative shall, during the time for which he is elected, hold any office under the authority of the United States or the State of Minnesota, except that of Postmaster, and no Senator or Representative shall hold an office under the state which has been created, or the emoluments of which have been increased during the session of the legislature of which he was a member, until one year after the expiration of his term of office in the legislature.

Recommendation of the Constitutional Commission

The Constitutional Commission recommended that this statement be changed to read:

> During his continuence in office no Senator or Representative shall hold any office under the authority of the United States or the State of Minnesota, except that of notary public. During the term for which elected no Senator or Representative shall be appointed to any office under the state, created or the emoluments of which are increased during the session of the Legislature of which he was a member.

Reasons for this Recommendation

In commenting on these changes, the Commission states that the present provision is such that although a member of the legislature may resign, he is still disqualified from holding office during the unexpired portion of his term, and that it seems this is unnecessarily drastic. By substituting the words "during his continuance in office", a member of the legislature could qualify for another office by resigning his legislative position, (same as contained in the United States Constitution). The present provision has kept qualified men from accepting legislative membership or from continuing in it.

The Commission also refers to the exception of postmaster, pointing out that there seems to be no reason for continuing this exception. In its place, an exception is made in favor of notary public for this reason: while members of the legislature as such are qualified to administer oaths, they have no seal, and in many states an acknowledgement taken in this state by an officer without a seal will not be accepted. In the eyes of the Commission, there is nothing incompatible between the office of legislator and that of notary public.

At present there is a prohibition on a legislator holding a state office which has been created or the compensation for which has been increased during a session of which he was a member, for a year after the end of his legislative term. The Commission thought it sufficient to limit this prohibition to appointed offices, instead of including both elected and appointed offices.

Dual Office Holding by Legislators in Other States (Mott)

LEGISLATIVE POWERS

I. Powers relating to the highways.

Present Constitutional provisions; Article XVI sec. 3

The legislature is authorized to tax at a higher rate than property tax any motor vehicles using the public streets and highways of Minnesota. This section provides for additional taxation of commercial vehicles and provides, at the disgression of the legislature, for the exemption of transient usage of streets and highways. Proceeds of such taxes are paid into the trunk highway sinking fund.[1] Cities, boroughs and villages may impose an additional wheelage tax.

Recommendation of the Constitutional Commission.

Deletion of this section as it stands now and its provisions are in Article XVI sec. 1. This section has the same provisions as the present section three, plus adding "any money remaining after the payments into the trunk highway sinking fund shall be appropriated by the legislature solely in aid of construction, maintenance and administration of the trunk highway system."

Reasons for the Recommendation:

It drew up a more concise statement on motor vehicle taxes and their use without making fundamental changes in the present section three.

Comments:

The legislature could have increased the auto tax materially without this amendment, but it was estopped from using the moneys obtained for good roads work.[2]

Utilization of the motor vehicle taxes and fees for the construction and maintenance of the highways, as the Constitutional Commission recommends, is more in keeping with practice in other states.[3]

In the Model State Constitution a section such as this is omitted because these are dedicated funds. The Committee on State Government was opposed to the use of dedicated funds.

1. Definition: Sinking Fund - A fund so invested and instituted that gradual accumulations will wipe out a debt of maturity.

2. History of the Constitution of Minnesota. Wm. Anderson pp.201-203.

3. Iowa- Article 7 sec. 8: ---license and gas tax used to maintain, construct, and supervise highways and bridges.
   Maine- Article 9 sec. 19: same as Iowa
   Mass.- Article 218 sec. 1: same as Iowa
   So. Dakota- Article 11 sec. 8: same as Iowa
   Washington- Article 2 sec. 40: All fees, motor and motor vehicle fuel taxes are paid into the state treasury to be placed in a special fund and used exclusively for highways.(Amendment 1944)

Present Constitutional provisions: Article XVI sec. 4.

The legislature is authorized to issue state bonds for trunk highway purposes, the amount not to exceed $10,000,000 per year, providing not over $75,000,000 in such bonds shall be outstanding at one time. The term of these bonds shall be for no longer than twenty years and may not be sold at less than par value plus interest, and the interest shall not exceed 5 per cent per year.

Recommendations of the Constitutional Commission:

This section is their recommended Article XVI sec. 7.
The issuance and sale of bonds of the state in amounts as may be necessary to carry out the provisions of the article shall be provided by law in accordance with Article IX sec. 5.[1]

Reasons for the recommendation:

Limitations on the amount of incurred indebtedness or the amount of bonds to finance the highway construction that may be sold in any one year was not realistic.

Comments:

In no other state constitution is there a provision in the highway section for the issuance of bonds for trunk highway purposes. In most states, it is taken care of in the general tax section.[2]

1. Article IX sec. 5 states that indebtedness may be incurred by specifying work for which the indebtedness is to be incurred, as a law, and having it passed by a two-thirds vote of each house. This indebtedness must be paid in twenty years.

2. Arkansas: Article XVI sec. 1: Same type of provision as Wisconsin (see below)
Michigan: Article VIII sec. 26: ---may provide for the layout, maintenance etc. of highways-- Article X sec. 10: ---state may borrow of up fifty mills for the improvement of the highways.
Wisconsin: Article VIII sec. 10: ---if state can appropriate money in the treasury, they may construct or improve public highways, airports, veterans' housing,----

Present Constitutional provisions: Article XVI sec. 5

All of the provisions of the Constitution are repealed that are inconsistent with the provisions of this article.

Constitutional Commission recommendations:

This section serves no purpose and should be eliminated.

Comments:

The trunk highway article was added to the constitution without expressly repealing any other definite portion. Article XVI was added to the Constitution in 1920 and it was the first and only article added. The state of Minnesota is still forbidden to engage in works of internal improvement, generally.

Constitutional Commission recommendations for New Sections:

Article XVI sec. 4: Each highway extending along an additional route established by legislature as a part of the trunk highway system, other than the routes sepcified in section 3 (1-70)[1], is a part of the trunk highway system and shall continue to be such until otherwise provided by law and shall be located, constructed, improved and maintained as a public highway of the state.

Comments:

The routes added to the trunk highway system since the adoption of the amendment in 1920 are retained as part of the trunk highway system until otherwise provided by law.

Article XVI sec. 6: The Legislature may alter, change location of, add to or delete from the trunk highway system any route other than those specified in section 3.[1] A bill providing for an addition to the trunk highway system shall be limited to one unbroken extension. Whenever any highway is altered, relocated or deleted from the system by the Legislature, any easement or portion thereof acquired for trunk highway purposes no longer necessary, may be abandoned and the right of way disposed of as prescribed by law.

Comments:

The Legislature would have the authority to alter, etc., 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 highway system by the Legislature cannot be deleted by the Legislature.

1. The Article XVI sec. 3 as the Constitutional Commission recommends would not be laid out in words as is now done in the present constitution in Article XVI sec. 1; but would instead only refer to them as routes 1-70.

Constitutional Commission recommendations for New Sections cont'd.

Article XVI sec. 2: --The Legislature may exempt from such tax (the excise tax[1] levied by the state) motor vehicles owned or operated by the state or any of its political subdivisions.[2]

Comments:

In most states a provision of this sort is in the statutes of the state, not added to the constitution.

Article XVI sec. 5: The Legislature shall establish a commission whose sole duty shall be to study the trunk highway system and recommend to the Legislature changes therein.

Comments:

An impartial commission will provide more scientific and objective selection or elimination of roads from the trunk highway system.

Mississippi-Article 170: provides for a like commission.
Oklahoma-Article XVI: provides for a commission that works directly with the Department of Highways to regulate, etc.

Overall comments on the trunk highway system:

Many states do not have a special law for the laying out, altering, maintaining etc. of their highway systems but they are included in the articles that distribute the moneys of the state.: California-Article 3303 and 3268c; Delaware-Article 19; Montana-Article V sec. 26.

Other states have no provisions in their constitutions for the highway system. Some of them are regulated instead by statutes.

Alabama	Florida	Indiana	Utah
Arizona	Idaho	Nebraska	Vermont
Connecticut	Illinois	New Jersey	Virginia

Many states do provide in their tax sections of their constitutions for the levying of the motor vehicle tax[3] from which they would maintain, construct, etc. their highway systems. (Page one footnote three) Other states have decided limiting factors, such as: South Carolina takes special counties for assessment of the abutting properties for the improvements of the highways, bridges, etc.; Washington-Article 2 sec. 28 which prohibits the state from enacting laws to lay out, open or alter highways except in cases where the state roads extend into more than one county.

1. Definition: Excise Tax - an indirect tax on commodities manufactured, produced, sold, used, or transported within a country, including license fees for various trades, sports, and occupations.
2. Definition: Political subdivision - could be a county, city, village, township, etc.
3. Florida - Article IX sec. 13 allows for a motor vehicle tax only with no disposition of the funds.

LEGISLATIVE POWERS

II. Powers over Finance (Post - Auditor)

Definition of the Post - Auditor

In state government as in private business, two types of audits are recognised as being essential, the pre - audit and the post - audit. They are entirely different functions, and neither can be substituted for the other. The pre - audit is a review of financial transactions before payment is made, to determine if the disbursement is authorized and if correct accounting procedures are being practised. This is a method of internal financial control exercised by the chief executive and is carried out by ~~an~~ the STATE auditor ~~directly responsible to the governor~~ an elected official. The post - audit, on the other hand, is a review of financial transactions after they are completed, to learn if and how the money appropriated by the legislature is being spent and to determine the current financial standing of the government. At the present time in Minnesota, this function is carried out by the Public Examiner, 1937 who is appointed by the governor with the consent of the senate.

Present Constitutional Provisions

Article V, Sec.1 of the Minnesota Constitution states:

> The Executive Department shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, and Attorney General, who shall be chosen by the electors of the state.

Recommendation of the Constitutional Commission 1948

The Constitutional Commission recommends that this statement be changed to read:

> The executive department shall consist of a governor, a lieutenant-governor, and an attorney general, who shall be chosen by the electors of the State, and the subordinate executive officers provided by law.

The Commission also recommends the creation of a new section dealing with the status and duties of the auditor, to be placed in Article IX, Taxation and Finance. This new section would read:

> State Auditor. The Legislature shall select a state auditor. His term shall be six years and until his successor is selected and qualified. He may be removed for cause. He shall conduct a post audit of the accounts and transactions of each department, office and agency of the state. He shall report his findings to the Legislature, or to any committee thereof, and perform such other duties as are required by law.

Reasons for this Recommendation

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

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

Present Practice in Minnesota

The elected State Auditor, provided for in Article V of the Minnesota Constitution, performs the pre - audit function. The constitution makes no provision for a post - audit of state funds. However, in 1878, Minnesota first started auditing past financial transactions and the Reorganization Act of 1939 created the office of Public Examiner. The Public Examiner is required to post - audit accounts of state agencies at least once a year, or oftener if directed to do so by the governor or by the legislature. He has the same power over county governments and first class cities. He may audit accounts of other cities, towns, and villages, and school districts, but this expense is paid by the local governments. The Public Examiner is appointed by the governor with the consent of the senate for a six year term.

Practice in Other States

Recognition of the post - audit as an essential function of the state government began in the early 1920's. All forty eight states now have some type of post - auditing official. Statistics reveal, however, that the method of his selection varies a great deal among the states:[1]

1) In eleven states he is appointed by the legislature.
2) In eighteen states he is an elected official.
3) In nine states he is appointed by the governor with the consent of the senate
4) In six states he is appointed by the governor without the consent of the senate.
5) In four states he is appointed by miscellaneous methods.

[1]Council of State Governments, Book of the States, Chicago, 1954-55

In the eleven states where the post - auditing official is appointed by the legislature, there is also much variation in the method by which he is selected:

1) In Maine, New Jersey, and Tennessee, he is elected in joint convention of the two houses.
2) In Alabama and Texas he is appointed by a legislative committee of the House and Senate and confirmed by the Senate.
3) In South Dakota he is selected by concurrent resolution passed by both houses.
4) In Connecticut he is selected by joint resolution passed by both houses.
5) In Georgia he is elected in the House and confirmed in the Senate.
6) In Nevada he is appointed by the Legislative Counsel Bureau.
7) In Virginia he is elected by the General Assembly.
8) In Arizona he is appointed by the Speaker of the House and the President of the Senate with the consent of the legislature.
9) In Vermont all departments except the State Tax Department, State Treasurer, and State Auditor of Accounts are post - audited by the Auditor of Accounts who is elected. These other three are audited by private accounting firms selected by a legislative committee. Under this system the Legislature does have access to post - audits of the three most important state financial departments.

Post - Audit Function

A. E. Buck, in Public Budgeting[1] lists three essentials of a good post - audit:

1) The post - auditor and his staff should be outside the control of the executive and responsible to the legislature.
2) There should be a special legislative committee to review the reports of the post - auditor and study them in order to make recommendations for legislative action.
3) The post - auditor should not maintain accounts. He should verify general and other accounts kept by the administrative department, by continuous or periodic check and report to the legislature.

Within the past few years, special study commissions in several states have given careful attention to the organization and operation of their state legislatures. One of the reports in this field was prepared by the staff of the Michigan Joint Legislative Committee on Reorganization of State Government. This report has gone considerably further into the criteria by which we might judge a good post - audit, in the opinion of that committee:

[1]Buck, A. E., Public Budgeting, 1929, p.551

[2]Staff Report to the Michigan Joint Legislative Committee on Reorganization of State Government, Loren B. Miller, Director, 810 Farwell Bldg., Detroit, Michigan

The Michigan report proposes:

1) The legislative body alone is responsible to the people for appropriating funds for specific purposes; the executive is responsible for the actual spending of the funds for the purposes for which they were appropriated.

2) To fulfill its role adequately, the legislature must have its own officer and staff responsible for checking on the honesty and efficiency of the spending by the executive (the post - audit); such an officer should report to the legislature through a committee (see 4 below)

3) The legislative agent or auditor must:
   - Be appointed and removable only by the legislature.
   - Have reasonable security to guarantee his independence in auditing; be non-political, objective, and competent.
   - Have authority to audit both financial transactions and administrative operations.
   - Have no administrative or fiscal authority, except over his own staff.
   - Have an adequate staff of fiscal and management technicians.
   - Have a budget free from any control by the executive.
   - Have authority, when necessary, to contract for legal counsel of his own choice.

4) The legislative (joint audit) committee must:
   - Be a permanent committee empowered to meet between sessions
   - Be of a manageable size with its members free of other major committee assignments.
   - Have the legislative auditor and, by invitation, a representative of the executive, meet with it.
   - Have authority to request compliance by department heads with the recommendations of its auditor and to report to the legislature failures of department heads to follow these recommendations.

The Michigan report further recommends that the legislative auditor be a constitutional officer (not created merely by statute), and that his recommendations should be subject to majority approval of both houses voting separately.

The Post - Auditor, Elective or Appointive

In its study of the post - audit function,[1] the Minnesota Legislative Research Committee strongly favors the opinion that the post - auditor be appointed by the legislature rather than elected by the people, stating

> It is possible to obtain an independent post - audit by electing the official responsible for this function.... However, responsible people appointing the post-auditing official are in a better position to judge education qualifications, training, and other necessary qualities than the mass of citizens who may not have a complete understanding of the importance of the office.

[1] Minnesota Legislative Research Committee Report, Post-Audit Function, Bulletin 32, Nov. 1950

The Committee felt there were two dangers inherent in the elective method: 1) that the official may feel an obligation to the governor since he heads the party and his appeal to the voters may be the reason the post - auditor was successful in his election; and 2) the post - auditing official may have political ambitioms, and rather than reporting objectively, may use his office as a springboard for election to higher office.

Minnesota Legislation and Opinion

In the 1953 session of the Minnesota legislature, a number of bills were introduced which would have made the post - audit function a responsibility of the legislature. Attention centered on one bill but due to a question which arose as to its constitutionality, because of the manner in which it was drafted, this bill did not pass out of the committee.

It is noteworthy that both the Constitutional Commission in 1947, and the Minnesota Efficiency in Government Commission (Little Hoover Commission) in 1949 felt that the function of post - auditing belongs to the legislature. In the case of the Constitutional Commission recommendation, a provision to this effect should be included in the constitution.[1] In the case of the Little Hoover recommendation, a Department of Post - Auditor in the Legislative Branch could be created by statute. It appears that either method is satisfactory, in the opinion of authorities in this field.

Opinion on an independent post - auditor responsible to the legislature is not unanimously favorable. The arguments of those who have reservations about this method seem to concern mainly the relationship between the executive and legislative departments - whether the legislature might in any way be encroaching on executive powers. It is felt that care must be taken in drafting legislation so that appropriations by the legislature are made on a basis of performance rather than a rigid line item control basis.

Value of the Independent Post - Audit

Arthur E. Buck, a leading authority on the reorganization movement during its early years, has written an explanatory article on Finance for the Model State Constitution.[2] Concerning the

[1] This is in accord with the Model State Constitution which also includes a provision for the legislature to appoint an auditor.

[2] National Municipal League, Committee of State Government, Model State Constitution, 5th edition, revised 1948

post - audit function, Buck writes:

> The function of post - auditing, involving a complete review of the financial transactions and accounts of the state government, belongs to the legislature. It is implied in the powers of the legislature to appropriate money to the executive and to the administrative departments to carry on the work of the state government. It is the method of enforcing financial accountability upon the governor and his departmental heads, which is a highly important but sadly neglected duty of the legislature under the centralized form of state government. Power and authority commensurate with full responsibility for all administrative operations may be accorded the governor as long as the legislature utilizes post - auditing to bring him to complete accountability for his acts.

LEGISLATIVE POWERS

III. Local Government

Special Legislation as it Applies to Home Rule

Local legislation by the state legislature is special legislation which applies to any political subdivision or subdivisions of the state, less than the whole. This type of legislation constitutes a large portion of the total legislation in any session, and is considered by many to be undesirable in that it acts as a barrier to home rule and real local government, besides consuming a great deal of legislative time.

History of Special Legislation in Minnesota

From Anderson, William, in collaboration with Lobb, A. J. A History of the Constitution of Minnesota, University of Minnesota Press, 1921

In the original constitution there was no clause to prohibit special legislation for cities. In the early years, many laws regulating the local affairs of cities, counties, towns, and villages were passed. Indeed, these special laws were usually more numerous than the general statutes. Furthermore, these special laws were often passed without the consent of the people concerned.

In 1881 an amendment to the constitution was passed which restricted the powers of the legislature in local and special legislation. The new sections, however, still did not prohibit special legislation for cities, nor did they forbid amendment, modification, or extension of the previous special laws. Almost the only important result of the amendment was to require the legislature to pass a general law for the incorporation of villages. Otherwise special legislation continued almost unabated.

In 1891 another amendment, which remains today in our present constitution: 1) made a sweeping prohibition of special laws "when a general law can be made applicable", and leaves this decision to the courts; 2) increased the number of subjects upon which special laws may not be passed; and 3) provided that the legislature might repeal any existing special or local law but shall not amend, extend, or modify any.

Since this last amendment, the situation has been much improved over that which existed previously. However, special legislation has not been eliminated, for by means of restricted classifications, it is still possible to meet the peculiar needs of particular localities.

In Local Government and Finance in Minnesota[1], William Anderson has gone into further detail concerning this matter of classification:

> Because of continued pressure for special legislation upon the legislature, it was discovered that by using the classification for cities fixed by the constitution, and any classification on other units that the legislature wanted to use, they were able again to enact different laws for different units. The courts early held that such classifications must be reasonable and must be based on actual differences, but otherwise were inclined to be rather lenient toward classifications.
>
> With respect to counties in particular, but to some extent also with respect to cities, villages, towns, and school districts, the state has made a partial return to a regime of special legislation. An important difference between the old and the new special legislation is that the old frankly named the place to which it applied, so that voters and taxpayers had notice at least after the law had passed of any new law applicable to their community. Under the present system, to determine which counties are affected by any particular law based on a classification, one must look up the latest census, the assessed valuations at the time the act was passed, and a well-drawn map of the state. In many cases only a few insiders ever know what places are affected by such acts.
>
> This circumstance, and the fact that these acts are probably unconstitutional in many cases, are evils that have grown up largely since 1900. Along with them, there has been a return, though on a smaller scale, of many of the old evils of special legislation.....The whole machinery devised for state legislation must be set in motion to grind out small bills to decide matters that could and should be settled locally. As long as the legislature continues thus to dabble in local affairs, the local communities and their officers are denied the chance to develop a true sense of local responsibility for local affairs.

Present Constitutional Provisions and Recommendations of the Constitutional Commission

Special legislation and local government are dealt with in two articles of the Minnesota Constitution, Article IV and Article XI, respectively. For the purpose of simplification, the following brief outline is presented to show how the Constitutional Commission proposed to change the present sections. Inasmuch as these sections are very lengthy and detailed, it is suggested that in the study of this subject, copies of the Constitution and the Report of the Constitutional Commission be obtained.

[1]Anderson, William, Local Government and Finance in Minnesota University of Minnesota Press, Minneapolis, 1935

Present Constitution	Commission Recommendation
Art.IV (Legislative Article)	**Art.IV** (Legislative Article)
Sec.33 Against Special Legislation	---------Sec.33 Special Legislation Completely rewritten
Sec.34 General Laws under 1881 Amendment	----------Sec. deleted - obsolete
Sec.35 Against Combinations or Pools to Affect Markets	----------Sec. deleted because more properly left to legislature. Superseded by Fed. Anti-Trust Act
Sec.36 City or Village May Frame its Charter; Charter Submitted to Voters; Cities Classified	----------Sec. deleted from Art.IV and subject of home rule and classification of cities dealt with in Art.XI
Art.XI (Counties and Townships)	**Art.XI** (Local Government)
Sec.1 County Organization	(All new, but consolidates some of old Art.XI on Counties and Townships, and also old Sec.36 of Art.IV above)
Sec.2 Cities of 20,000 pop. may be organized into separate counties	Sec.1 Definitions
Sec.3 Township Organization	Sec.2 General Laws for Local Governments
Sec.4 Election of County and Town Officers	Sec.3 Classification
Sec.5 Local Taxation may be Authorized	Sec.4 Special Laws - Local Acceptance
Sec.6 Money Drawn from County or Town Treasuries	Sec.5 Home Rule Charters
Sec.7 County of Manomin Abolished	Sec.6 Charter Commissions
	Sec.7 County-City Consolidation
	Sec.8 City - County
	Sec.9 Local Taxation

Reasons for these Recommendations

Comment by the Commission on the purpose of these changes can be condensed into the following:

1) Elimination of obsolete and conflicting sections.

2) Rearrangement of subject matter for consolidation and clarification.

3) Definition of the following terms:

Local Government - A county, city, village, town, school district or other political subdivision for which provision has been made by law for self - government and for the holding of elections.

Special Law - One that applies to less than all members of any class of any type of local government, or a law providing 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. (Special laws, by this definition, can be differentiated from general laws.)

4) A limitation has been placed upon special acts of the legislature in establishing or consolidating local governments. (Similar restrictions affecting counties are found in the present constitution.)

5) Provision that a general law prevails over a home-rule charter only if the law so states. In this way a source of frequent litigation may be avoided.

6) Limitation of the classification of local governments, as an inducement to the enactment of general legislation for whole classes of local governments, thus restricting special legislation.

7) Use of the name of the city or county would be permitted 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 must approve.

8) Cities and villages, or counties would be permitted to adopt home rule charters (if in accordance with the constitution and laws of the state). By the use of these charters, counties and cities will be in a position to solve their own governmental problems and avoid appeals to the legislature for special legislation.

9) Provisions governing charter commissions have been drafted, but set forth only a general procedure, omitting details which are better left to statute.

10) Provision is made for consolidation of counties and cities into single units of government, as a method for reduction of overlapping governmental functions and consequent high cost of operation.

11) Provision is made for city - county organization by home rule charter instead of by legislative action as in the present constitution.

Opinions and Viewpoints

Some conclusions as to the effects of special legislation have been drawn by the Committee on State - Local Relations ~~from~~ of The Council of State Governments, and have been stated in its Report[1] as follows:

Conclusions on Special Legislation

The total evidence indicates that systems of special legislation, as they now operate in the United States, should be abandoned to every extent possible. When used, special laws should be preceded at least by adequate notice to the locality concerned, and procedures should be established by which affected citizens and local officials can express their views.

Until the middle of the last century, when techniques of varying effectiveness began to be invented for the purpose of curbing legislative powers, legislation directed at a single municipality was a widely used device in virtually every state. These laws were easily passed. Applicable to but a single community, they were not likely to inspire widespread public protest. They were often promulgated before citizens of the affected community knew of their existence. Frequently they resulted from the activity of self-interested political cliques and economic groups.

State legislatures sometimes put their plenary powers to a variety of genuinely useful purposes, for the device of local legislation was well calculated to fit local governments to local conditions. At the same time, the system was open to numerous abuses.

The actions taken through local legislation may not be undesirable in themselves. Local acts in large part fulfill legitimate needs. The trouble is not that too many laws are made, but that too many laws are necessary. To place the complete burden for making these decisions upon state legislatures results disadvantageously for both legislatures and localities.

With respect to the legislatures, the objections to local legislation are:

1) The burden of local legislation makes undue demands on the time of members of the legislature. The decisions on local matters may be of insignificant importance from the viewpoint of the entire state and may occupy little time before the legislature as a whole. Nevertheless, local matters occupy a large part of the time of individual members. Because of the limitations on the number of days they may meet, preoccupation with special local statutes, make it impossible for members of the legislature to give important statewide legislation the consideration it demands.

[1]Report of the Committee on State-Local Relations, Council of State Governments, Chicago, 1946

Report of Committee on State-Local Relations, cont.

2) Extensive special legislation accentuates the feeling of localism in state legislatures. As a North Carolina observer has pointed out, "with most every member of the two houses primarily interested in getting through a number of bills relating only to his home community, the whole general assembly is locally minded. Only a few of the outstanding leaders are state - conscious.

3) Log-rolling practises are encouraged. In the process of special legislation it is common practise for a member to approve more or less automatically the bills presented by the representatives of any given district. In return, he expects his own measures to be similarly treated.

4) Irresponsible legislation is fostered. The legislature can give only cursory examination to the mass of local laws, and statutes are habitually passed on the simple recommendation of the representative of a given locality.

Systems of local legislation bring even greater disadvantages to localities:

1) Local legislation makes for confusion and instability in local government. With the same legislature passing both general and special laws, it is a difficult task for local officers to keep track of what is required of them. This mitigates against good government. In some states, the multiplicity of laws sometimes results in actual contradiction among the operative provisions of statutes applicable to a single locality..

2) The system of local legislation has the unfortunate effect of bringing local affairs into the state-wide political arena. A major share of the attention of municipal officers is often diverted from their regular duties to legislative matters, and state political issues are injected into purely municipal affairs. ~~In Florida, the ability of~~

3) Most important of all, systems of local legislation remove the control of local affairs from the hands of local citizens. Very often, legislatures impose a form of government or mandatory duties upon a locality without determining the wishes of the local citizentry. This is the situation at its worst. At its best, local legislation makes for a great deal of unnecessary delay in the determination of local affairs. New fields of endeavor or new procedures for action will almost invariably demand a legislative act. Local democracy is thwarted, even where the approval by the state legislature is nominal.

As early as 1812, provisions appeared in state constitutions prohibiting certain types of special, local legislation. Experience has amply demonstrated the shortcoming of these prohibitions. State courts traditionally interpret them in a narrow fashion.

If a classification is "reasonable", the court will ordinarily sustain it. The courts have considered it their duty, in the words of an Alabama decision, "not to construe a law as local when it is so worded as to be interpreted as a general one...." If an act is general in language, its validity is not affected by the fact that it applies only to a single locality. Thus, state legislatures are freed by the courts to legislate for specific

localities under the fiction of general (classified) laws.

The complexities of general classification laws are more than matched in a number of states which set forth their own classifications. By this process, state legislatures are able to group cities in one law, to separate them in another, to separate them according to a new set of criteria in a third, and to isolate them in a fourth. Legislatures have shown an inventive flair in devising classification in order to achieve statutes that are general in form though special in fact. A law in Minnesota, for example, refers to "counties now or hereafter having twenty four organized townships and a population of not less than 23,500 and not more than 24,000, and a land area of not less than ~~23,000~~ 795 and not more than 805 square miles.

Further Comment

The Information Service of the Municipal Reference Bureau, League of Minnesota Municipalities, has suggested that restrictions against the use of special legislation should be rewritten in order to make them work. Their suggestions are that:

1) Some device should be inserted in the constitution to insure compliance with constitutional restrictions or to discourage use of the special legislation method.
2) The possibility of requiring court adjudication of the constitutionality of a special act might be explored to determine its practicability.
3) The constitution might require an act affecting only one municipality or a number less than a class to be submitted to the voters of the affected municipality before going into effect.

LEGISLATIVE PROCEDURE

I. Introduction of Bills

Present Constitutional Provision

Article IV, Sec.1 of the Minnesota Constitution states:

> No new bill shall be introduced in either branch, except on written request of the governor, during the last twenty days of such session, except the attention of the legislature shall be called to some important matter of general interest by a special message from the governor.

Recommendation of the Constitutional Commission

The Constitutional Commission recommended that this provision be changed to read:

> No bill shall be introduced at a regular session in either branch after the seventieth ~~day~~ legislative day unless consent is given by concurrent resolution upon an important matter of general interest.

Reason for this Recommendation

Comment by the Commission on this change states that in practice the present limitation on introduction of bills has become meaningless because for many years the governor has made a practice of requesting the introduction of bills of the most trivial nature.

Opinions and Viewpoints

All students of the legislative process are in favor of getting bills introduced early in the session. It would seem, however, that a provision of this kind is not always considered a basic concept belonging in the constitution. The Model State Constitution[1] does not include a restriction of this kind. In the opinion of the Committee on State Government, which prepared the Model, this is a matter for the legislature itself to control and not one requiring a constitutional provision.

The Committee on Legislative Processes and Procedures, of the Council of State Governments, also refers to the subject of a time limit on the introduction of bills, in one of its twelve important recommendations[2] for the strengthening of state legislatures. It states:

> Consideration should be given to limiting by rule the period during a legislative session when new bills may be introduced.

[1]National Municipal League, Committee on State Government, Model State Constitution, 5th edition, revised 1948

[2]Council of State Governments, Chicago, Our State Legislatures,1948

In other words, the committee recommends a limit of some kind, but this could be determined by House and Senate Rules, not necessarily by the constitution. The committee believes it is necessary to provide reasonable regulations with respect to the introduction and disposition of new bills in order to expedite the legislative process and use to best advantage the early weeks of a legislative session. The committee, however, deplores the use of "skeleton bills" which are sometimes introduced to meet a deadline time. In these the actual substance of the bill is unwritten, and the committee feels they confuse and evade the issue.

Some further specific discouragements to tactics that contribute to the overly common rush of business in the last days of the session are set forth in the Report of the American Political Science Association's Committee on American Legislatures[1] :

1) Montana Joint Rules of Senate and House: that no bill will be considered which is transmitted from one house to the other after the 47th day of the session, and no amendments to bills after the 57th day.
2) A less rigid discouragement would be the re-reference of bills to a policy committee if reported out of the regular committee after two-thirds of the session has passed.
3) A more rigid discouragement is found in the Michigan rules, whereby bills introduced after a set date are not printed; and committee reports in the house where the bill originated must be made within a specified number of days after the session convenes.
4) Another suggestion for expediency (New York Senate Rules) would allow for informal introduction of bills, that is, merely placing them in the hopper rather than the time-consuming introduction from the floor. This would require pre-introduction examination by legislative draftsmen so that there could be reasonable assurance that the bills had been properly drafted.

So it can be seen that there are alternatives to the Constitutional Commission recommendation in this regard, all of which attempt to eliminate the end of session rush which does not allow for adequate deliberation on important matters. Most of these alternatives would not concern the constitution at all but would place the solving of these problems on the legislature itself, to change when the need for change arises.

Practice in Other States

Statistics from the Book of States[2] reveal that:

[1] Our State Legislatures, revised 1948

[2] Council of State Governments, Chicago, 1954-55

(Book of States)

Five states have no limit whatever on introduction of bills.
The remainder have a limit of some kind, usually determined by rule or resolution.
In twenty states, the time limit may be waived by the legislature.
In five states (including Minnesota) the time limit may be waived only by the governor.
In the remainder, the time limit may be waived in the case of only certain bills or committees.
Only four states have no provision for pre-session bill drafting. (Minnesota does provide for this)
Six states provide for pre-session filing (Minnesota does not).
In seventeen states, committees must report on all bills. (Minnesota does not have this requirement).

Conclusion

Factors other than the mechanics of legislative organization play a part in the complex problem of the piling up of the legislative hopper toward the end of the session. Political expediency or the delaying tactics of special interest groups may use the short session to their advantage by deferring action on certain bills until it is too late for them to get adequate consideration. Bills which would have ample time to be discussed and passed or defeated are oftentimes held up indefinitely in committees. It would seem, however, that strict observance of a time limit on the introduction of new bills (set by the legislature itself); better aids in pre-session drafting and filing; and a requirement that all bills must be reported out of committees, would improve the situation.

LEGISLATIVE PROCEDURE

II. Reading of Bills

Present Constitutional Provision

Article IV, Sec.20 of the Minnesota Constitution reads:

> Every bill shall be read on three different days in each separate house, unless, in case of urgency, two-thirds of the house where such bill is pending shall deem it expedient to dispense with this rule; and no bill shall be passed by either house until it shall have been previously read twice at length.

Recommendation of the Constitutional Commission

The Constitutional Commission has recommended that this statement be changed to read:

> The number and title of every bill shall be read when introduced or when received after passage by the other house, and such number and title be published in the journal. No bill shall be passed earlier than the third day after its introduction or reception from the other house unless two-thirds of the house where the bill is pending shall so order.

Reason for this Recommendation

Comment by the Commission on this recommendation states that the present constitutional requirement that every bill be read on three different days in each house and twice at length is unworkable in the light of the mass of material considered at every session of the legislature. The change recommended follows rather closely the present practice in the legislature.

Actual Practice in Minnesota

The Permanent Rules of the Senate,[1] 1953, state:

> Every bill, memorial, order, resolution or vote requiring the approval of the Governor shall receive three separate readings previous to its passage; the first and third readings shall be at length; and no such bill, memorial, order, or resolution shall be read twice on the same day.

The Permanent Rules of the House,[1] 1953, state:

> All bills, memorials, and joint resolutions shall be read at length upon their introduction, unless objected to..... All bills, concurrent resolutions, memorials, orders, resolutions, and votes requiring the approval of the Governor shall, after a second reading, be considered in a Committee of the Whole before they shall be finally acted upon by the House. Unless otherwise ordered, bills, resolutions authorizing the expenditure of money, and joint memorials to Congress, only, shall require a second and third reading.

In Minnesota, the Constitution is not followed to the letter in actual practice. At the first reading, the bill is read by number, title, author, and then referred to the appropriate committee.

[1] Legislative Manual, Minnesota 1953, pages 67 and 72

Actual Practice, cont.

Although the state constitution and Senate and House rules say that the reading shall be in full, this rule is never observed. The second reading is a routine and hurried reading of a list of bills that are out of committee. If the committee report is adopted by a majority vote, indicating that the bill is to be considered by the entire house, the bill is printed and each legislator given a copy. After consideration by the whole body and approval by the Committee of the Whole, the bill is advanced to the calendar. At that time, the third reading takes place. Usually this means that just the title of the bill is read and the roll call vote is then taken.[1]

Practice in Other States

Statistics from the Book of the States indicate that

Forty three states require three readings
Four states require two readings
One state requires two readings in the Senate, three in the House
In thirty four states, readings must be on separate days.
There is great variation among the states whether these readings must be in full or not.

Opinions and Viewpoints

1. From Graves, W. Brooke, American State Government, Fourth Edition, p. 308 (D. C. Heath and Co., Boston, 1953)

The three reading system originated generations ago prior to the invention of the printing press and was universally used to prevent the railroading of legislation. Though still generally retained in the rules, it is in practice largely a formality, and even at that, under modern conditions, a serious waster of time. Every member has a printed copy of all bills on his desk before final passage. If it were required that such copies should be distributed three days prior to vote of final passage, the members and the public would have the full protection the three reading system was intended to give, and the legislature would be freed from a time consuming procedure which can no longer be justified.

2. From Walker, Harvey, The Legislative Process, p. 231 (The Ronald Press Co., New York, 1948

In the days when bills were not printed, reading of a bill at length may have been necessary in order to avoid surprise. But under modern legislative practice the present rules on readings seem anachronistic.....Only one of the readings need be at length - while the bill is being considered section by section in Committee of the Whole or, where this procedure is not used, then at the stage of debate and amendment on the floor.

[1]For greater detail see Ninety Days of Lawmaking, University of Minnesota Press, Minneapolis, 1949

3. From the Model State Constitution , prepared by Committee on State Government, Fourth Edition (National Municipal League, New York, 1948) Section 314, Passage of Bills

No bill shall become a law unless it has been read on three different days, has been printed and upon the desks of the members in final form at least three legislative days prior to final passage, and has received the assent of the majority of all the members. No act shall become effective until published, as provided by law.

LEGISLATIVE PROCEDURE

III. Time Allowed for Executive Veto

Present Constitutional Provision

Article IV, Sec.11 of the Minnesota Constitution requires that all bills which have passed the Senate and House be presented to the governor of the state for his approval. Provision for the time he is allowed to consider the bills is stated as follows:

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

Recommendation of the Constitutional Commission

The Constitutional Commission recommended that this section be changed to read:

> If any bill is not returned by the Governor within six days (Sundays excepted) after being presented to him, it shall be a law unless the legislature by adjournment within that time prevents its return, in which case it shall not be a law. The Governor may approve, sign, and file in the place provided by law within twelve days (Sundays excepted) after the adjournment of the Legislature any bill passed during the last four days of the session and it shall become a law.

Reasons for this Recommendation

Comment by the Commission on this recommendation state that the proposed changes in this section are primarily procedural; the ~~extending of~~ extension of time in which the governor may have to act upon bills. The governor will still be a check on the legislature as the bills will still be presented to him for approval.

Practice in Other States

From Walker, Harvey, The Legislative Process, p.369 (The Ronald Press Co., New York, 1948)
Statistics brought up to date by Book of States, 1954-55

Among the states, there is a great diversity. If the legislature is still in session, the governor must sign bills within three days, Sundays excepted, in nine states (including Minnesota) or they become law without his signature. Five days are allowed in twenty states; four states allow the governor six days, and twelve states give him ten days during the session to make his decision. One state allows fifteen days, and another, thirty days.

single space + indent

Walker, cont.

There is even more diversity in the constitutional provisions concerning the fate of bills after adjournment. Some of the states do not permit pocket vetoes. Bills not vetoed within five days after adjournment in Nebraska and West Virginia become law. In Indiana a bill becomes a law if not filed with objections with the secretary of state within five days after adjournment. Ten days are allowed in eleven states, fifteen days in three states, twenty days in four states, while two states allow thirty days, and one state, forty five days. Bills passed in one session become law unless returned to the legislature within two days after the convening of the next session in South Carolina, or within three days in Maine and Mississippi. In Kansas, in practice, the legislature closes consideration of bills three days before adjournment sine die.

In some states a pocket veto is made possible by the state constitution. An act does not become a law in Minnesota unless signed by the governor within three days after adjournment. Massachusetts and Michigan allow five days; Maryland, New Mexico, and Wisconsin, six days; Alabama and Virginia, ten days; Montana, and Oklahoma, fifteen days; California, Delaware, Iowa, and New York, thirty days. In Georgia, New Hampshire, Tennessee, and Vermont, no unsigned bill ever becomes a law - however, no time limit is specified. In many cases, if a bill is vetoed after the close of the session, the governor must file his objections in writing with the secretary of state.

In North Carolina, the only state without provision for a veto, acts become law thirty days after adjournment of the legislature, unless otherwise expressly directed.

Opinions and Viewpoints

1. From Model State Constitution, prepared by the Committee on State Government, (Fourth Edition, p.5, National Municipal League, New York, 1948)

The Model State Constitution suggests a much longer time than that recommended by the Minnesota Constitutional Commission be allowed to governor to act upon bills. The Model proposes the following provision:

> If any bill shall not be signed or returned by the governor within fifteen days after it shall have been presented to him it shall be a law in like manner as if he had signed it, except that, if the legislature shall be in recess at the end of such fifteen day period, the governor may sign the bill at any time during the recess or return it with his objections upon the reconvening of the legislature, and if the legislature shall adjourn finally before the governor has acted on a bill that has been presented to him less than fifteen days before, it shall not become law unless the governor sign it within thirty days after such adjournment.

2. From Graves, W. Brooke, American State Government, Fourth edition, pp. 338 - 343 (D. C. Heath and Co., Boston, 1953

> In general, there has been a strong tendency for increased use of the veto power. While the exercise of this power has varied greatly in the different states and in the course of American legislative history, it has come into its heyday in the twentieth century. It is reported that,

Graves, cont.
in a sampling of states, from one half to three fourths of the total vetoes have occurred since 1900.

In twenty seven states the veto restrictions applying after adjournment require the governor to dispose of all bills submitted to him within from five to thirty days after the expiration of the session; otherwise bills become law..... This is no small task, considering the great mass of legislation passed during the rush at the close of the session. The measures must all be carefully examined by the staff in the office of the attorney general, whose recommendations are generally accepted by the governor.

In 1944 the Citizens Union in New York proposed some changes in the governor's legislative powers, especially his use of the veto power. It is recommended that he be given more time in which to consider bills passed by the legislature, both during the session and after adjournment. This constitutes a very serious problem in many states - a problem which could be solved by amending the constitution but which is often met by subterfuge.

Conclusion

It is felt by many experts in the field of state government that the time allowed for the executive veto should be lengthened in most states in order to provide a reasonable time for the governor to go through, analyze, and pass upon the great mass of legislation with which he is usually presented.

THE LEGISLATURE AND THE AMENDING PROCESS

Three methods of initiating or proposing amendments or revisions are recognized in the various state constitutions:

Proposal by the Legislature
Proposal by a Constitutional Convention
Proposal by Popular Initiative

The second method, proposal by a constitutional convention, is usually used for a more thorough and comprehensive change in the constitution, or for the drafting of a new constitution. In one state, New Hampshire, all amendments must emanate from convention, and conventions have been called in other states to consider one or two amendments. The third method, proposal by popular initiative, is the power of a given number or percent of the voters of a state to draw up and submit to the entire body of voters proposals for constitutional amendments. There is no provision for the popular initiative in the Minnesota constitution.

We shall, therefore, limit our discussion to proposal by the legislature, as it pertains more directly to our study of legislative reorganization.

Present Constitutional Provision

Article XIV, Sec. 1 of the Minnesota Constitution states:

> Whenever a majority 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 election, and if it shall appear, in a manner to be provided by law, that a majority of all electors voting at said election shall have voted for and ratified such alterations or amendments, the same shall be valid to all intents and purposes as 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.

Recommendation of the Constitutional Commission

The Constitutional Commission has recommended that this section be changed to read:

> Whenever two-thirds of each house of the legislature deems it necessary to alter or amend this Constitution, they may propose by concurrent resolution alterations or amendments. These proposals shall be published with the laws passed at the same session and shall be submitted to the people for approval or rejection at a general or special election. No special election for the purpose of voting

Commission recommendation, cont.

on a constitutional amendment shall be called at the same time or within 30 days of a general election. If it appears, in a manner to be provided by law, that a majority of electors voting thereon, voted for the proposed alterations or amendments, they shall be a part of this Constitution.

No proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted.

Reasons for this Recommendation

Comment by the Commission on this change states that more than a bare majority of the legislature should be required to propose amendments to the constitution, and 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 would restore a provision of the original constitution, and it takes account of the fact that, on the average, one-third of the voters at a general election fail to vote on constitutional amendments, thus in effect, defeating such amendments by inaction.

Amending Experience in Minnesota

From 1858 to 1898, Minnesota had a very simple process for amending the constitution, namely, proposal by a "majority of both houses of the legislature", and ratification by a "majority of the voters voting upon the proposal". In 1898, the amending process was made more difficult. There were no changes made in the method of proposing amendments, but the amendments were to be submitted only at general elections and a "majority of all the electors voting at said election" was required to ratify them. It is interesting to note that when the amendment passed in 1898, it did so by less than 28 percent of the voters voting in the election. Thus less than 28 percent of the voters decided that no future amendment should be adopted unless over 50 percent of the voters at the election should favor it.

However, amendments were just as easy as ever to propose. Minnesota has, of all the states, the simplest method of proposing constitutional amendments. The Minnesota Constitution requires merely a "majority of both houses of the legislature", and this does not mean a majority of all members elected, but simply of those present and voting, a quorum being present.

However, when it comes to the matter of ratification of amendments, the importance of the change made in 1898 becomes evident. A comparison of results obtained from 1858 to 1898, inclusive, with those obtained after that date shows what a striking change has been brought about in the matter of adoption of amendments:

Amending Experience in Minnesota +

	Amendments Proposed	Number Adopted	Number Rejected	Percent Adopted	Percent Rejected
1858 - 98	66	48	18	72.73	27.27
1898 - 1954	96	31	65	32.28	67.7

+ From Committee Report No.1, The Amending Process, Preliminary Report Oct.1947, Constitutional Commission; and Minnesota State Canvassing Board Reports.

The following observations have been made:[1]

1) The percent of amendments adopted and rejected in the period from 1858-1898 and the percent adopted and rejected from 1898-1954 is almost reversed.

2) Several of the amendments adopted in recent years have met the required majority of votes cast and counted at the election only after they have been submitted several times and there have been extensive publicity campaigns by interested organizations.

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

In an article on the need for constitutional revision in Minnesota,[2] Professor William Anderson states in regard to the present amending process:

> The legislature has lost much of its responsibility for constitutional amendments. It proposes more amendments than before, not only because more are needed but also because it feels less responsible for the results..... Some important amendments are proposed again and again at considerable public expense and to the annoyance of the voter, because it is realized that the chance of passing an amendment increases as the voter becomes more and more familiar with it..... Another fact, of which many illustrations could be given, is that the will of the majority of informed and active voters is defeated time and again by constitutional requirement.

Practice in Other States

Walter F. Dodd lists four different methods of legislative proposal of amendments in the analysis which he prepared for the Illinois constitutional convention. This classification has since been used by Graves in his volume on American State Government:

[1] Committee Report No.1, Constitutional Commission of Minnesota, Preliminary Report, Oct. 1947

[2] Anderson, Wm. The Need for Constitutional Revision in Minnesota, Minnesota Law Review, Feb. 1927, P.195

Dodd's classification, cont.

1) Permits amendments by two successive legislatures without popular vote. Used in Delaware. Chief defect of this method is that it violates an almost universal practice of the American states, namely the submission of constitutional provisions to a popular referendum.
2) Amendments may be proposed by the legislature, with a popular vote upon the proposal but with the ultimate approval or rejection of the proposal left to the legislature. Used in South Carolina and Mississippi. Objection: there seems to be little justification for the expenditure incident to a referendum if, after the people have rendered a decision, the legislature is at liberty to disregard it.
3) Amendments are proposed by the legislature subject to popular approval but with the amending process subject to such restrictions as to make amendment of the constitution difficult. Restrictions are of three types: a) requires action of two successive legislatures, b) limitation upon the number, frequency, and character of proposals, and c) requires a popular vote greater than that of a majority of all persons voting on the amendment (this applies to Minnesota)
4) Unrestricted proposal by one legislative action only and adoption by the majority of the persons voting therein. (the Constitutional Commission recommendation would be in this category)

Of this last method, Mr. Graves makes the following comment:[1]

> If constitutions must be weighed down by great masses of detail, this is of all the possible methods of constitutional amendment, the most satisfactory. If state constitutions were better framed the question of the nature of the amending process would not be so important. This method has the merit of preserving the worthwhile distinction between constitutional and statutory law, without at the same time erecting impossible barriers to the use of the amending procedure.

In comparing Minnesota to other states[2] with regard to proposal of amendments by the legislature, we might study the provisions on the size of vote in the legislature necessary to approve proposals for amendments. Minnesota has the simplest and easiest method of all states, namely a majority vote of both houses. In contrast, twenty states require a two-thirds vote of the members elected to each house to propose amendments; nineteen states require a majority of the members elected, (of these some require that the proposal be adopted by two successive legislatures) ; and eight states require a favorable vote of three-fifths of the members elected.[3]

[1] Graves, W. Brooke, American State Government, Third Edition, D. C. Heath Co., Boston, 1946, pp.69-70

[2] Book of the States, Council of State Governments, Chicago, 1954-55

[3] In New Jersey, either three-fifths of all the members of each house or a majority of members elected for 2 successive sessions can propose amendments.

Ratification of proposed amendments by the voters is required in every state but Delaware. In thirty six states a simple majority of those present and voting thereon is sufficient to ratify, while six states specify a majority of those voting in the election.

Opinions and Viewpoints

1) Walker, Harvey, The Legislative Process, Ronald Press, 1948, p.52

> Restrictions on constitutional change in the states seems inconsistent with the tendency to include more and more legislative material in these documents. The longer and more detailed state constitutions become, the easier they should be to change.

2) Sturm, Albert L., Methods of State Constitutional Reform, Michigan Governmental Studies No. 28, Bureau of Government, Institute of Public Administration, University of Michigan, 1954

> It would appear that if proposed amendments are deserving of popular judgement, a determined effort should be made to devise procedures which will result in a more precise reflection of the popular will. The key role in developing more appropriate provisions in some states belongs, as so often is the case, to the legislature. Much can be done within the existing legal framework to reduce the burden on the voter and to stimulate interest among the electorate. The whole technique of legislative proposal will be careful re-examination to eliminate undue flexibility and rigidity and to promote quality rather than quantity in the organic law.

Conclusion

Briefly, the Constitutional Commission would make it slightly more difficult for the legislature to propose amendments, by requiring two-thirds instead of a mere majority of those present. It would, on the other hand, make it easier for the people to ratify an amendment, by requiring only a majority of those voting on the amendment instead of a majority of those voting at the election. These recommendations would seem to be in accord with the attitude of other authorities in the field, and would not only make it more possible for the people to amend their constitution, but would also perhaps, produce more responsibility in the legislature for proposing good amendments.

Bibliography:

1. *(Most recent & very comprehensive) - Sturm, Albert L. Methods of State Constitutional Reform, Michigan Gov't Studies No. 28 Bureau of Gov't, Institute of Public Administration, U. of Mich. 1954.
2. Preliminary & Final reports of Constitutional Commission of Minn. from Oct. 1947 – Aug. 1948 on The Amending Process.
3. Minnesota Canvassing Board Reports
4. Model State Constitution, Committee on State Government, National Municipal League, N.Y. Fifth Edition revised 1948

RELATED SUBJECTS

The term Legislative Reorganization as it applies to the state constitution covers a vast number of subjects under the general headings of organization, membership, procedure, aids and services, and powers. This material has not attempted to discuss in detail every aspect of each one of these subjects. Rather, the discussion has been limited to some of those which the Constitutional Commission felt needed the most improvement. It would, however, be a grave omission if no mention were made of some of the following areas in the field of legislative reorganization, some just as important if not more so, than the ones we have covered here. For those who wish to investigate these related subjects further, ~~references pertaining especially to them have been included in the bibliography~~ material pertaining to them can be found in many of the General references in the attached bibliography.

The Committee Structure (Legislative Organization)

It is generally recognised that the committee structure of most state legislatures is in serious need of attention. There is no provision in our present constitution for the establishment or regulation of committees, nor did the Constitutional Commission recommend any such provision. The Committee on State Government of the National Municipal League, however, felt that there should be a constitutional basis for the committee structure, and has included a section in its Model State Constitution for this, requiring the keeping of journals of proceedings, and requiring that notice of all hearings and subject matter be published in advance of meetings. The Model also recommends that one-third of the members of the legislature may relieve a committee of a bill when the committee to which it was assigned has not reported on it.

Legislative Research Committee (Legislative Aids)

The Legislative Research Committee was created by statute by the Minnesota legislature in 1947. The formation of this committee is considered to be a forward step toward solving our modern day problems and fulfilling the need for unbiased research as an aid to the legislature. In fact, a council of this type is considered to be of such fundamental importance that some students of the legislative process believe it should have a constitutional basis. The Model State Constitution has included four sections in its Legislative Article pertaining to the legislative research council - one providing for the formation of such a council, one concerning

its organization, one defining its duties, and one concerning compensation for its members.

Here again, then, is an example of a new provision, not now contained in our constitution, which could be considered by a constitutional convention.

Descriptive Features (Membership) ORGANIZATION

a.) Qualifications of Members, Eligibility, Contests. The Constitutional Commission did not see a need to change the present provisions of the constitution dealing with these subjects except to combine provisions from several sections into one.

b.) Compensation of Legislators. The provision in the present constitution which allows compensation to be fixed by law, but not to take effect during the period for which existing members were elected, was considered sound by the Commission, so left as is. Discussion of actual salaries or the need for increased compensation is not relevant in this material, as it is properly a matter for legislative deliberation.

c.) Length of Terms. No change was suggested by the Commission in the length of terms of Senators or Representatives. However, particularly in the case of House members who serve only one session during the two year term in most states including Minnesota, the length of term is important when considering continuity of membership and legislative experience.

Legislative Advisory Committee (Legislative Aids)

The Minnesota Efficiency in Government Commission (Little Hoover Commission) in 1949, recommended the establishment by constitutional amendment of a Legislative Emergency Committee consisting of the Governor and membership from the House and Senate as now prevails on the Legislative Advisory Committee. The Commission recommended that the duties performed by the Executive Council in issuing short term notes, the Allotment Board with respect to allotment of highway funds, and activities of the Land Exchange Commission, should be assigned to the Legislative Advisory Committee. In explanation, the Commission states that the Legislative Advisory Committee has served a good purpose in distributing the contingent fund, veteran's relief, general relief, and aids of the type which cannot have a definite basis of distribution. However, it was ruled by the Attorney General that the Legislative Emergency Committee as first created in 1939 was

unconstitutional in that it was acting in the administrative field. Consequently the name was changed to Legislative Advisory Committee and the legislative members of this committee under the law act in an advisory capacity to the Governor.

Legislative Powers

We have studied, in this material, powers over local government, highways, and a limited area of finance - the post-auditor. Legislative powers should also be considered from the standpoint of major expenditures such as education, health and welfare, and public works other than highways. A large portion of our present constitution is devoted to these subjects. The Committee on State Government which prepared the Model State Constitution felt that these matters did not belong in the constitution ,beyond a general authorization to the legislature, but practice among the states does not by any means conform with this recommendation. Framers of the Model felt specific enumerations of powers often come to be construed by the courts as restrictions to those specific powers only. Instead, the aim of the Model was to outline a general framework of constitutional powers which would guarantee to the state ample authority to establish and maintain a complete program of public welfare services.

Finance

It should be remembered that restrictions on the legislature in the area of finance are an integral part of the total problem. The recent League of Women Voters state publication, Dollars and Sense discusses extensively the constitutional relationship of legislative powers to state finance. Other authorities suggest improved methods for legislative review of the budget and for a more constructive relationship between the legislative and executive departments on fiscal matters.

TENTATIVE PLANS FOR 1955-56: CONSTITUTIONAL REVISION

The responsibilities of the Constitutional Revision Committee fall into three major categories:

1. Preparation of Basic Material

To be used by: a. Local Leagues for study and review
b. Others such as schools, libraries, individuals, organizations, etc., for factual information
c. Basis for preparation of popular tools

Type of material: Printed booklets on the following

Mrs Norgaard, if she will do it, otherwise B. Kane → a. Historical background of state constitutions, our constitution in particular, and recent trends in constitution making. This could be written in a somewhat popular form for widespread consumption. — (1)

Barbara Stahler → b. The Executive Branch
Betty Kane → C. The Judicial Branch
J. Chesley → d. The Legislative Branch
— (2)

Muriel Grundity → e. Local Government — (3)

Audrey Down ? → f. Taxation and Finance — (4)

2. Condensation of Basic Material

To be used by: League members, for more sure and rapid consumption. Purpose would not be to simplify the subject matter to the bone, but rather to get the vital points across to all our members. It would be recognising the fact that most women are busy beyond belief and in order to accomplish our purpose we must condense so that comprehension is a real possibility, not an unattainable objective. Those members whose interest is stimulated may always obtain the basic material also.

Type of material: Discussion guide in above booklets

~~a. Discussion outlines of basic material to aid unit resource chairmen and discussion leaders~~

b. Program articles in Articulate Voter

This material could be prepared by same persons doing basic material

3. Tools for Building Public Opinion

To be used by: a. Public Relations Committee
b. Minnesota Citizens' Committee for Constitutional Rev.

Type of material:

a. Flyers for mass distribution

One for immediate use in County and State Fairs

Further flyers, broadsides, or small brochures on the seven reasons under B of our state program - why we need to change the constitution and why we need a constitutional convention.

b. Sample speeches for Speakers' Bureau

c. Questions and Answers for radio and TV spots and interviews

d. Fact sheets for newspaper editors, speeches, general knowledge

Fact sheets and briefing material which have already been prepared can serve as basis for the first popular tools, because they deal with the B items on which the League has taken a stand. Later in the year, new material can be used for up to date fact sheets.

Needs of Constitutional Revision Committee

1. Resource members to do basic material and condensations
2. Several members to prepare popular tools
3. One person who will be responsible for setting up, manning, and supervising Speakers' Bureau
4. Editing of all basic and popular material
5. Reading of all basic material by experts outside the League, and by a reading committee within the League
6. Someone who can devise an attractive format for our material, which we can carry through as a theme for our CR work throughout the state - same form or color, perhaps, on all publications, basic and popular.

Further Possibilities for Implementation of Program

1. League workshops or area conferences on different phases of constitution - perhaps in 1956 after local Leagues have completed basic study
2. Meeting of all representatives of Minnesota Citizens' Committee for CR - perhaps in fall of '55, another in fall of '56? Speaker- Gov. Freeman?
3. Debating teams or public meetings in the 32 districts whose representatives or senators voted against the recent bill
4. Meeting with authors of recent bill to discuss course of action and points we should stress

Timing of Material and Action

Booklets ① and ② before Christmas (Oct. + Nov.)

③ and ④ soon after " (Jan. + Feb.)