

THE LEGISLATURE OF MINNESOTA

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## INTRODUCTION.

In order that we may see the very foundation of the law making power of a state legislature, we must examine the Organic Act of that State and the Constitutional Convention, which met to frame for the people a law which would define the scope of power that the departments of government could exercise. The people of the state in creating in their organic law a legislative department, conferred upon it all of their inherently sovereign and uncontrolled power of legislation, except in so far as they have delegated this power to the Congress of the United States, or prohibited it by limitations in the state constitution.

By an act of Congress passed February 26th., 1857, the people of the territory of Minnesota were authorized to form a constitution and state government preparatory to their admission in to the Union on an equal footing with the original states. Thereupon delegates from the council district were chosen by the people of the territory to meet in a constitutional convention on the second Monday of July following, to frame a state constitution and submit it to the people. The delegates met at the appointed day but a disagreement arose in the organization of the convention, the Republican members having organized one body and the Democrats another. Each of these bodies claimed to be the legal constitutional convention and proceeded with the work of framing an instrument to be submitted to the people. However after some days, an

amicable understanding was effected between them and by means of committees of conference the same constitution was framed and adopted by both sides. This constitution the people of Minnesota adopted on October 13th., 1857.

## Chapter 1.

### Constitutional Structure and Limitations.

The constitution, considered in respect to the legislative department, has been held by some of the courts to be a limitation upon the power of the legislature and not as a grant of power to that body. The constitution vests the power of legislation in two houses, the house of representatives and the senate. For the purposes of the election of members of the State Senate and House of Representatives, the State is divided into districts. At the first apportionment of the state there were twenty-six districts, but the legislature has power to reapportion and mark out new districts whenever it shall see fit to do so.

The members to the legislature of the State of Minnesota are chosen from the separate districts at an election, termed the general election, when also the Governor, Lieutenant-Governor, supreme and district judges, and other officers designated in the constitution as elective are chosen. The general election is held in the several election districts of the state on the first Tuesday after the first Monday in November of each even numbered year. The number of members who compose the senate and house shall and is prescribed by law, but the representation in the senate is not to exceed one member for every 5000 inhabitants, and in the house one member for every 2000 inhabitants. The representation in both houses is apportioned equally throughout the different

sections of the State in proportion to the population exclusive of Indians not taxable under the provisions of the law. The legislature of 1903 was composed of 63 senators and 119 representatives.

There are no other qualifications for members of the legislature than that they should be qualified voters of the state and shall have resided one year in the state and six months immediately preceeding the election in the district from which they are elected. The qualifications for electors are only those in regard to age and residence. There are no property qualifications at all. Every male person of the age of twenty-one years belonging to either of the following classes, who has resided in the United States one year, and in the state for months next preceeding any election, is entitled to vote at such election, in the election district in which he has at the time been resident for ten days:

- (a) Citizens of the United States.
- (b) Persons of foreign birth who have declared their intention to become citizens conformable to the laws of the United States upon the subject of naturalization.
- (c) Persons of mixed white and Indian blood who have adopted the language, customs, habits of civilization and who after an examination before any district court of the state have been pronounced capable of enjoying the rights of citizenship in the state. No person not belonging to any of these classes and no person who has been convicted of



treason, or any felony, unless restored to civil rights; no person under guardianship, or who may be "non compos mentis" is entitled or permitted to vote at any election in the state. For the purpose of voting no person is deemed to have lost a residence by reason of his absence while employed in the service of the United States, nor while engaged upon the waters of the State or of the United States; nor while a student of an institution of learning; nor while kept at any alms house: nor confined in any public prison. On the otherhand no soldier, seaman, or marine in the army or navy of the United States is deemed a resident of this State in consequence of being stationed there.

The legislature meets biennially commencing on the first Tuesday after the first Monday in January in the odd numbered years. The legislative term of a representative is for two years and that of a senator is for four years. The session of the legislature has been limited to ninety days by constitutional amendment, adopted at the general election in 1888. Neither house may during a session of the legislature adjourn for more than thirty days, Sundays excepted, nor to any other place than that in which the two houses are assembled without the consent of the other house. The legislature is open to the public during the sessions, except in cases in which secrecy is required.

The compensation to members of the legislature is mileage at the rate of fifteen cents a mile for going to and

returning from the capitol and \$5.00 per day for the legislative sessions computed by including the first and the last day of the sessions and every intervening day. The compensation may be changed by law, but no increase of compensation can be prescribed which shall take effect during the period for which the members of the existing houses may have been elected.

The internal organization of the house and senate is very much the same. At the head of the house is the speaker who is elected by the members at the first session of the legislature. At the head of the senate is the president of the senate. He is not chosen by vote of the senators but must always be the lieutenant-governor of the state. In many ways his power is similar to that of the speaker, but it is generally known that his position does not carry with it the authority that is granted to the office of the speaker. The other officers of the legislature are the chief clerks or secretary and their assistants, the enrolling and engrossing clerks, the sergeants at arms and chaplains; all these are elected at the first session of each legislature by the members thereof.

Distrust of our state legislatures appears in fundamental and mandatory provisions in the constitutions as early as our earliest admitted States, and most of the constraints imposed by the people in the constitutions were doubtless the offspring of public evils. However the restrictions on the State legislatures and legislation have become

so numerous and varied in our state constitutions, as scarcely to admit of classification. A mandatory provision in the constitution of Minnesota is for example the one to avoid hasty legislation, which demands that every bill must be read on three successive days, with free opportunity for discussion, before it is to pass, unless in case of urgency a vote of the house greater than the majority dispenses with the rule. In Minnesota, as also in all other states, there is a positive dislike of special legislation, and especially of that for the benefit of business corporations. Here also the Constitution has made it mandatory upon the legislature to pass general laws, and has prohibited the passing of laws for individual benefit, and those granting special privileges, immunities, and exceptions. The constitution has provided that there shall be no secrecy of procedure, and the galleries of each house shall be open to all persons who behave decently. To deter the members from abusing their power, it has been provided that no increase of compensation to members shall go into effect for the same session in which the bill passes; also that no member shall be appointed during his own term to an office newly created, or whose emoluments had been increased.

The constitution of the United States, as well as the State Constitution, not only points out such express prohibitions as have been stated, but from certain other provisions in the constitution, similar prohibitions can be implied. The United States Supreme Court has decided that the

following restrictions are imposed upon the states by implication:\*

(a) The legislature is not to interfere with the exercise of any authority belonging to the United States.

(b) It is not to interfere with the property of the United States by taxation or otherwise.

(c) It cannot lower the value of the United States bonds or paper money by taxation.

Formerly any change or amendment of the constitutions of our States could only be effected through the medium of a constitutional convention. While the delegates to the conventions were chosen directly by the people, yet there was not that exercise of popular sovereignty - a government by the common people - that is so much in evidence today. This movement toward popular sovereignty we might say, was effected by the referendum. The state constitution has become practically a law which the people made directly by voting at the polls. The state constitution of Minnesota may be changed by a bare majority vote at the polls, after the houses of two legislatures in succession have put the proposed amendment before the people. This movement of making a concrete submission of a new scheme by separate propositions, where there is an uncertain sentiment, and of proposing an occasional amendment to the people is rapidly gaining preference over the older method of holding constitutional conventions. It is evident by this scheme, the people are becoming more nearly the originators

\* 21 U.S. 264.

of their own system.

## Chapter 2.

## Methods of Work.

In the investigation of the methods of work of the legislature, it is best to begin with the Speaker of the House and President of the Senate considered with regard to their functions and powers.

The first duty of the House is the election of its Speaker. In the choice of the Speaker, the House is hampered by no restrictions of law or constitution, but precedent requires that the Speaker shall always be a member of the House. The only necessary qualifications of a Speaker are those required of all other members of the House. In practice the choice of the Speaker, especially in Congress, depends less upon his qualities as a moderator, his experience as a public man, and his personal character, than upon the complex inter-play of political factions striving for mastery in their own party. It is important, however, that the speaker should have some parliamentary experience and knowledge, for in every legislature there are many members who know little or nothing of the rules of the House and they feel their ignorance and helplessness, and must have some one to preside over them who really understands and knows the rules of procedure.

The Speaker acts as the mouth piece and representative of the House. Whenever the House wishes to express itself, whenever it wishes to stamp its authority upon anything, whenever, in short, it is necessary to act in its collective

capacity, it does so through its presiding officer. It is the duty of the Speaker to put to vote all motions and propositions which are in order. All orders of the House are carried out by him. He directs all proceedings. He is required to examine and approve the journal which is kept of all proceedings of the House, and cause it to be read each day. He must sign all acts, memorials, addresses and resolutions, and all writs issued by the House. The Speaker also performs numerous minor duties, such as calling members to order, and he has the right to name a member to perform the duties of the chair while he is absent. In short he represents the House in its powers, proceedings, and its dignity.

The duties of the President of the Senate are practically the same as those of the Speaker of the House. He represents the Senate as the Speaker does the House, and proceeds with the regular order of business.

The functions of the clerks of the House and the secretaries of the Senate are to keep a correct journal of the proceedings in each department and perform such other duties as are assigned to them as clerks. They must not allow any journal, records or papers to be taken from the table or out of their custody, other than in the regular course of business. They superintend the engrossing and copying of all bills. It is the duty of the Sergeant at Arms to attend the House or Senate during their sittings, to maintain order under the direction of the Speaker or President of the Senate, and

keep accounts for the pay of members and pay them as provided by law.

The Chaplains shall attend at the commencement of each day's sitting of the legislature and open the same with a prayer.

In order to trace the development of the Speaker's power, we must turn to a consideration of the parliamentary and political privileges of the speakership. The powers are really derived from three sources: the constitution and laws of the state, the rules of the House, and the practice of the Speakers, especially so embodied in previous decisions. On some occasions the Speaker is allowed certain freedom in putting a question before the House. When the House gets into such a tangle over some subject that the members do not know what is pending, the Speaker then is asked to state the question, and it is his duty to draw from the confusion of debate, the point of issue. In doing this, however, he has an opportunity to put his own construction upon it, and the shape which the question takes before the House is often apt to be largely influenced by the personal preference of the Speaker. So also when the House resumes the consideration of a report from a committee, the chair states at the same time the present condition of the subject. But his greatest power comes from the fact, that he has the right to appoint the members to the different committees. Through this power of appointment he has acquired a certain influential control



over legislation. As the Speaker is generally a party leader he naturally appoints to these committees men who hold the same political views.

When each new legislature is convened the chief clerk of the previous assembly calls the House to order and conducts the proceedings until a Speaker is chosen. In the Senate the Lieutenant - Governor calls the members to order. The secretary of state having furnished the clerks with lists of the names of the members elected, the clerk reads the names as each member answers as his name is read and proceeds to the desk of the clerk who then administers the oath of office. In the Senate the oath is administered by the Lieutenant Governor. When both houses are organized and are ready to proceed to business a joint committee is appointed to inform the Governor that the legislature is ready to receive his message.

On the meeting of the House, after reading the journal of the preceding day, the order of business is as follows:

- (1) Presentation of petitions or other communications.
- (2) Report of standing committees and second reading of the House bills.
- (3) Reports of select committees.
- (4) Motions and resolutions.
- (5) Introduction of bills.
- (6) Consideration of messages from the Senate.
- (7) First reading of Senate bills.

- (8) Second reading of Senate bills.
- (9) Third reading of the House bills.
- (10) Third reading of the Senate bills.
- (11) General orders.

Each newly elected House meets without rules for its guidance, and among the first acts of its first session is usually the adoption of the resolution that the rules of its predecessor shall be its own rules, subject of course, to such revisions as it may from time to time see fit to make. The House and Senate then adopt certain permanent rules which are to govern their respective bodies, and also a code of joint rules and orders to govern the legislature as a whole. The rules of parliamentary practice embraced in Jefferson's Manual govern the House and Senate in all cases where they are applicable, and in which they are not inconsistent with standing rules of the Houses.

The ordinary procedure on bills is a long and often tedious process. Bills may be introduced by order of the House on the report of a committee, or by any member in his place unless objected to by the House. Every bill must have prefixed to it the name of the person introducing it, and when reported for a committee, the name of that committee on it. After a member has obtained leave to bring in a bill, it is carried by messenger to the clerk, who reads it by title, and the Speaker announces the first reading. At this stage in the procedure objections are allowed to be raised

against the bill, and the question is whether it shall have a second reading. If there are no objections, the bill is read a second time, when it is referred by the Speaker to the appropriate standing committee for consideration. Then it is reported back to the House, and is ready for a third reading and now it must be considered in a committee of the whole before it can be finally acted upon by the House. After consideration in the committee of the whole, a bill or paper originating in the House must be engrossed and read a third time. On its third reading it must be read at length and no amendment can be received, except by unanimous consent of the House. After the bill is passed by a vote of the House, it is sent to the Senate with a message announcing the passage in the House, and the concurrence of the Senate is asked. Here too it receives three separate readings. Then, if the Senate concurs, the bill is sent back to the House, and referred to the committee on enrollment of bills. When properly enrolled, it is presented to the presiding officers of the House and Senate for their signatures, and when so signed, to the Governor for his approval, with a notification that it originated either in the Senate or the House. If the Governor approves it, he notifies the House in which it originated, of his approbation and deposits it with the Secretary of State. A bill can be passed over the veto of the Governor, if two-thirds of the members present in each House vote for its passage.

A bill that originates in the Senate pursues the same course, as one that originates in the House. It is required that the subject matter shall be clearly expressed in its title. Every bill shall be read on three different days, unless in case of urgency two-thirds of the House which originated the bill, deem it expedient to dispense with the rule, and no bill shall be passed until it has been read twice at length.

One of the most startling of prevalent abuses is the hasty passage of bills under the suspension of the rules, a device by means of which a large proportion, perhaps the majority of bills are carried through. On certain days and at any time during the last ten days of a session, motions to suspend the rules are in order. At these times any member may move to suspend the rules and pass any proposed bill. It requires two-thirds of the members voting to adopt such a motion. No debate or amendment of the bill is in order, so that if two-thirds of the House agree, a bill without discussion and without change passes through all the necessary stages of the ordinary procedure, and is made a law. In this way many measures of vital importance receive near the close of a session, without being debated, amended, or understood, the constitutional assent of the people.

One obvious comment to be made upon habits of procedure so palpably pernicious is that nothing could be more natural under rules so stringent as under the ordinary pro-

cedure on bills. The work of the committees is slow and deliberative, when often under the minor points are involved, and a very quick and easy way of getting rid of minor items is to let these bills of apparently innocent meaning and laudable intent, run through without commitment. This means also serves as an outlet, through which the delayed and accumulated business may be drained off as the end of the session draws near.

It is wonderful then considering the varied interests of all the people of the state, that under such a system of legislation, so few bad and disastrous things have been done.

Next in consideration is the system of standing committees. Standing committees are appointed by the Speaker as follows:

1. Appropriations.....	17 members.
2. Ways and Means.....	9 "
3. Judiciary.....	17 "
4. Public Accounts and Expenditures...	11 "
5. Railroads.....	17 "
6. Public Lands.....	17 "
7. Education.....	17 "
8. Agriculture.....	15 "
9. Municipal Legislation.....	17 "
10. Military Affairs.....	9 "
11. Corporations, other than Municipal.	17 "
12. State Prison and Reformatory.....	11 "

13. Claims.....	9 members.	
14. Grain and Ware-houses.....	17	"
15. Insurance.....	17	"
16. Immigration.....	7	"
17. State and Normal Schools.....	11	"
18. Hospitals for Insane.....	15	"
19. Temperance Legislation.....	15	"
20. Labor and Labor Legislation..	11	"
21. School for Defectives.....	7	"
22. State Training School.....	7	"
23. Road, Bridges, & Navigable Rs.	11	"
24. Banks.....	11	"
25. Printing.....	9	"
26. Elections.....	7	"
27. Commerce.....	5	"
28. Public Buildings.....	11	"
29. Rules and Joint Rules.....	5	"
30. State Library.....	5	"
31. Mines and Minerals.....	11	"
32. Engrossment.....	5	"
33. Enrollment.....	5	"
34. Forestry and Fire Protection.	11	"
35. Legislative Expenses.....	5	"
36. Soldiers Home.....	11	"
37. State Public School.....	7	"
38. Prison Labor.....	7	"

39. Logs and Lumber.....	9	members.
40. Public Parks.....	7	"
41. Taxes and Tax Laws.....	17	"
42. University and its Lands.....	7	"
43. Binding Twine.....	5	"
44. Local Mills.....	5	"
45. Manufactures.....	5	"
46. Geographical Survey.....	5	"
47. Town and Counties.....	15	"
48. Public Health.....	11	"
49. Game and Fish Lands.....	7	"
50. Drainage.....	11	"
51. General Legislation.....	17	"
52. Crime and Punishment.....	7	"
53. Census.....	5	"
54. Indian Affairs.....	5	"
55. Illuminating Oil.....	5	"

The great appointing power of the Speaker cannot be exercised with entire freedom, for the construction of a committee is a duty requiring the utmost caution and deliberation. It is involved in a multitude of considerations. He must seek to balance all these considerations not only to accomplish his own aims, please his party, satisfy individuals, but must meet the reasonable expectation of the minority and appear worthy to the people of the State. He must satisfy the claims, which have grown out of his election, he

must recognize the preferences of his party, and custom obliges him to recognize peculiar ability and reputation as well as previous service.

No special qualifications are required of members of committees. Usually the first named member of each committee is the chairman, and in his absence the next named member, unless the committee by a majority of its members elect a chairman. After the first reading of any bill introduced in the House, it is at once referred to its appropriate committee, whose business it is to deal with questions like the one presented. The commitment of a bill to its appropriate committee is left to the discretion of the Speaker, who here again has developed a powerful influence upon legislation. In this way all the legislative business is distributed among the various standing committees. Before commitment, measures as a rule, have been given but little consideration in the House where they were introduced. It is in the committees that the matter first receives careful attention and deliberation. The committees have the power to secure evidence and information, by the subpoena of a witness, or the calling in of a professional man or a person well versed in the matter that is under discussion. After the various things under consideration are thoroughly looked into and studied, and public sentiment in regard to the matter is recognized, it is reported to the House, where it is placed upon the calendar for the succeeding day under the order of the business. Bills can be



suppressed by the committees to which they have been referred by failure of the committee to make a report. In this way many resolutions and measures are determined, if that committee finds them of minor importance and decides not to give them recognition.

Special committees are as the name signifies, those committees which owe their existence to matters which require immediate attention to business which does not properly belong to the standing committees. The members are appointed by the Speaker the same as those of the standing committees in the House, and the size of the committees is usually decided by the nature of the investigation to be made. In the House it is generally left to the discretion of the Speaker, yet parliamentary law demands that he should be guided by the views of the House as expressed in the vote which calls for the appointment of the special committee. If the House orders that a thing shall be done, the Speaker should so compose the committee that the wishes of the House will be carried out. Special committees shall in all cases report a state of facts and their opinions thereon to the House.

## Chapter 3.

## Relation of the Legislature with the Other Departments.

Three departments characterize American political organizations, the legislative, executive, and judicial departments. The Constitution of the State of Minnesota provides that these departments shall be distinct, and no person belonging to one shall exercise any of the power properly belonging to the others, except in instances expressly provided in the constitution.\* No one of these departments is responsible to either of the others for the performance of its duties and thus no one can enforce the duties of the others. While such is the theory of government it is no longer an accepted canon and has never been entirely true in practice. The separation of powers is far from complete and the line of demarcation between them is often indefinite. Each of the departments normally exercises powers which are not strictly within its province. There we find the legislative department often exercising functions that are really encroachments upon the powers of the other departments. The legislature for example exercises a control over the executive in the organization of the department. It can create offices, and requires that the sanction of the Senate be essential for all appointments made by the chief executive. But some courts have held that it cannot appoint officers, excepting such as relate to the exercise of its own functions, unless the power to do so is conferred by

\* Art. 4. Constitution of Minnesota. (3) 19 Minn. 123.

express constitutional provision. Appointments to office and removals are by most courts held not to be per se executive functions, though there are contrary decisions, and unless authority to make them is especially conferred on that department, the legislature may vest it elsewhere.

Another check by the legislature upon the power of the executive department is through the call for reports, and by investigations made by committees from the legislature. The law requires the State Treasurer to report to each branch of the legislature the condition of the public accounts, and to publish the same once in two months in some newspaper published at the capitol city\*. It is required that a board of auditors consisting of the Governor, Secretary of State, and Attorney-General be appointed to carefully examine and audit the accounts at least four times a year, and then to make a report to the legislature. The Governor too is required to make a report of the condition of affairs in the state to the legislature at regular intervals as well as upon special demand of that department. The law also requires a joint committee to be elected annually from the legislature to examine the Treasurer's accounts and report the true condition of that department to the legislature.<sup>(2)</sup> In fact all the different state boards, as the state board of corrections and charities, the state board of health, and others, are required by certain sections of the Minnesota statutes<sup>#</sup> to submit their

\* R.S. Minn. 344. (2) R.S. Minn. 2519. <sup>#</sup> Same 426, 460.

regular reports to the legislature. Thus in the absence of constitutional restrictions, we find the legislature exercising a marked control over the executive, but when by the terms of the constitution, certain powers are vested in the executive department, the legislature can neither exercise such powers itself nor vest them in any other department.

But on the other hand we find the executive exercising functions that are in fact legislative in their nature, and which serve as checks upon the legislative department. The state constitution gives the Governor a negative upon all laws passed by the legislature\*. He may also, upon extraordinary occasions convene both houses of the legislature, and may recommend the passage of certain bills.

The distinction between the functions of the legislature and judicial department of government are fairly well defined. The former establishes rules that shall regulate and govern in matters occurring subsequent to legislative action while the latter determines the rights and obligations with reference to transactions that are past or conditions that exist at the time of the exercise of judicial power. In practice however the legislature exercises certain functions that are really judicial in their character. By the power of impeachment exercised by the legislature, it has really encroached upon a function per se judicial. In a few states the power to grant divorces and pardons has been exercised by

\* Art. 5. Sec. 4. Minnesota Constitution.

the legislative departments, but this function is expressly denied the legislature of Minnesota by the constitution."

By legislative construction of laws, it frequently exercises a control over judicial procedure. The constitution of Minnesota expressly provides that the legal pleading and procedure in courts of the state shall be under the direction of the legislature.<sup>#</sup> It has been decided by some courts, that declaratory statutes, intending to put an end to a doubt as to what the common law is, or as to the meaning of another statute, and which declare what the law is and ever has been, are without the sphere of constitutional legislative action. In so far as these acts are retrospective, they can neither overturn an interpretation already given by the courts, nor bind the latter with respect to the application of the original statute, to transactions which occurred prior to the passage of the declaratory act. Yet the United States supreme court<sup>"</sup> held that a statute which changes the common law or modifies an existing statute is not invalidated by the fact that it assumed the law to have been in the past what it now declared it to be for the future. There is however authority for the contention that a legislative body cannot compel the courts to adopt a particular construction of a law which the legislature permits to remain in force, and that unless the declaratory act constitutes an express or implied amendment of the original act, it will not be binding upon the courts,

\* Art. 6. Sec. 14. <sup>#</sup> Art. 4. Sec. 28. "4 U.S. 527.

even though it be entirely prospective in its operation. This view is supported by the great authority of Judge Cooley.

Formerly the legislature frequently exercised the power of granting new trials, but the modern rule set forth in the Minnesota constitution as also in many other state constitutions, is that no power exists on the part of the legislature to grant new trials, or to authorize the opening of a judgment previously rendered, after that remedy under the general law has expired. It has been held\* that the statute was unconstitutional which sought to confer a right of appeal in a case where no right existed when judgment was rendered.

The legislature also exercises a control over judicial offices, since by the constitution# it has the power to divide the state into judicial districts and to prescribe how many judges shall be elected by each district. The legislature also has the power" to fix the compensation for supreme and district judges. The courts of Minnesota\*\*\* have held that the legislature could demand that the district court be held in a certain place of each district.

On the other hand the judicial department exercises checks upon the legislative power. After the enactment of laws by the legislature it is the duty of the judiciary to ascertain their true meaning and determine upon their

\*61 Minn. 539. # Art. 6. Sec. 4. Minnesota Constitution.

" Art. 6. Sec. 6. of same. \*\* 14 Minn. 447.

construction. It has become the settled canon of American jurisprudence that the power to determine whether or not a statute is in harmony with the constitution resides in the judiciary alone. A statute that conflicts with the constitution, must be declared invalid by the courts, but the unconstitutionality of a statute must be clear and manifest before it should be declared so. This rule has been laid down by the United States Supreme Court, that it is not within the province of the judiciary to inquire into the motives actuating the law-making body. Not only has the judiciary acquired power in matters in legislation through interpretation of statutes and judging of their constitutionality, but also by determining the legality of the organization and regularity of the procedure of the legislature, has it assumed a check upon the legislative body. All this will show that the separation of the powers of government is not completely carried out; that the three departments are not entirely independent and distinct, but that there exists in fact a system of checks and balances which tend to prevent abuses and the concentration of all power in a single department.

## Chapter 4.

## Party Influence in the Legislature.

In order to ascertain whether or not the political party exercises any influence in the legislature, a study was made of the journals of each House, and the aye and nay votes on every bill introduced and resolution proposed were counted. An investigation of the legislative sessions of 1889 and 1903 show the following results as tabulated in a chart given at the close of the chapter. Upon these figures the conclusions on this subject have been drawn. The chart is divided into five parts, according to Professor A Lawrence Lowell's plan,\* showing, (1) the true party vote, (2) a party vote on one side, where the majority of the other party is opposed, (3) a party vote of one party with the majorities on the same side, (4) a no party vote, and (5) the unanimous vote. A party vote has been arbitrarily defined by Professor Lowell as one in which nine tenths of the members of the party voted on the same side of the question, and this definition has been closely adhered to in this investigation of the votes in the legislature of Minnesota.

In 1889 there were 103 members in the House, and out of these there were 90 Republicans, 11 Democrats, and 2 Independents, but the vote of the last class has not been considered and merely deducted from the total number of members voting on any bill. During this session of the House

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Amer. History Assn. Reports. 1901.



there was not one true party vote on any measure or resolution that came up for consideration before it. And although the figures under the second two divisions of the charts show a slight tendency among the members of one or the other party to cling together, yet in a good many instances this seemed to be merely on questions of procedure, and in only few cases directly connected <sup>with the</sup> enactments of laws. On the other hand there were 163 instances when the party split, and where no party vote was cast, and 294 times were both parties agreed and a unanimous vote was recorded.

In the Senate for the same session there were 47 members, 31 of this number being Republicans, 14 Democrats, and the remaining two Independents. During the session there were only two true party votes cast. One of these was the election of the president protem, who practically has no control in the matter of legislation and has little connection with the public policy; the other was on a dispute in the matter of the rules of procedure. The number of instances where one party voted together, and where the majority of the other party was opposed, was nine, but these as a rule were on measures having no direct bearing on the question of legislation. The other figures did not vary much from those of the House, and the questions involved were usually on points in procedure. In order to get a percent of the voting by party in each House of the legislature for this session, the number of cases where a party vote was cast, including

in this class the two divisions where one party voted as a body and the other did not, was divided by the total number of recorded votes, and the result showed that it was but 4% in the House, and 3% in the Senate.

In the session of 1903, the House had 104 Republicans and 14 Democrats, and in the Senate there were 12 Democrats and 51 Republicans. There were only two true party votes cast, and both of these were in the House. One was on the election of the Speaker, and the other on a bill prohibiting the desecration of Decoration Day. The total number of bills introduced during this session was not so great as in 1889, but the percentage of party voting did not vary to a great extent, being about 4% in the House, and 2.5% in the Senate.

Although an investigation of only two sessions of the legislature may not warrant a definite conclusion to be drawn, yet the figures show for these two sessions that there is practically no party voting at all and that the popular opinion that the political party exercises a powerful influence in the matter of legislation in our States is groundless. The parties in America are essentially national parties. They exist primarily to elect the President and only in a secondary degree to elect the state officers. Hence they are divided mainly upon national issues and it is difficult for them to take sides upon questions of state legislation without drawing lines that cut across the regular party lines. As a result of this it happens that the members

of the state legislature are elected on party lines that have comparatively little connection with the question they are called upon to decide.

	True party vote	Party vote on one side. Majority opposed.	Party vote on one side. Majority on same side.	No party vote.	Unanimous vote.
House 1889.	0	5	57	163	984
Senate 1889.	2	9	30	172	932
House 1903.	2	5	25	72	569
Senate 1903.	0	5	10	91	570

	Percentage of true party vote.	Percentage of party vote on one side. Majority opposed.	Percentage of party vote on one side. Majority on same side.	Percentage of no party vote.	Percentage of unanimous votes.
House 1889.	0%	.41%	4.8%	13.4%	81.4%
Senate 1889.	.17%	.76%	3.3%	14.0%	82.0%
House 1903.	.29%	.74%	3.4%	10.7%	84.8%
Senate 1903.	0%	.73%	1.48%	13.4%	84.0%

## Chapter 5.

## The Personnel of the Legislature.

The personnel of the Minnesota legislature is represented by charts, given at the close, in which the nativity and occupation of the members of the House and Senate is shown for every alternate session from 1866. Until 1879, the legislature met annually, so that figures for the personnel are given every second year, but after 1879, the figures show the occupation and nativity of the members every four years. Under nativity two main divisions have been made giving the American and foreign elements. The native born are subdivided into four classes: those born in Minnesota, the New England State element, those from the north central states, and finally those from all other states. Those of foreign birth are divided into three classes, the Scandinavians, Canadians, and all other foreigners. Under occupation the following heads have been made: Farmers, lawyers, merchants, real estate dealers, and bankers, although a great diversity of other occupations are to be found.

Comparing the figures on the nativity of the members of the House, it is seen that from 1873 on, approximately 50% of the members are foreigners, and of the latter about 50% are Scandinavians. In some cases, from the kind of laws that have been enacted, it is evident that this element has exercised a quite powerful influence on legislation. In the Senate the percentage of foreigners is not

so great as in the House, but here also about 30% are not native born. Of the Americans in the House from 1866 to about 1890, the greatest number are from the New England states, but each session shows a gradual decline in the representation of this class, and brings with it a new element from the north central states. It was not until 1879 in the House, and 1891 in the Senate, that a native born Minnesotan held a seat in the legislature. From that time on a great increase can be noticed, until at present there are 28 out of 76 Americans in the House and 17 out of 51 in the Senate.

Examining the occupation of the members of the legislature, it is found that although the same kind of business interests are represented in the House and Senate, yet the importance of one occupation over another varies greatly in the two houses. In the House the farmers have always been predominant, and averaged about 50% of the total number of representatives for the sessions from 1866 to 1891. But the figures show a decrease in the importance of this class in the last four or five sessions, and a gradual increase in representation of the lawyers, and also the marked influence of the merchantile class and real estate men. In the Senate the lawyers are most in evidence, averaging almost a third of the total representation in the Senate. Here also there has been a tendency toward the decline of the farming class, accompanied by an increase in the importance

of merchants and bankers. Under the head of miscellaneous occupations there is such diversity as scarcely to admit of any classification, but among these occupations an occasional doctor, lumberman, teacher, is discernible. As a whole however, the table shows that there exists in Minnesota no leisure class, or body of professional politicians who have assumed to carry on the work of legislation in one state government, but that all the occupations are fairly well represented. However there has been a marked increase in the number of lawyers in both the House and Senate with a gradual crowding out of the merchant and farming classes. This no doubt can be attributed to the condition of the times, since competition in the commercial world has become more stringent, and business men feel that their own interests demand their first and entire attention.

## Occupation of the Members of the Senate of Minnesota.

	Farmers	Lawyers	Merchants	Real Estate Dealers	Bankers	Miscellaneous	Total number of members
1903	5	22	11	6	8	11	63
1899	3	26	12	2	5	15	63
1895	7	15	7	2	7	16	54
1891	19	7	5	1	4	18	54
1887	13	4	8	1	6	15	47
1885	6	11	10	0	9	11	47
1879	10	7	5	2	2	15	41
1877	8	10	5	0	5	13	41
1875	8	11	9	0	3	10	41
1873	12	4	10	0	1	14	41
1871	6	6	2	0	1	7	22
1869	2	9	6	1	0	4	22
1866	6	8	2	1	0	4	21

Occupation of Members of the House of Representatives of  
Minnesota.

	Farmers	Lawyers	Merchants	Real Estate Dealers	Bankers	Miscellaneous	Total number of members.
1903	34	23	21	10	3	28	119
1899	45	20	22	7	1	24	119
1895	44	10	21	3	3	33	114
1891	62	11	12	5	3	21	114
1887	57	8	12	7	2	17	103
1885	52	10	11	3	7	20	103
1879	56	12	17	2	2	17	106
1877	53	5	15	3	0	32	106
1875	51	7	13	2	2	31	106
1873	51	10	16	2	2	25	106
1871	19	5	7	2	2	12	47
1869	17	8	8	3	1	10	47
1866	19	6	4	0	1	12	42



Nativity of Members of the Senate of Minnesota.

	American	Minnesota	New England States	North Central States	Other States	Foreign	Scandinavian	Canadian	Other Countries	Total number of members.
1903	51	17	14	17	3	12	9	1	2	65
1899	56	16	14	23	3	7	5	0	2	63
1895	41	8	16	16	1	13	10	0	3	54
1891	35	1	17	10	7	10	0	1	9	54
1887	29	0	22	7	0	18	10	3	5	47
1885	33	0	27	6	0	14	6	2	6	47
1879	28	0	24	2	2	13	5	5	3	41
1877	30	0	25	4	1	11	4	2	5	41
1875	31	0	24	7	0	10	4	2	4	41
1873	30	0	23	3	4	11	5	1	5	41
1871	17	0	15	4	0	5	0	1	4	32
1869	18	0	15	2	1	4	0	1	3	33
1866	10	0	16	3	0	2	0	0	2	21

Nativity of Members of the House of Representatives of  
Minnesota.

	American	Minnesota	New England States	North Central States	Other States	Foreign	Scandinavian	Canadian	Other Countries	Total number of members.
1903	76	28	21	36	3	43	21	9	11	119
1900	72	16	20	24	3	47	23	10	14	119
1895	77	13	33	23	9	37	18	6	13	114
1891	78	10	30	21	7	36	19	5	12	114
1887	64	6	35	17	6	39	16	4	19	103
1885	67	5	38	25	1	36	11	4	21	103
1879	66	0	49	13	4	40	15	3	22	106
1877	67	0	45	18	4	39	16	4	19	106
1875	66	0	52	12	2	40	10	4	26	106
1873	68	0	48	16	4	38	13	5	20	106
1871	35	0	32	3	0	12	5	1	6	47
1869	36	0	26	7	5	11	3	1	7	47
1866	34	0	23	7	4	8	0	2	6	42

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