MINNESOTA CONSTITUTIONAL STUDY COMMISSION

FINAL REPORT

February, 1973

AN ACT

Relating to the legislature; establishing certain interim study commissions; appropriating money.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. * * * * *

Section 2. * * * * *

Section 3. Subdivision 1. (CONSTITUTIONAL STUDY COMMISSION.) A commission of 21 members is created consisting of six members of the house of representatives appointed by the speaker, six members of the senate appointed by the committee on committees, one person appointed by the chief justice of the supreme court and eight interested citizens, including the chairman, appointed by the governor.

Subd. 2. (SCOPE OF STUDY.) The commission shall study the Minnesota Constitution, other revised state constitutions and studies and documents relating to constitutional revision, and propose such constitutional revisions and a revised format for a new Minnesota constitution as may appear necessary, in preparation for a constitutional convention if called or as a basis for making further amendments to the present constitution. It shall consider the constitution in relation to political, economic and social changes. It shall report to the governor, the legislature and the chief justice on November 15, 1972, recommending such procedures as it may deem necessary and proper to effectuate its recommendations.

Subd. 3. (SUBCOMMITTEES; HEARINGS; WITNESSES.) The commission may appoint committees made up of citizens of the state to deal with particular problems or phases of its study, but there will be at least three members of the commission on each committee. The commission and its committees may hold hearings at the times and places as convenient for the purpose of taking evidence and testimony to effectuate the purposes of this act, and for those purposes the commission and its committees may issue subpoenas. In the case of contumacy or refusal to obey a subpoena issued under the authority hereof, the district court in the county where the refusal or contumacy occurred may upon complaint of the commission by its chairman punish as for contempt the person guilty thereof. Witnesses shall be paid the fees and mileage required to be paid to witnesses in civil actions in district court, but fees need not be paid in advance unless ordered by the commission or by the committee issuing the subpoena.

Subd. 4. (EXPENSES PAID.) Members of the commission and its committees will serve without compensation but shall be allowed and paid their actual traveling and other expenses necessarily incurred in the performance of their duties as provided for state employees. The commission may employ expert clerical, legal and other professional aid and assistance; and may purchase stationery and other supplies; and do all things reasonably necessary and convenient in carrying out the purposes of this act.

Subd. 5. (APPROPRIATION.) $25,000 is appropriated from the general fund to the commission for the purposes of this act. Expenses of the commission shall be approved by the chairman or another member as the rules of the commission provide and paid in the same manner that other state expenses are paid.

Sec. 4. * * * * *

MINNESOTA CONSTITUTIONAL STUDY COMMISSION

G-19E Administration Building/St. Paul, Minnesota 55155

Senators and Representatives of the Legislature
Governor Wendell R. Anderson
Chief Justice Oscar R. Knutson

The Constitutional Study Commission takes pleasure in transmitting herewith a copy of its report as required by Chapter 806, Laws of Minnesota, 1971.

After a careful examination of Minnesota's 115-year-old Constitution, the Constitutional Study Commission generally concluded that the original document as amended since adoption is an adequate statement of the relationship between the people of this State and their government. This overall reaction was further confirmed by examination of the constitutions of other states, many of which are cluttered with an alarming amount of detail which Minnesota largely, and more wisely, leaves to the discretion of the Legislature.

No state's constitution is perfect, however, and Minnesota's Constitution is no exception. As a result, we are herein submitting our recommendations for many substantive changes, for a revised constitutional format, and for a strategy for implementing our recommendations in a phased and orderly manner over the next few years.

It must be emphasized that the following recommendations embody only a few of the many constitutional amendments suggested by this Commission for future submission to the voters. It must also be emphasized that many aspects of Minnesota's Constitution have not been exhaustively studied by this Commission. Our recommendations identify many problems which will need careful review by a future study group.

The Constitutional Study Commission recommends that the 1973 Legislature implement the following suggestions on the method of constitutional change and consider the following amendments for inclusion on the 1974 ballot.

Minnesota's Constitution should be revised by a series of comprehensive amendments to be submitted in a phased and orderly manner over the next few elections. (See pages 10 and 13.)

The Legislature should authorize the creation of another constitutional study commission, adequately staffed and financed, to continue an in-depth study of Minnesota's Constitution and recommend further revisions to future legislatures. (See pages 11 and 13.)

As priorities for action by the 1973 Legislature, the 1972 Constitutional Study Commission recommends five constitutional amendments:

(1) A revised constitutional structure for Minnesota, deleting obsolete and inconsequential provisions, clarifying and modernizing the language, and reorganizing logically related provisions, thus providing a well-structured and coherent document that would facilitate orderly revision. (See page 14.)

(2) A "Gateway Amendment" which would open the door to thorough-going reform by the amendment route. This gateway amendment would ease the difficult ratification majority of our Constitution, allow limited citizen initiative on the legislative article, and provide for a special election on amendments by a two-thirds legislative vote. The gateway amendment would also relax the requisites for holding a constitutional convention by lowering the legislative majority needed to submit the call and the voter majority needed to ratify the call. (See pages 29-32.)

(3) An amendment to the reapportionment sections of the legislative article which would set up standards for redistricting and remove the reapportioning power from the Legislature to a bipartisan Districting Commission of 4 legislative and 9 non-legislative members. (See pages 17-19.)

(4) An amendment to the finance article which would allow for a "piggyback income tax" system by permitting the State to levy taxes computed as a percentage of federal taxes. (See page 26.)

(5) An amendment repealing the gross earnings tax paid by railroads in lieu of other taxes, thus allowing the Legislature to set the form and rate of taxation on railroads as it does for other industries. (See page 28.)

Because of the nature of constitutional revision, the Constitutional Study Commission is hopeful that, with your leadership and the continuing efforts of the citizens of our State, the recommendations proposed by this Commission will begin to be implemented by the 1973 Legislature. With that kind of dedicated effort, we are convinced that Minnesota will have a Constitution which will contribute markedly to the responsible and responsive state government which its citizens desire and deserve.

Respectfully submitted,

ELMER L. ANDERSEN, Chairman

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SUMMARY OF RECOMMENDATIONS OF THE CONSTITUTIONAL STUDY COMMISSION

(The following summary of Commission action on its eleven committee reports is arranged in the order most closely approximating that of the present Constitution.)

The Constitutional Study Commission recommends that Minnesota's Constitution be updated and improved by means of a comprehensive series of amendments submitted in an orderly manner over a number of elections. The present Commission recommends that it be succeeded by another study commission, which would advise succeeding legislatures on the content and priority of future amendments. (See pages 13 and 14.)

In order that constitutional improvement be facilitated, the Commission recommends the adoption of a Gateway Amendment, easing Minnesota's difficult amending process. The contents of this amendment are summarized below and discussed on pages 29 to 32. (Draft language constitutes Appendix G of this report.)

In order that all future amendments can be fitted into a coherent, clear, well-structured document, the Commission recommends the adoption of the revised constitutional framework summarized below and discussed on page 14. (Draft language constitutes Appendix C of this report.)

Other amendments recommended for submission on the 1974 ballot are starred in the presentation below.

Revised Constitutional Format

Constitutional Change	* By stylistic changes, reordering of related sections, the deletion of obsolete, redundant and unnecessary verbiage, the present constitutional provisions can be clarified; comprehensibility and coherence of the document improved; the number of words reduced by about one-third; and the number of articles reduced from 21 to 14. Recommendations do not make any consequential changes in the legal effect of the document (p. 14; amendment text, p. 43)

Bill of Rights (Article I)

Constitutional Change	Addition of a section on due process and equal protection of the laws (p. 15)
	Addition of a section guaranteeing the freedom of assembly (p. 15)
Statutory Change	Implementation of the new due process and equal protection section by (1) protecting groups suffering discrimination and (2) guaranteeing the individual access to information on himself collected by public or private agencies (p. 15)
Not Recommended	Right to bear arms provision (p. 15)
Further Study	Mechanics liens (p. 15)

Legislative Branch (Article IV)

Constitutional Change	Authorization for the Legislature to call itself into special session by a two-thirds vote of both houses (p. 16)
	Authorization for revenue bills to originate in either House or Senate (p. 16)
	* *Changes in reapportionment sections* (amendment text, p. 52):
	Explicit provision that the Senate be elected after each new districting and thereafter for four years until the next districting (p. 16)
	Removal of reapportioning power from the Legislature to a Districting Commission (p. 17)

* Recommended by the Commission for inclusion on the 1974 ballot.

INTRODUCTION

To amend a constitution — or replace it with a new one — requires the participation of both legislators and citizens.

In most states, including Minnesota, only the legislature can *initiate* changes; in 14 states, either the legislature or the citizens can do so. In all states, only the citizens can *adopt* these changes.

In Minnesota, as we shall see below, extraordinary citizen interest is required to effect constitutional revision.

It is for this reason that the Constitutional Study Commission is addressing its report to the people of Minnesota as well as to the 1973 Legislature. The 12 legislative and nine non-legislative members of the Commission are convinced that with earlier citizen input, constitutional amendments would be more carefully selected for ballot submission by the Legislature, more thoughtfully drafted in committee, and more intelligently understood in the voting booth.

If the recommendations of the Constitutional Study Commission are adopted by the 1973 Legislature, Minnesota will be committed to a more intensive and comprehensive process of constitutional revision than at any time in its history. This process should be both more interesting and more successful if Minnesotans refresh their memories about the proper role of a constitution, the history of our State Constitution and the changes we have made in it, then discuss the changes still needed and the best way to make them.

Section One of this report gives background information on Minnesota's constitutional history, from the beginning of statehood to the appointment of the Constitutional Study Commission of 1972. The two different ways in which Minnesota has amended its Constitution, and the results of these two widely varying approaches, are given special attention in this section.

Section Two reviews the different ways in which the Minnesota Constitution could be revised — by constitutional convention, by piecemeal amendments, or by a variation of the amendment process being used in many states. This section gives the arguments for and against each of the three alternatives and the Commission's reasoning for its choice of the third method—commonly known as phased, comprehensive revision.

Section Three summarizes the work of the Commission's 11 study committees, recommending specific constitutional changes to be made by amendment; identifying constitutional provisions which, after careful consideration, we feel should be left as they are; suggesting some important changes which we believe are better suited to statutory than to constitutional treatment; and designating areas for further study.

Section Four discusses the changes which the Constitutional Study Commission is suggesting for priority action by the 1973 Legislature.

The appendixes (1) show how Minnesota's Constitution has been improved since the 1948 study commission made its report; (2) outline the uses and composition of constitutional commissions in other states; and (3) give the language of the five constitutional amendments which the Commission advocates be placed on the 1974 ballot.

All of the final decisions of the Commission are contained in this report. However, the mimeographed reports of its study committees, available in the Commission office, give much greater detail on the arguments for and against the changes finally adopted.

SECTION ONE

MINNESOTA'S CONSTITUTION: ITS HISTORY AND ITS FUTURE

NATURE AND PURPOSE OF A CONSTITUTION

It is quite possible for a democratic society to function efficiently without a written constitution. Great Britain has none, nor do the member states of many federations, including most Canadian provinces.

In America, however, the written constitution has a long and honored history. Still aboard ship, ten days before landing on Plymouth Rock, the Pilgrims welded themselves into a "civil Body Politick" through a document known as the Mayflower Compact and signed by all male passengers, in which they agreed to abide by the majority decision as to "just and equal laws."

Two months before the Declaration of Independence, the Continental Congress further hallowed this tradition by urging the 13 revolting colonies to "adopt such governments, as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents."

The colonies promptly responded by turning their royal charters into constitutions or by adopting new documents. Action was taken by the colonial assemblies or by conventions called by these assemblies, which bodies then proclaimed the documents in force. In 1780 came the first full participation of citizens in the constituent (constitution-making) power. In Massachusetts the people elected delegates to a convention called for the express purpose of drawing up a new constitution. When drafted, the people voted on its adoption.

The pattern was now fully set. As new territories applied for admission to the Union, they were asked by Congress to hold conventions to draft constitutions. The new documents had then to be accepted by the voters and approved by Congress.

Old or new, original or revised, the constitutions of our 50 states have several things in common. Uniformly, they do the following:

1. Establish a general framework of government, providing for an executive, legislative, and judicial branch.

2. Grant the legislature explicit powers in several areas, notably taxing and spending, suffrage and elections, education and relations with local units of government.

3. Prohibit legislative action in several areas of civil rights (bills of rights).

4. Make arrangements to change the existing document.

It is generally conceded that the best of these 50 state constitutions are the oldest, which were modeled on the federal Constitution, and the very newest, those of Alaska and Hawaii. They are brief and confined to basics. They have the outstanding virtue of distinguishing constitutional and statutory law. Constitutional law, being fundamental, is made by the people; statute law is made by the representatives of the people, as and when it is needed.

In the nineteenth century, when most state constitutions were adopted, this distinction between constitutional and statutory law became blurred, even lost. The reason was a prevalent distrust of legislatures. The frontier individualists who assembled to write the new constitutions acted almost like legislative bodies. They wrote long, detailed, statutory-like provisions, hoping to leave little for future lawmakers to decide. They put rigid restrictions on all branches of government, but especially the legislature.

Minnesota's Constitution, having been written in the middle of the nineteenth century, shares these flaws of inflexibility and verbosity. However, many subsequent amendments have improved the workability and the clarity of the document. In assessing the changes still needed to make our Constitution an efficient charter of action, the Constitutional Study Commission was less concerned with perfection of form than with these pragmatic questions:

1. Does the present Constitution *prohibit* a branch of government from doing something it *ought to be permitted to do,* if it so decides?

2. Does the present Constitution *permit* a branch of government to do something it *ought to be prohibited from doing?*

3. Does the present Constitution *permit* a branch of government to do or not to do something it *ought to be required to do?*

When the answer to any of these questions was yes, the Commission has either recommended specific change or asked that future commissions give the matter careful study.

RECENT CONSTITUTIONAL REFORM IN THE UNITED STATES

In the last twenty years, the United States has been one huge experimental laboratory in constitution-making. To the traditional methods of constitutional convention and separate amendment have been added some ingenious variations and combinations.

Constitutional reform received great impetus in the early 50's from the report of President Eisenhower's Commission on Intergovernmental Relations. In assessing the imbalance between federal and state activity, the Commission laid less blame on federal encroachment than on defaulting state governments:

> Many state constitutions restrict the scope, effectiveness, and adaptability of state and local action. These self-imposed constitutional limitations make it difficult for many states to perform all the services the citizens require . . . The Commission finds a real and pressing need for states to improve their constitutions.[1]

States began responding — quickly, effectively, and in increasing numbers — to the Commission's challenge "to provide for vigorous and responsible government, not forbid it."[2]

Response from legislative bodies was particularly encouraging. In the past, where a rare constitutional convention was held or major revision otherwise achieved, the push came from the citizens — resistance being the chief legislative input. But by the beginning of the 70's, the consensus of political scientists could be stated thus: "The last two decades have witnessed the spectacular development of more systematized efforts by state lawmaking bodies to determine the major weaknesses in their constitutional systems and to develop proposals for correcting them."[3]

Between 1950 and 1970, 45 of our 50 states took official action to modernize their constitutions. The process has been an accelerating one, so that between 1966 and 1971 alone, 35 states were so engaged. (Add to these figures from the *Book of States*[4] North Dakota and Montana, which held conventions during 1972.)

Thus Minnesota is one of a handful of states which have not been "officially" engaged in constitutional modernization since 1950. A short look at Minnesota's constitutional history shows us the reason.

A HISTORY OF CONSTITUTIONAL REVISION IN MINNESOTA

The Document—Minnesota's constitutional convention of 1857 was hastily called for a single purpose — to take advantage of a railroad land grant act just passed by Congress and available only to states.[5]

Bitterness between the 59 Republican and 55 Democratic delegates was so deep that they met in a single convention for about two minutes at noon on July 13, 1857. Thereafter, for over a month, two rump conventions met in two adjoining rooms of the same building, drafting two completely different documents for the same state.

Pressed by national party leaders to stop acting like "border ruffians," the conventions interrupted their acrimonious denunciations long enough to each appoint five members to a conference committee. A week later, on August 28, the conferees had somehow fashioned from two partially finished constitutions, at wide variance with each other, a compromise constitution for the new state. This was accepted the next day, almost without discussion, totally without inspection.

A few stubborn delegates refused to affix their names to a document signed by members of the other party. Therefore, 16 copyists worked the night, hastily and by lamplight, to produce two copies, one for Republican, one for Democratic signature. These two documents contain more than 300 differences of spelling, punctuation, and even wording. Since the courts have never decided which is the definitive document, Minnesota has the distinction of being the only state with two official constitutions, both on file at the State Archives.

The miracle is that Minnesota's Constitution is as good as it is, considering both the circumstances of its birth and the nineteenth-century fashion for detailed, restrictive provisions.

Minnesota's Constitution can best be described as "average." In length its 15,864 words place it between Vermont's 5,000 and Louisiana's 236,000. It is not one of the most detailed, but is nevertheless full of statutory directives. It is not one of the most restrictive but could scarcely be called fundamental. It is not as rigid as many but is a far cry from the "self-revising" federal model. It has not needed as much change as the average, but its amendments are still far from sufficient.

Constitutional Change, 1857 to 1947—Just how Minnesota's Constitution was to be changed formed the "Great Compromise" of the 1857 conventions. In Minnesota the issue of slavery, which pervaded every aspect of American life in these pre-Civil War days, took the specific form of Negro suffrage. The Republican delegates, described as more idealistic and more radical than their Democratic counterparts, were devoted to two great moral causes — prohibition and abolition.

To gain these ends in the near future, the Republicans accepted almost every article of the Democratic document in exchange for one concession: *The new Constitution would be easy to amend.*

> When the Republican members of the Compromise Committee were forced to accept one article after another in substantially the form proposed by the Democrats, they were thrown back on their confidence that the Republican Party would soon carry the state and if at that time there should be a simple method of amending the constitution they would be able to get popular consent to a series of amendments which would make this Democratic constitution over into one which conformed more nearly to the Republican views. They insisted that the Democrats give them . . . a section which embodied the simplest and easiest way of amending a constitution which had yet been put into effect in any state.[6]

This easy amendment method was: (1) proposal by a simple majority of both houses at one session and (2) ratification by a simple majority of voters at the next election.

This process proved very easy indeed. Even before the new Constitution had been accepted by Congress, two amendments had been proposed by the Legislature and accepted by the people — all quite illegally, of course, but never contested. By 1894 more than 60 amendments had been adopted.

In 1896, concerned about the constant need for amendment, the Legislature asked the voters to approve the calling of a constitutional convention. This question required the difficult majority of all those going to the polls. Many more voters said yes than no, but so many failed to mark their ballots that the convention call was defeated.

Stymied in this attempt to slow down amendments, legislators went to the other extreme of remedy. They proposed to the voters of 1898 that future amendments require the approval of a majority of those voting in the election, not just of those voting on the question.

We have no record of just why the Legislature approved this drastic step. A backward glance would surely have convinced thoughtful legislators that the new ratification majority would make continued improvement of the 1857 document very difficult indeed. Of the 47 amendments accepted by the voters through 1896, 30 would have failed under the majority required by the suggested change. Citation of only a few of these 30 amendments proves that state and local governments in Minnesota would have suffered greatly had the present amending majority been part of the original Constitution: Authorization of special assessments for local improvements; the right of women to vote in school and library elections; prohibition against the use of state funds for sectarian schools; authorization of inheritance taxes and special taxes on iron ore; home rule for municipalities; establishment of a road and bridge fund.

According to Anderson and Lobb's definitive history of our Constitution, the motivation for the change in the amending process was not a disinterested attempt to improve Minnesota's constitutional machinery. "It has been said that the liquor interests promoted this change to prevent the adoption of an amendment prohibiting the liquor traffic."[7] Indeed, this amendment to change the amending process became known as the "brewers' amendment." Ironically, it passed by only 28% of those voting in the election, so by its own terms the amendment would have been disastrously defeated.

The effect of this restrictive amending process was dramatic. From 1857 to 1898 voters had accepted almost three-fourths of submitted changes (72.9%). In the next half century the acceptance rate plummeted to less than one-third (32.5%).

Constitutional Change from 1947 to the Present— By 1947 the unmet need for change was giving great impetus to the movement for a second constitutional convention. According to a League of Women Voters review:

> The need for removing restrictions on the executive, the legislative, and the judicial branches had been evident for a number of years. The constitution contained no provisions for home rule for local government and no mandatory provision for reapportionment. Other provisions it did contain were obsolete.[8]

In 1947, the Minnesota Legislature created the Minnesota Constitutional Commission (MCC), composed of eight senators, eight representatives, a member of the Supreme Court and of the administrative branch, and three citizens. They were charged to study the constitution "in relation to political, economic and social changes which have occurred and which may occur" and to recommend to the next Legislature "amendments, if any" needed to "meet present and probable governmental requirements."

The 1948 report of the MCC considerably exceeded its rather modest instructions to recommend needed changes, "if any." The Commission unanimously recommended major changes in 34 sections, minor changes in another 78, and six new sections. Because the recommended changes were so extensive, the MCC advised that they be made by a constitutional convention.

For several sessions, the calling of a constitutional convention was a hard-fought issue. The movement failed because of the following factors: the difficulty of obtaining the two-thirds vote of both houses necessary to submit the question to the voters; the fact that two of the senators to sign the MCC report became adamant foes of the convention idea; fear of rural legislators that the convention would do something about the long-neglected reapportionment question; and to quote the League of Women Voters again, "the resistance of powerful interest groups and voter apathy."[9]

The Senate Judiciary Committee became the focus of opposition. In 1949, the session after the MCC report was published, the House came within eight votes of the two-thirds necessary for passage, but the Senate Judiciary blocked the bill. In 1955, by which time much public support had been mobilized, League of Women Voters lobbyists counted enough House votes to pass the bill; before that was possible, the Senate Judiciary met in preventive session to kill it. Finally, in 1957, the House passed the convention call by more than two-thirds. The Senate Judiciary "indefinitely postponed" the measure by a nine-to-nine tie, making House passage academic.[10]

To make the convention idea more palatable to legislators, citizen groups worked for a so-called "safe-

guard amendment," which allowed legislators to be convention delegates and which required that 60% of the voters approve a new constitution. The three-to-one majority by which the amendment passed in 1954 was interpreted as a mandate to the Legislature by friends of the convention idea. To legislative foes, the vote was a warning that citizens were not satisfied with their Constitution and that the drive for a convention would continue unless action was taken to improve the document.

An Era of Amending Success—In the middle 50's legislative leaders turned their serious attention to constitutional reform. They began framing far-reaching amendments, some of them reshaping entire articles or major portions thereof. By 1959, Professor G. Theodore Mitau, in a ten years' perspective view of the effect of the MCC report, found "significant substantive achievements . . . Entire sentences in subsequent amendments can be traced back to the language of the MCC report; the amendments themselves often serve as substantive implementation of the Commission's prescription."[11]

Aroused citizen interest resulted in the passage of half of all amendments submitted in the next decade — a marked improvement over the one-third rate of the previous half-century. Interests which had favored improvement by convention — the League of Women Voters, both political parties, bipartisan citizen groups, prominent Minnesotans — all devoted much time, money, and public relations skills in the battle to overcome Minnesota's difficult amending majority.

The new record of success continued throughout the 60's. Of 14 amendments submitted during the next five elections, 11 passed (78%). This record was, however, below the national average for constitutional improvement. During this decade, as we have seen, states were concentrating on their constitutions. Minnesota has been submitting only 25% as many amendments as the average for other states. Moreover, the scope of amendments submitted elsewhere has been wider. Entire articles, packages of articles, even whole constitutions have been proposed and accepted.

Minnesota's efforts toward constitutional reform obviously needed to become both speedier and more significant in scope. With this objective in mind, Governor Wendell Anderson sent a Special Message to the Legislature on March 3, 1971, entitled "A Constitutional Convention: To Meet the Challenge of a New Day."

GOVERNOR ANDERSON'S SPECIAL MESSAGE ON CONSTITUTIONAL REVISION

In his special message, delivered to the Legislature on March 3, 1971, Governor Wendell R. Anderson emphasized that state government must "reassert its assigned role in the federal system if that system is to function properly in meeting the demands of the 1970's and beyond."

The Governor pointed to four areas in which he considered reform "especially critical."

Legislative Reform—Legislative effectiveness would be increased by annual, flexible sessions; reduction in size; and party designation for legislators. The Governor also advocated procedures to distribute the workload more evenly over the session, including an earlier deadline for submission of bills and a final vote on appropriations and tax measures well before the end of the session.

Total Tax Responsibility for the Legislature—If special methods of taxing special industries now provided in the Constitution were removed, the Legislature could gear tax assessments to changing circumstances, maintaining maximum flexibility in overall taxation policy.

Environmental Bill of Rights—The Governor recommended specific constitutional language to help protect and preserve the wealth of natural resources possessed by our State.

Reexamination of Dedicated Funds—In order to give the Legislature "the broadest possible discretion in the appropriation of state funds," review of constitutionally dedicated funds is necessary. This is especially true of the highway trust funds, which are now too inflexibly allocated to meet the State's new and varying transportation needs.

Method of Revision—The Governor recommended the calling of a constitutional convention in order that these and other goals might be accomplished in a reasonable time and with the greatest possible citizen input. He also recommended the creation of a constitutional study commission to research and recommend proposals for legislative and citizen examination.

ACTIVITIES OF THE CONSTITUTIONAL STUDY COMMISSION OF 1972

The 1971 Legislature, rather than submitting the question of calling a constitutional convention to the people, adopted the Governor's recommendation for a constitutional study commission, which would recommend changes to be made either by amendment or by a subsequent convention.

Enabling Legislation—The Constitutional Study Commission of 1972 was authorized by Chapter 806, Laws of Minnesota 1971, adopted by the Legislature on June 4, 1971. The statute provided for a commission of 21 members, consisting of six members of the House of Representatives appointed by the Speaker, six members of the Senate appointed by the Committee on Committees, one person appointed by the Chief Justice of the Supreme Court, and eight citizen members including the Chairman, appointed by the Governor.

The Constitutional Study Commission was asked to "study the Minnesota Constitution, other revised state constitutions and studies and documents relating to constitutional revision, and propose such constitutional revisions and a revised format for a new Minnesota Constitution as may appear necessary, in preparation for a constitutional convention if called or as a basis for making further amendments to the present constitution."

Realizing that the State was still operating under its original Constitution of 1857, which had not been thoroughly studied since the MCC report of 1948, the Legislature mandated the Commission to "consider the constitution in relation to political, economic and social changes." The Commission was required to report to the Governor, the Legislature, and the Chief Justice on November 15, 1972, recommending such measures "as it may deem necessary and proper to effectuate its recommendations."

The Commission was empowered to appoint committees, hold hearings and take testimony, employ clerical, legal, and other professional staff and to "do all things reasonably necessary and convenient in carrying out the purposes of this act." A sum of $25,000 was appropriated therefor.

Membership—In naming the 21 Commission members, the appointing authorities tried to insure that the body would reflect the varying political, social, and economic viewpoints of all residents of the State. (Membership is listed on page ii.)

Exemplary of the bipartisan spirit which marked the work of the Commission was the appointment by Governor Wendell Anderson of former Governor Elmer L. Andersen as Chairman. Former Governor Andersen brought with him not only his wide experience as chief executive but years of leadership in the drive for constitutional reform, both as a state senator and as a private citizen.

Initial Organization—The first meeting of the Constitutional Study Commission was held on October 13, 1971. Governor Wendell R. Anderson made a brief statement pledging the full support of his office in undertaking what he called "an exciting chapter in Minnesota history." Several other distinguished Minnesotans also addressed the Commission at its first meeting, including Dr. Lloyd Short, Chairman of the Constitutional Commission of 1948, State Auditor Rolland F. Hatfield, Attorney General Warren Spannaus, House Speaker Aubrey W. Dirlam and Senate Majority Leader Stanley Holmquist, a member of the Constitutional Commission of 1948.

The Commission immediately proceeded to organizational matters, authorizing the appointment of a steering committee, establishing a monthly meeting schedule, and appointing Mr. David Durenberger to act as the Commission's Executive Secretary. In this capacity he supervised the work of the Commission staff, coordinated the activities of the various study committees and generally assisted Chairman Andersen in the conduct of Commission business.

Mrs. Betty Rosas was hired as the Commission's Office Secretary responsible for the day-to-day administration of the office, arrangements for meetings and hearings in the Capitol complex and outstate, recording and distribution of minutes, and preparation and distribution of reports.

In November and December the Commission and its steering committee adopted a budget, a set of operating policies and procedures, and elected former Governor Karl F. Rolvaag and Mrs. Diana Murphy to serve as vice chairman and secretary of the Commission, respectively.

Plan of Work—The Commission established ten study committees to examine portions of the Constitution and recommend needed revisions: Amendment Process, Bill of Rights, Education, Executive Branch, Finance, Intergovernmental Relations and Local Government, Judicial Branch, Legislative Branch, Natural Resources, and Transportation. Commission members were appointed to the various study committees on the basis of expressed preference and expertise. Size of the committees varied from three to five members and each member served on two or three committees.

Early in its work, the Commission also authorized the appointment of a committee on Structure and Form to revise the style, language, and format of the Constitution without making consequential changes, and a Final Report Committee to coordinate the scheduling and writing of the report of the Commission.

Letters of inquiry were sent to more than seven hundred organizations and individuals throughout the State, asking for comments and suggestions to be used by the Commission and its working committees.

Copies of the National Municipal League's *Model State Constitution*, the Report of the 1948 MCC, and the Special Message of Governor Wendell Anderson were initially given to each Commission member and were frequently supplemented by new materials relevant to constitutional reform in other states. The Legislative Reference Library under the supervision of its Director, Raymond C. Lindquist, compiled an extensive bibliography on constitutional revision, collecting in one place all available materials on the subject, so they would be easily accessible to Commission members.

In January, Dr. Samuel Gove of the University of Illinois Institute of Government and Public Affairs and Mr. C. Emerson Murry of the North Dakota Legislative Council addressed the Commission on their experience as directors of constitutional conventions in their states. In May the Commission heard from Mr. John Paulson,

editor of the *Fargo-Moorhead Forum* and a delegate to North Dakota's convention. In October, Judge Bruce W. Sumner, chairman of the California Constitution Revision Commission, discussed with Commission members the success of that state's ten-year constitutional revision effort.

Research and Public Communication—Professor Fred Morrison offered his services as Research Director for the Commission, being aided by Professor Alan Freeman and nine University of Minnesota law school students: Mike Glennon, Jon Hammarberg, Michael Hatch, Steven Hedges, Richard Holmstrom, Joseph Hudson, Jim Morrison, Michael Sieben, Stanley Ulrich. These students prepared extensive background reports and research papers for each of the committees. A number of other students from the University, state colleges, and private colleges also prepared excellent research papers for the Commission. Professor Morrison was added to the full-time staff of the Commission for a four-week period during July to assist in the research and preparation of the study committee and Commission reports.

To maximize the involvement of Minnesota citizens in its work, the Commission appointed Mr. Jon Schroeder as Communications Director. He received credit for his work during his last semester at Macalester College and was added to the Commission staff on a full-time basis for four months. Mr. Schroeder was responsible for editing a monthly newsletter, issuing press releases to the news media, and doing research and editorial work on committee reports and the final Commission report.

Public Hearings—Beginning in February, 1972, the Commission held a series of five meetings coinciding with public hearings of all study committees. This gave each Commission member an opportunity to hear and discuss the subject matter being considered by committees of which he or she was not a member. One of these meetings was held in Moorhead, where nine study committees held public hearings and Commission members had an opportunity to discuss the recently concluded North Dakota constitutional convention with convention leaders.

In addition to the hearings conducted in conjunction with Commission meetings, each committee held several public hearings and working meetings. In all, more than sixty committee meetings and public hearings were held in Minneapolis, St. Paul, Duluth, Moorhead, Rochester, St. Cloud, Mankato and Marshall, at which public testimony was received from hundreds of organizations and individuals. Additional input was provided through written statements and letters directed to the different study committees.

Formulation of Recommendations—On the basis of this research, testimony, correspondence and individual study, the various committees began to formulate specific recommendations for revision of the Minnesota Constitution. Committee reports were prepared and widely circulated to interested individuals and organizations.

In a series of six full-day meetings between July and November, the full Constitutional Study Commission met to consider the recommendations of its ten study committees and the Committee on Structure and Form. Like all other Commission and study committee meetings and hearings, these final meetings were widely publicized, open to press and public, and well attended by both. Recommendations of the various committees were taken up one at a time in the form of more than one hundred separate resolutions. The large majority of committee recommendations were adopted by the full Commission.

These recommendations included proposed constitutional changes of a substantive nature, a proposed new format for the Minnesota Constitution, and a proposed strategy for implementing the Commission's recommendations. All recommendations are detailed in Sections Three and Four of this report, which was approved by the Constitutional Study Commission at its final meeting on December 6, 1972.

Which method of revision would best suit Minnesota's needs underlay all considerations of the Commission, from its beginning meeting to its final decisions. Only after the scope of changes recommended by the study committees became clear could the Commission decide whether they were so extensive as to argue for a single-shot convention revision. Early in its deliberations, however, the Commission began a thoughtful study of the methods employed in other states recently engaged in constitutional reform and tried to decide which kinds of change were most applicable to Minnesota's situation.

Because the method of change is as important as the specifics of change to many Minnesota citizens, especially those who have long favored a constitutional convention, the next section of this report will summarize the available methods, their successes and failures, and their suitability to Minnesota's current needs.

SECTION TWO

ALTERNATIVES FOR REVISING MINNESOTA'S CONSTITUTION

All processes of constitutional change have their advantages and disadvantages. The Commission's objective was to choose the method which provided the best opportunity to meet Minnesota's needs at the least possible expense of time, money, effort and possible voter turndown.

THE CONSTITUTIONAL CONVENTION

This Commission is keenly aware of the great advantages inherent in a citizen convention. In theory, the advantages seem almost overwhelmingly persuasive:

1. Only a complete rewrite job can produce a brief, flexible, fundamental, organic document.

2. A constitutional convention allows the whole backlog of state needs to be met in a single election.

3. The most compelling argument for a convention is citizen education in the processes of government. A constitutional convention is a dramatic and action-filled event. The media give wide and interesting coverage to matters usually discussed in the comparative isolation of a committee room. A constitutional convention interests, it informs, it involves. It opens up decision-making at a time when citizens are feeling removed from, even alienated by, their government. It is the healthiest possible exercise in citizen development.

This is why delegates and citizens in states where a convention-proposed document has been defeated unite in saying: We would do it all over again.

Diluting the potency of these arguments were some very pragmatic considerations weighing against a constitutional convention in Minnesota:

1. Only a deep and widespread conviction among citizens that they need and want a convention will guarantee a successful vote on the call, good delegate selection, meaningful debates and a favorable vote on the new document. This interest is not evident in this State at this time. The Commission heard no public testimony for a convention. No citizen groups are now pushing such an effort. Even the League of Women Voters, which carried the burden of the fight in the 50's, has dropped a convention from its program and substituted improvements in specific articles. To quote a League publication of 1967:

> By 1961 the movement for a convention had lost momentum and in the 1961 Legislature the League did not even have an opportunity to testify for a convention.
>
> Recent experience seems to indicate that a crisis is a necessary prerequisite for calling a convention. Michigan's convention in 1962 resulted from the serious financial stalemate between Governor Williams and the Republican Legislature and the near bankruptcy of the state. In Connecticut, New Jersey, New York, Tennessee and Rhode Island reapportionment has been the precipitating factor. The crisis atmosphere seems necessary not only to secure legislative approval but also to win approval of the people.[12]

2. Minnesota's present constitution makes the calling of a convention and the approval of the resulting document very difficult. Only with the highest level of citizen interest could these barriers be overcome. The Commission is recommending, as will be seen below, that we ease the constitutional difficulties in the way of submitting the call, approving the call, and ratifying the new document. Therefore, should future citizens and legislators see the need for a convention, that end will hopefully be more achievable than at present.

3. The results of recent constitutional conventions have not been encouraging. In ten states where new or substantially new constitutions were submitted for approval between 1966 and the present, only four were approved.

Constitutions Approved	Constitutions Rejected
Hawaii	Arkansas
Illinois	Maryland
Montana	New Mexico
Pennsylvania	New York
	North Dakota
	Rhode Island

Only in New Mexico was the proposed constitution defeated by a narrow margin. The other defeats could only be described as overwhelming.

The Commission is aware that the method of submission has a lot to do with acceptance or rejection of a new constitution. Three of the four rejected documents were submitted as a single package. All of the adopted constitutions separated out controversial issues.

4. Convention deliberations have seldom resulted in a basic and organic document. The best, the Maryland document, praised by press and political scientists as a masterpiece, was disastrously defeated at the polls.

The League of Women Voters finds that many of the arguments for a constitutional convention do not stand up when practically tested in the convention situation: Conventions have proved highly partisan in many states; their make-up is quite similar to that of the legislature, not of the higher caliber posited by political scientists; the sheer technical details of drafting a good charter are formidable, no matter who does it; and "recent conventions have not been active in areas of legislative reform that would be difficult for legislators

to do themselves, such as drastically reducing the size of the bodies or adopting unicameralism."[13]

A well-known political scientist observes "that the convention rarely rises above the legislature in quality and experience of its membership and that pressure groups and political parties have significant influence on its deliberations."[14]

5. Although the Commission was impressed by statements of delegates to unsuccessful conventions, such as the one in North Dakota, that the failure was worth all the work, we are not sure that Minnesota would reap similar benefit. These delegates point to (a) public education on basic issues of governmental policy aroused by convention debate and the pre-vote discussions; and (b) expectations that recommended reforms will be submitted as amendments in years to come, and eventually accepted.

Minnesota's situation is rather different. In the first place, citizen interest in political and governmental processes is very high in Minnesota. Secondly, Minnesota has already profited greatly from the recommendations that the 1948 MCC hoped would be made by a constitutional convention. Appendix A on page 40 shows that the great proportion of major MCC proposals have been adopted as separate amendments.

PIECEMEAL AMENDMENTS

The traditional alternative to a constitutional convention is submission, at each general election, of one, two, a few amendments. This procedure is often referred to as the "scissors-and-pastepot approach."

This is the path Minnesota has followed since 1857. Practical advantages of the separate amendment approach are obvious. It is simple. It puts little stress on the Legislature. It costs little. Controversy is kept to a minimum.

Disadvantages are serious:

1. The process is regrettably slow. Because amendments are difficult to pass in Minnesota, legislators hesitate to submit more than the few amendments on which voters can be widely informed and persuaded.

2. There is at present no orderly, thoughtful process for deciding which amendments should go on the ballot. Of the dozens of amendments introduced and getting preliminary approval each session, a final few issue from the rules committees in the closing days or hours and are adopted almost as a formality.

3. Amendments are usually narrow in scope. Take a 1972 example. Why waste a lot of time convincing the voters that the governor and lieutenant governor should be elected on the same ticket when the role of all the constitutional officers needs exploration by Legislature and voter?

4. Each election sees pressure for essentially non-constitutional issues. The Vietnam veterans bonus of 1972, quite regardless of its merits, was scarcely a basic issue. Nevertheless, it had to have voter approval and thus cut down the number of constitutionally significant issues that could have gone on the ballot.

5. The public-spirited citizens groups which have, in recent years, been responsible for adoption of good amendments, are showing signs of battle fatigue. This biennial fight takes a lot of time, a lot of money, and a lot of effort. Without the enthusiastic work of good government groups, of both political parties, of citizens with prestigious names, amendments will simply not pass. This becomes increasingly true as more municipalities install voting machines, which make amendments more difficult to spot than when printed on separate ballots.

TWO MIDDLE WAYS

During the last two decades, two innovative variations on the time-honored methods of convention and amendment have made their appearance.

1. **The Legislative Convention**—The speedier of these two innovations is preparation of a new constitution by the legislature. In Florida, the voters empowered the legislature to act as a revising convention. In 1968 three amendments, constituting a complete rewrite, were passed by the voters. In 1970, the Delaware legislature gave the first of two approvals to a new document drafted by a constitutional study commission. (The second approval was declared unconstitutional on the grounds of a technicality.) In 1970, the voters in Virginia approved a new constitution which had been drafted by a study commission, then revised and submitted by the legislature.

This method of complete revision by the legislature seems ill-suited to a legislature with limited sessions. It is also less in the Minnesota tradition of independence and of citizen involvement than either a convention or separate amendments. It would, of course, necessitate a constitutional amendment.

2. **Phased Amendment Revision**—The second innovation of recent years is commonly described as "comprehensive, phased revision." Briefly, this is how it works:

A study commission, appointed by the legislature and usually including some lawmakers, takes a long look at needed changes, researching different areas and preparing draft changes.

The commission assigns priorities to the changes it is suggesting. It recommends for action at the next election amendments which either facilitate future change or are most badly needed for effective state government. The commission may also recommend

amendments to be submitted at subsequent elections. More frequently, since it has not had time to carefully research all articles, it suggests that these areas be more fully explored by a subsequent study commission.

The commission report is then transmitted to the legislature, which normally revises the commission's recommendations. Changes are then submitted to the voters, either as a package or, more frequently, as separate amendments.

The study commission, usually reconstituted to some extent over the period of revision, stays on the job to consult with the legislature, help pass the amendments, and work on changes yet to be made.

This method of phased, orderly, comprehensive revision has worked, or is working, in the following ways in many states:

In California, the voters passed a 1962 "gateway amendment," easing the way to speedy amendment revisions. In 1963 the legislature appointed a Constitution Revision Commission of 50 (later 70) members, which worked for three years before submitting to the legislature a complete revision of articles dealing with the executive, legislative and judicial branches of government. These measures rewrote approximately one-third of the constitution, deleted 16,000 words and compressed six articles into four. The changes were accepted in 1966 by a majority of 73.7%.

In 1968, California voters turned down a package labeled Proposition One, containing such diverse matters as education, state institutions, local government, corporations and public utilities, land and homestead exemptions, constitutional revision and civil service. Realizing that the voters wanted a chance to exercise discretion, the proposals were separated and passed in the June primary and the November general elections of 1970. In 1971, the commission finished making its recommendations to the legislature.

Thus, with almost ten years of citizen and staff study, with sustained legislative attention and with the assessment of the voters in four elections, California will have earned a substantially new constitution.

In South Carolina a similar study commission has now finished several years' work on its outmoded constitution and has recommended article-by-article substitution spaced over several years. The first step was voter approval of a gateway amendment, allowing a single vote on an entire article and transfer of germane material from one article to another.

In Washington a study commission has recently recommended eight revised articles, to be submitted according to a master plan over the next few elections. In Indiana, in 1970, voters approved three amendments, the first of a series endorsed by a constitutional study commission. Nebraska has substantially changed its constitution over the last three elections, according to recommendations of a study commission. In North Carolina a study commission recommended extensive revision of constitutional language and ten amendments. The editorial changes and four of the amendments were passed in 1970, with the remainder scheduled for upcoming elections.

CONSTITUTIONAL STUDY COMMISSIONS

In the last two decades, almost every state has been engaged in significant constitutional improvement. Almost uniformly, whether change has been by convention or amendment, the moving force has been a constitutional study commission.

The contribution of such commissions was described thus by W. Brooke Graves in 1960:

> Many states, in recent years, have turned from conventions to constitutional commissions that consist of experts who report to the governor and the legislature and whose handiwork is submitted for popular vote if approved by these political organs of government. The saving in time and expense and the gain in the quality of the work done should commend this new American institutional device to constitution framers as a replacement of the constitutional convention.[15]

The study commission idea began tentatively but rapidly proved itself. In the 12 years between 1938 and 1950, only eight study commissions were appointed (including Minnesota's). But in the five years between 1961 and 1965, 23 commissions were at work; in the next five years, 25.

The range of activity of constitutional commissions is broad. They identify problems, do research, suggest amendments, draft entirely new documents, prepare for constitutional conventions and educate the public before the vote on either a new constitution or amendments.

Almost always, constitutional commissions contain both citizens and legislators, though in varying proportions. Commissions range in size from a few members to 60. They are carefully bipartisan. The legislature and the governor usually cooperate in their appointment. They are supported by legislative appropriations ranging from $2,000 for the biennium in Vermont to $150,000 for a single year in Ohio. (See Appendix B on page 41.)

The criticism of study commissions is not hard to imagine. They are closely tied to the legislature—through legislative membership, legislative appointment of many other members, legislative appropriations, often legislative research aid and final legislative acceptance of commission proposals. They may, therefore, not be independent and innovative enough—recommending only those changes which they think the legislature will accept.

The answer to this criticism is the counter-criticism that constitutional conventions have not been particularly innovative, even in such areas as unicameralism, where complete freedom from the legislature might be expected to allow freer rein. Also, new ideas suggested by commissions have had good reception from legislators when well-reasoned and persuasively followed up.

Study commissions, though not elected, do provide a close link between citizens and lawmakers. The lay members bring important citizen input into legislative decisions. The commission and its subcommittees offer opportunity for citizen testimony and education before the hurried stage of legislative consideration. Commission recommendations alert citizen groups to matters which will be seriously considered in the coming legislative session. And once the amendments have been chosen by the legislature for ballot submission, commission members can provide the voters with useful information.

SECTION THREE

RECOMMENDED CHANGES IN MINNESOTA'S CONSTITUTION

Early in the deliberations of the Constitutional Study Commission, its chairman appointed small study committees to review all subject areas in the Minnesota Constitution and recommend needed changes. Committees and their members are listed at the beginning of this report.

These study committees held public hearings and received written testimony; requested and reviewed historical and legal reports from the research staff; compared Minnesota's provisions with those of other states and with the recommendations of other Minnesota study committees; and held several discussion meetings before adopting a final report.

These committee reports were in the hands of Commission members, the press, and all individuals and organizations who had asked to receive them well before the entire Commission voted on their recommendations.

The full Commission discussed and voted separately on each recommendation of each study committee.*

The recommendations accepted by the Commission follow. The arrangement approximates the order of the present Constitution. The discussion which follows each recommendation is a short summary of the study committee's explanation. The full committee thinking is contained in the eleven mimeographed study reports available in the Commission office.

RECOMMENDATIONS ON METHOD OF REVISION

The provisions for revising Minnesota's Constitution are contained in Article XIV. They specify, as do similar provisions of other state constitutions, that the original document may be changed in one of two ways:

By a constitutional convention of elected citizen delegates: The first step in this process is up to the Legislature. A two-thirds majority of each House must vote to submit to the people the question of calling a constitutional convention. If the majority of all those voting in the next election cast a yes vote for the proposition, the next Legislature provides for the calling of a convention. Delegates are elected at the next general election. A new or revised document adopted by this convention is submitted at the next general election and is adopted if three-fifths of those voting on the question cast an affirmative ballot.

By separate amendments: Amendments to various provisions of the Constitution may be submitted to the voters by a simple majority of both houses of the Legislature. They must be approved at the next general election by "a majority of all electors voting at said election."

Early in its deliberations, the Commission turned its attention to the following basic question:

How should the Commission suggest that the 1973 Legislature implement the constitutional changes it would eventually recommend? By a constitutional convention or, as in the past, by separate amendments?

The following three recommendations contain the Commission's considered judgment as to the *procedures* which Minnesota should follow in revising its Constitution.

1. The Commission's recommendations for change would be best achieved through a process known as "phased, comprehensive revision" — or a series of separate, but coordinated amendments planned for submission over several elections.

In recent years more and more states have been following this "middle way" to constitutional revision. This method is basically the separate amendment approach, allowing the citizen a vote on each question submitted, but adding some of the advantages of a convention — namely, a comprehensive view of the entire document and speedier improvement. A study commission is uniformly involved.

The legislature has in most states accepted, but revised, commission recommendations. The joint result of commission suggestion and legislative refinement has been a substantially improved, often substantially new state constitution, achieved in a number of years comparable to the time required for the convention method of revision.

This recent method of phased, comprehensive revision is orderly. It offers the possibility of thoroughgoing revision within a reasonable time limit. It engages citizen interest more than piecemeal amendments since it offers a perspective view of a "new" governmental framework. It allows more leisurely and thoughtful legislative attention. It keeps opposition to controversial matters from defeating an entire document. The Commission finds the method highly suitable to Minnesota's need for constitutional improvement.

2. The Legislature should create another citizen-legislator commission to study the many constitutional provisions not thoroughly reviewed by the present Commission, and to recommend the second and subsequent phases of revision.

In all states which have employed the speeded-up amendment approach described in Recommendation 1,

*Where the difference in yes and no votes was two or less, the text records the vote.

the Legislature has asked the help of a study commission. A wide and scholarly view of the Constitution is essential if the full scope of needed change is to be appreciated, specific revisions wisely drafted and a scheme of priorities outlined for the next several elections.

Whether Minnesota's new commission should be entirely reconstituted or whether it should contain both holdover and new members is a matter for decision by the 1973 Legislature. Appendix B offers some comparisons with other states on size, membership, duration, appropriations and achievements which the next Legislature might find helpful. In general, it will be seen that Minnesota's present Commission has a higher percentage of legislators than most others. (The average commission has "a majority of legislators, past legislators and lawyers.") The appropriation was fairly modest compared to appropriations in most other states.

3. In order to facilitate constitutional improvement in Minnesota, the provisions of its amending article need considerable change.

These changes will be discussed under recommendations on the Amending Process (Article XIV) on pages 29-32.

RECOMMENDATION ON A REVISED CONSTITUTIONAL FRAMEWORK

The statute authorizing the creation of the Minnesota Constitutional Study Commission specifically mandated the Commission to propose a "revised format" for the Minnesota Constitution in preparation for either a constitutional convention or continued submission of amendments.

Among the letters and testimony submitted to the Commission suggesting revision of the present Minnesota Constitution, the recommendation most often made was "clean it up . . . get rid of the outdated language . . . put the Constitution in language that the average citizen can understand."

With these two considerations in mind, the Commission made one of its first orders of business the creation of a Committee on Structure and Form. This committee's members spent hundreds of hours in drafting and redrafting their report, which was submitted to Commission members, the Revisor of Statutes and several other authorities on Minnesota constitutional law for their consideration. The report was given final approval by the full Commission at its December 6 meeting.

The Commission's recommendations on structure and form would delete obsolete and inconsequential language, correct grammar and stylistic defects, and reorganize constitutional provisions into an order which would produce a more coherent and readable document, all without making any consequential changes in the meaning or interpretation of the present Constitution. The redrafted Constitution includes a reduction in the number of articles from 21 to 14 and in the number of words from 15,864 to 10,297.

The Commission urges that its recommendations on structure and form be submitted to the voters in a single amendment to be considered at the 1974 election.

The Commission is placing this amendment early in its revision strategy timetable, so that future amendments may be properly phrased and placed in an orderly, well-structured and clearly written constitutional framework.

The draft of the Minnesota Constitution recommended by the Commission constitutes Appendix C of this report.

RECOMMENDATIONS ON THE BILL OF RIGHTS

Bills of rights are limitations on the powers of government, defining those rights and liberties which citizens must possess if they are to develop a free and equal society.

Much of the federal Bill of Rights applies to the states because of its incorporation into the Fourteenth Amendment. Nevertheless, constitutional experts generally agree that states should have their own bills of rights, as they all do, and for the following reasons:

A state may well wish to cover civil rights which are not part of the federal Bill of Rights or rights in the federal document which have been held not applicable to the states.

In a federal system, it is appropriate for people "to look first to the state constitution and to the state courts for the vindication of personal liberties that may be challenged by state law or state action. They can have a reasonable expectation of such protection only if the state courts look upon the state Bill of Rights as a vital instrument for the defense and advancement of personal and political liberty."[18]

A state court may interpret provisions in a state constitution more broadly than it would federal constitutional provisions.

Since United States constitutional history is always in the process of change, there is no certainty that the rights now applied to the states or covered by the incorporation doctrine of the Fourteenth Amendment will remain unchallenged.

As a society grows more complex, the rights guaranteed by constitutions may need expansion. The social and economic needs and problems of the present day differ greatly from those of the eighteenth and nineteenth centuries when bills of rights were originally drafted.

Although the Constitutional Study Commission found the Minnesota Bill of Rights generally quite satisfactory, the changes which have occurred in the socio-economic conditions of our State in the last 115 years have led to some obsolescence and the need for some additional guarantees.

1. The Bill of Rights should contain a section on due process and equal protection of the laws, stated as follows: "No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws. The Legislature shall have power to enforce, by appropriate legislation, the provisions of this section."

(Since the above recommendation is for constitutional language of which the next two recommendations provide statutory implementation, the three will be discussed jointly after Recommendation 3.)

2. The Legislature should implement the equal rights and due process section, when added to the Constitution, by such legislation as will protect groups which have suffered inequities and discrimination. This legislation should assure due process rights to the mentally ill and mentally retarded and provide protection for all persons regardless of race, religion, sex, national or social origin, physical handicap, or mental illness or mental retardation.

3. The Legislature should implement the equal rights and due process section, when added to the Constitution, by laws which will protect the individual's right of access to information collected and preserved relative to him.

Although Minnesota has a relatively strong civil rights law, it does not, like many states, have an equal rights and due process section in its constitutional Bill of Rights.

While the Commission desired to add to the Constitution the strongest possible kind of guarantees of the basic rights of its citizens, especially those groups which have suffered discrimination, it also wished to avoid adding legislative detail to the Constitution.

For this reason, the Commission decided to frame its equal rights recommendation in general language. The phrase "The Legislature shall have the power to enforce, by appropriate legislation, the provisions of this section" follows the language of the federal Constitution.

By its flexibility, this constitutional language will enable future legislatures to add protection for groups not mentioned in the Commission recommendation and which may in the future be discriminated against. The recommendation was in particular response to the voluminous testimony in regard to the rights of women, persons in state institutions, and the handicapped.

A good example of the kind of right which our fast-paced modern society subjects to encroachment is mentioned in Recommendation 3. In an information-gathering age such as ours, both private and public agencies collect and disseminate information about citizens which may affect their lives, livelihood and future. The Commission urges the Legislature to pass laws that would assure each citizen the right to examine information on himself contained in the files of public or private agencies, also the opportunity to challenge its accuracy.

4. The Minnesota Constitution should include a specific protection for freedom of assembly.

The right of assembly is an important one, specified in most state constitutions as well as in the federal document. The history of Minnesota's Constitution recorded by Anderson and Lobb[19] concludes that its omission from our document was probably an oversight of the compromise committee and was not noticed by the adopting conventions because of their having neither printed copies nor time for discussion. The Commission recommends that the right of assembly either be added as a separate section or combined with Section 3.

* * * * *

The addition to the Constitution of a provision relating to the right to bear arms was discussed by both the Bill of Rights Committee and the full Commission. The committee decided that the right does not need state constitutional protection. The right to bear arms of the federal Bill of Rights relates to the militia and has no bearing on state problems, though such a right is found in many state constitutions. To include this right in Minnesota's Constitution might be interpreted as a move to block gun control legislation, which will be under discussion in the coming legislative session. The Commission voted to table the proposal after the Chairman explained on request that the effect of such a vote would be to kill the measure.

The Commission recommends that a future study commission examine Section 12 of Article I, relating to mechanics liens. The attorney general called the attention of the Commission to the fact that some observers feel the mechanics lien provision operates unfairly against the homeowner. While the Legislature has power to regulate the form and notice of such liens, some believe that Section 12 should make notice regulations; others believe that it would be preferable to delete all reference to mechanics liens from the Constitution.

RECOMMENDATIONS ON THE LEGISLATIVE BRANCH

In mid-1970, the Legislative Evaluation Study of the Citizens Conference on State Legislatures ranked the 50 state legislatures according to their ability to function effectively, to account to the public for their actions, to gather and use information, to avoid undue outside

influence, and to represent the people. Minnesota's Legislature was ranked tenth; only the legislatures of California, New York, Illinois, Florida, Wisconsin, Iowa, Hawaii, Michigan and Nebraska were ranked ahead of it. Since then, the Minnesota Legislature has taken steps to further improve its organization and procedures. While it is generally agreed that Minnesota's Legislature is fairly effective and responsive, there are many areas in which additional improvements may be made.

Because of the limitations of time and resources, the Commission has been unable to study in depth all aspects of Article IV and all the recommendations for improvement made by the Citizens Conference and other interested groups and individuals. Our recommendations deal primarily with some major issues, the resolution of which requires constitutional revision. In some cases, we also recommend action which the Legislature may take under the existing Constitution.

The text of a proposed amendment to those sections of Article IV dealing with reapportionment and special sessions will be found in Appendix D.

1. Article IV, Sec. 1 should be amended to provide explicitly that the entire Senate be elected at the first general election after each new districting and then for four-year terms until another districting.

Under this provision the senators elected in the year in which the federal census is taken would serve only a two-year term. This recommendation makes no change in the way existing constitutional provisions have been construed by the courts. It merely makes the point explicit. The Commission recognizes that this means that senatorial elections will not always take place when the Governor is also being chosen. We think it more important that the Senate, like the House, reflect population shifts in the State as rapidly as practicable and that each senatorial district be composed of whole, existing representative districts. This provision eliminates any federal constitutional question that might be raised because of a delay in electing senators following a new federal census and legislative districting.

2. There should be no change in Article IV, Sec. 1, insofar as it authorizes the Legislature to meet in regular session in each biennium at the times prescribed by law for not exceeding a total of 120 legislative days.

The voters at the 1972 general election approved an amendment to Article IV, Sec. 1 proposed by the 1971 Legislature. Previously, Article IV, Sec. 1 authorized the Legislature to meet in regular session only in each odd-numbered year and then only for a term not exceeding 120 legislative days. The Supreme Court of Minnesota held that a regular session is limited to 120 calendar days, exclusive of Sundays, from the date when the Legislature convenes. Under the revised Article IV, Sec. 1, the Legislature may meet in regular session in each biennium at the times prescribed by law, for not exceeding a total of 120 legislative days. The phrase "legislative day" may also be defined by law. The Legislature, however, is not permitted to meet in regular session, or any adjournment thereof, after the first Monday following the third Saturday in May of any year.

The Commission is of the view that the Constitution should not prohibit a Legislature from meeting whenever the business at hand requires it, nor should it compel the Legislature to adjourn until that business is completed in an orderly and deliberative manner.

The revised Article IV, Sec. 1 is a modest but significant improvement over the pre-existing constitutional provision. We question the wisdom of prohibiting the Legislature from meeting after the first Monday following the third Saturday in May of any year. But we think any further consideration of the length and frequency of legislative sessions should await experience under the new constitutional provision.

3. Article IV, Sec. 1 should be amended to empower the Legislature to call itself into special session upon the petition of two-thirds of the members of each house.

The recommended change, of course, will not alter the Governor's authority to call the Legislature into special session.

4. Article IV, Sec. 2 should be retained insofar as it authorizes the Legislature to determine the number of members who shall compose each house.

Minnesota, which ranks nineteenth among the states in population and fourteenth in land area, presently has the largest Senate in the nation (67 members) and the tenth largest House of Representatives (134 members).

The Commission agrees that the Legislature should not become larger than it is now, but does not favor setting the present size of the Legislature as a constitutional limit for fear that this size may also become the minimum. The Commission therefore recommends retention of the existing constitutional provision which authorizes the Legislature to determine its size from time to time. It recognizes that it may be unrealistic to expect the Legislature to cut its size. Accordingly, it recommends that provision be made for use of the popular initiative to reduce the size of the Legislature. (See Recommendation 2 on page 30.)

5. Article IV, Sec. 10 should be changed to allow either house of the Legislature to initiate revenue measures.

Because the House was regarded as a more popular body than the Senate when the Constitution was originally adopted, it was provided that all revenue bills must originate in the House. This assumption is no

longer true. As a practical matter, the Senate has found ways to originate revenue measures without offending the letter of the constitutional restriction. The Commission sees no contemporary reason why this power not be constitutionally explicit.

6. The authority now lodged by Article IV, Sec. 23 in the Legislature to draw new congressional and state legislative districts after each federal census should be taken away from the Legislature and imposed upon a Districting Commission composed as suggested in Recommendation 7 and following the standards of Recommendation 8.*

Minnesota's 1972 experience with legislative districting made necessary by the 1970 census reveals the inadequacy of the existing constitutional provisions, which entrust the task to the Legislature subject to the veto of the Governor. The political impact of redistricting upon the contending political parties and upon incumbent legislators makes it unwise to expect the Legislature to accomplish this task fairly. This is especially the case with state legislative districting, but is also true of congressional districting. Whenever the legislative and executive branches of government are controlled by different political parties, the present process is almost guaranteed to produce stalemate. When both the legislative and executive branches of government are controlled by the same political party, there is danger that the redistricting will be unfair to the party out of power.

In the reapportionments of 1959, 1965 and 1971, it was necessary for the courts to intervene in the State's political affairs. The Commission thinks it wise to minimize the participation of federal and state courts in political matters so as not to risk jeopardizing the trust and confidence that must be reposed in courts when they perform their other judicial functions. For all these reasons, the Commission recommends that the task of redistricting be taken away from the Legislature and given to a commission. This recommendation is not without precedent. Ten states now impose the duty of redistricting upon the Legislature itself in the first instance but provide an alternative method for redistricting if the Legislature fails to perform this duty. Nine states bypass the Legislature entirely and provide for redistricting by some agency other than the Legislature — usually a commission.

7. The Districting Commission created under proposed Article IV, Sec. 24 should consist of 13 members — the speaker and minority leader of the House of Representatives, the majority and minority leaders of the Senate, or representatives and senators appointed by these legislative leaders to take their place; two members appointed by the Governor; two members appointed by the state executive committee of each political party, other than that to which the Governor belongs, whose candidate for Governor received 20 percent or more of the votes at the most recent gubernatorial election; and the remaining members unanimously elected by the commission members so appointed. A majority of the entire membership of the Supreme Court should make any appointment necessary to complete the commission's membership if any selecting authority fails to appoint its quota of members. No congressman or state legislator, other than the legislative leaders named to the commission by virtue of their office or the legislators appointed by them to take their place, shall be eligible to serve on the commission. In making their appointments, the selecting authorities should give due consideration to representing the various geographical areas of the State.

The Districting Commission we recommend would be neither nonpartisan nor strictly bipartisan. Because redistricting cannot be entirely insulated from political considerations, we recommend involving the Governor, the legislative leadership, and the political parties in the appointment of commission members. This will assure that political realities and varying political views are taken into account. Because judges should be removed from political considerations, we oppose giving any group of judges responsibility for redistricting, except as a final resort.

The balance of power in the commission would be held by the five citizen members, who must be agreed upon unanimously by the eight politically oriented members. In the absence of unanimity, the state Supreme Court would select these citizen members.

8. Article IV, Sec. 23 should be revised to set forth districting standards to guide the Districting Commission. The following standards are proposed: (1) there are to be no multi-member electoral districts; (2) each district is to be composed of compact and contiguous territory and be as nearly equal in population as is practicable; (3) no representative district is to be divided in the formation of a senate district; and (4) unless absolutely necessary to meet the other standards set forth, no county, city, town, township or ward shall be divided in forming a district.

Standards (2) and (3) are now set forth in different parts of Article IV. We are suggesting that districts be "compact" rather than "convenient" as required by existing Section 24. Instead of the language of existing Section 2, that "representation in both houses shall be apportioned equally throughout the different sections of the State, in proportion to the population thereof," we are proposing the clearer and simpler phrase that each district be "as nearly equal in population as is practicable."

*Senators Robert J. Brown and Jack Davies dissent in part from this recommendation. Their statement follows the Commission's majority report.

We propose single-member districts in House as well as Senate, since multi-member districts create the possibility of submerging the interests of racial, ethnic, economic or political minorities.

Our proposed prohibition against dividing political subdivisions in the creation of new districts is intended to safeguard against gerrymandering. However, the danger of gerrymandering will be lessened primarily by entrusting the districting function to a commission constituted as we recommend.

9. The concurrence of eight members of the Districting Commission should be required to approve legislative and congressional districting plans.

Under this recommendation, if the original eight politically oriented members form blocs and disagree, the bloc that carries the day will have to win the votes of four out of five of the remaining members. This requirement is still another safeguard against the danger of gerrymandering and an assurance of fair representation.

10. The state Supreme Court should be given exclusive original jurisdiction to review the Districting Commission's final published plans at the behest of any qualified voter. It should be empowered to modify any districting plan so that it complies with constitutional requirements and to direct the Districting Commission to adopt the modified plan.

It is hoped that such a constitutional provision will induce the federal courts not to intervene until the state Supreme Court is finished with its review. Of course, the United States Supreme Court will be the ultimate arbiter of the validity under the federal Constitution of any Commission plan approved by the state Supreme Court.

11. If the Districting Commission is unable to agree upon a districting plan, the task of districting should be imposed upon the state Supreme Court. The state Supreme Court should be required to work with the plan submitted by one, or a group, of the commission members which most closely satisfies state and federal constitutional requirements. If no plan is submitted by any commission member, the state Supreme Court should select a panel of three state court judges, other than Supreme Court justices, to do the districting, subject to review by the state Supreme Court.

We believe these eventualities are unlikely to occur. But they must be provided for in any constitutional provision which removes the task of districting from the Legislature and imposes it upon a commission.

12. Time limits should be imposed by the Constitution upon all the state participants in the districting process, including the state courts, so that the process is completed well in advance of the time when candidates must file their intentions to run for membership in the Congress or the state Legislature.

The following table indicates the maximum time limits which our proposed revision would impose upon all participants in the districting process. The various stages of the process are not likely to require the maximum time allowed; even if all did, potential candidates would have ample advance notice of new districts.

Activity in Question	Deadline
Governor's request for appointment of Districting Commission members	January 15, 1981
Certification of commission members or notification of failure to make requisite appointment	January 25, 1981
Notice by Secretary of State* to Chief Justice of failure to make requisite appointment	January 28, 1981
Appointment of necessary members by Supreme Court	February 7, 1981
First meeting of designated and appointed members	February 14, 1981
Election of remaining members or failure to do so	March 3, 1981
Notice by Secretary of State to Chief Justice of failure to elect remaining members	March 6, 1981
Appointment of remaining members by Supreme Court	March 23, 1981
Alternative One	
Filing of final plans by commission	August 23, 1981
Publication and effective date as law	September 2, 1981
Petition for review of commission action	October 2, 1981
Final state Supreme Court action	November 16, 1981
Review by Supreme Court of United States	?
Alternative Two	
Submission of individual member plans if commission fails to act	September 22, 1981
Selection by state Supreme Court of plan or plans	December 22, 1981
Review by Supreme Court of United States	?
Action by three state court judges if individual members fail to submit plans	January 22, 1982
Review by state Supreme Court	April 7, 1982
Review by Supreme Court of United States	?

*The Commission is aware that its recommendations on the executive branch advise deletion of the Secretary of State from the Constitution. In that event, the present constitutional duties performed by that official would be provided for by law. The several duties imposed on him by this reapportionment amendment (see text, Appendix D) would be transferred to an appropriate agency.

13. The Legislature should create a standing citizens commission to advise it concerning periodic adjustment of legislative compensation.*

In our opinion, the present salary of a state legislator does not reflect the heavy demands made by citizens and the legislative process upon the legislator's time. Nor does it reflect the importance of the legislator's job. The low salaries paid legislators preclude from running for legislative office those citizens who are not well-to-do and are not in occupations which they can carry on simultaneously with their legislative tasks. We think the financial sacrifice involved in serving in our Legislature had something to do with the large number of legislators who refused to run for reelection in 1972, as did the fact that the low salaries are thought to reflect the regard with which our citizens view their legislators. Legislative compensation should be high enough to make it possible for citizens of different occupations, races, sexes and economic circumstances to consider running for the Legislature. This is the real meaning of a "citizen legislature." Adequate salaries will help make the Legislature more representative, and at the same time minimize potential conflicts of interest between the public and private careers of legislators.

Legislators are reluctant to raise their own salaries to adequate levels. Such action invites a campaign issue that incumbents are anxious to avoid. Backed by the recommendations of a permanent citizens commission, the Legislature may be emboldened to bring legislative compensation to a more adequate level.

14. The Legislature should pass a statute requiring political party identification of candidates for the Legislature.

Minnesota has a vigorous two-party system which reflects itself both in the Legislature and in national politics. There are many good reasons why political party identification of candidates for the Legislature should be required and why legislative caucuses should be organized on the basis of familiar party lines. Party designation will make for a more understandable, more accountable, more legitimate, and more effective Legislature.

The existing Constitution is silent on this issue and we think it should remain so, leaving the matter to statutory action.

15. The Legislature, the Governor and the people of the State should continue to study and debate the possibility of a unicameral legislature in Minnesota.

Interest in the possibility of a unicameral legislature in Minnesota heightened when the three-judge federal district court reduced the size of both houses of the Minnesota Legislature for purposes of its first 1972 redistricting plan. This interest has not dissipated. It parallels the growing interest in unicameralism in other states, although Nebraska still has the only unicameral legislature in the nation.

We are not recommending unicameralism for Minnesota. But we think this possibility should be kept open and debated in the years to come.

It is interesting to note that in spite of Nebraska's unicameralism, eight bicameral legislatures were ranked ahead of Nebraska's in the Citizens Conference Legislative Evaluation Study; Minnesota's Legislature ranked tenth.

A national Quality of Life study conducted in 1967 rated Minnesota fourth in the nation and Nebraska thirty-eighth as to "democratic process." The same study rated Minnesota first in the nation for "health and welfare" and "equality"; Nebraska ranked thirty-second in these categories. This does not mean, of course, that unicameralism is responsible for Nebraska's relatively poor rankings in these categories and bicameralism for Minnesota's relatively high rankings. A unicameral legislature in Minnesota might result in even higher rankings for Minnesota, and a bicameral legislature in Nebraska, in even lower rankings for Nebraska. These ratings mean only that unicameralism should not be regarded as a panacea for all the ills that beset American states. Our traditional acceptance of bicameralism forces the proponents of a change to unicameralism to bear the burden of proving that the change will aid reform of legislatures.

Minority Report on Reapportionment by Senators Robert J. Brown and Jack Davies

A minority of the Commission agrees that reapportionment should be taken out of the hands of the Legislature but disagrees as to the composition of the body then charged with the task of reapportionment. The minority also believes that the constitutional detail which the majority report requires for such a delegation of responsibility can and should be reduced.

Two major premises are involved in the minority position:

(1) That the type of citizen-legislator commission proposed by the majority of the Constitutional Study Commission suffers from a strong likelihood of partisanship or stalemate; and

(2) That reapportionment is a relatively simple, quickly accomplished process if politics is taken out of it. It is estimated that the mechanical process of redistricting could take place in about 30 days.

Under the minority proposal, a panel of three state district court judges would reapportion the Legislature, employing technical staff who would undertake the mechanics of districting under guidelines established by the Legislature. Authority to establish these guidelines would be provided in the Constitution, but the specific guidelines and other procedural and organizational details would be statutory. The guidelines would include maximum population deviations, maximum population of communities which should not be divided in any reapportionment, or any other criteria which the Legislature might wish to establish.

*Senator Robert J. Brown dissents from this recommendation. His statement follows the Commission's majority report.

The minority proposal provides that the panel of district judges would be selected by a process in which the majority and minority leaders of the Legislature alternately strike names from a list of all state district court judges. The remaining three judges should then be the least partisan members of the least political branch of state government.

The minority believes that concerns as to the role of the Legislature in the reapportionment process are satisfied by having legislative leaders involved in the process of selecting the panel and by permitting the Legislature to establish criteria to be used in redistricting. The minority feels that its proposal insures that reapportionment would take place in the shortest possible time and with the least possible chance of stalemate or gerrymandering.

Dissent of Senator Robert J. Brown on Recommendation on Legislative Compensation

This is not a constitutional issue and has no place in our report *unless* we decide to make it a constitutional matter by removing the authority over legislative pay from the Legislature — a proposal that might have some merit. While I am against including this subject in our report, if it is to be included I think that it should be written in a more balanced way. For example, I do not agree that raising the pay above $8,400 (or even $4,800) will necessarily broaden the base of competent legislative candidates. I feel very strongly that salaries which are too high attract candidates who could not make that much money doing anything else and thus will resort to gross demagoguery in order to obtain and retain a legislative seat. There must be a balance between setting salaries so low as to discourage good people and so high as to encourage candidacies primarily because of money.

RECOMMENDATIONS ON THE EXECUTIVE BRANCH

The constitutional structure of the executive branch of Minnesota's government remains basically the same as in the original Constitution. The only major change has been extension of terms of constitutional officers from two to four years, effective in 1962.

Minnesota's Constitution followed the early American tradition of divided executive authority fostered by colonial hatred of appointed royal governors and fear of their strong, unified powers. As a result, executive power was divided among several persons elected by the people.

The "cabinet system," under which the Governor appoints *all* other executive officials and becomes responsible for their actions, is under consideration in many states. The Minnesota Constitutional Study Commission has tried to distinguish between those officials with policy-making powers, whom the people should have the power to choose, and officials with only ministerial functions. The functions of the latter might be more efficiently combined by legislative and executive action and needed personnel appointed rather than elected.

Statutory changes of recent years have served to strengthen the office of governor by providing (1) concurrent terms for major appointed officials and (2) broad executive reorganization powers.

An important constitutional step was taken in 1972 through passage of an amendment which requires that Governor and Lieutenant Governor run as a "team" on a joint election ballot. The Commission is hopeful that the Legislature will implement the spirit of this amendment by increasing both the compensation and the responsibilities of the office of Lieutenant Governor.

Further revisions recommended by the Commission would continue the modernization of the executive branch begun through these recent constitutional and statutory changes.

1. The office of Secretary of State should be deleted from Article V and the constitutional and statutory duties of the office otherwise provided for by law.*

The Secretary of State is the chief elections officer for the State and is the depository for a variety of documents and records ranging from acts of the Legislature to incorporation papers for all corporations operating in the State. The Secretary of State has very little policy-making authority, however, and aspirants to the office are generally elected because of name, personal appeal or incumbency rather than because of positions on specific issues.

During the course of its study, the Commission received a proposal from Secretary of State Arlen I. Erdahl to combine the offices of Secretary of State and Lieutenant Governor. The Commission recommends that the Legislature consider this suggestion along with those made in excellent past studies of executive reorganization in Minnesota.

2. The office of State Auditor should be deleted from Article V and the constitutional and statutory duties of the office otherwise provided for by law.

The State Auditor is the state's chief accounting officer and acts with the commissioner of administration and public examiner to prescribe the accounting system used by all the departments and agencies of the State. The Auditor is also the pre-auditor of receipts and disbursements of State funds, issuing warrants to allow payment from the State treasury. The post-auditing function is provided by the public examiner, although many citizens erroneously associate "watchdog" post-auditing responsibilities with the State Auditor.

Like the Secretary of State, the State Auditor is seldom elected on the basis of public preference for his position on issues. Nor has he the policy-making powers which justify his election. Auditor Hatfield points out that the accounting skills necessary for the audit function would be better secured by approval of the civil service agency or a committee of certified public accountants than by election.

*See footnote on page 18.

A fundamental of sound accounting procedure is division of pre-auditing and post-auditing functions. Auditor Hatfield recommended to the Commission that the pre-auditing and accounting functions of his office be merged with the department of administration.

Another fundamental of sound accounting procedure is that a post-auditor not be appointed by the person or office which he is responsible for auditing. The present practice of having the post-audit function carried out by the public examiner, who is appointed by the Governor, violates this principle. Auditor Hatfield recommended the creation of a post-auditor, elected by the Legislature and responsible for both performance and financial audit of all state agencies.

3. Article V, Sec. 4 should delegate the powers of pardon to a constitutional pardon board appointed by the Governor and subject to confirmation by the Senate. The pardon board should be subject to procedures established by the Legislature.

A provision in the original Minnesota Constitution delegated pardoning power to the Governor. An amendment of 1896 created a pardon board consisting of the Governor, Attorney General and Chief Justice.

Traditionally, the power of pardon has been an executive function. Testimony from Chief Justice Oscar R. Knutson reminded the Commission that the function of the Supreme Court is to determine whether a person has had a fair trial, and that it is somewhat inconsistent to ask its Chief Justice to pass on an application for release. The Commission recommends that the Governor be given the power to appoint persons to the pardon board, which would operate under procedures established by the Legislature. Under such an arrangement, the Governor would have ultimate authority for granting pardons, but the pardon board would be operated by persons chosen for their qualifications in a field demanding both expertise and a high sense of community responsibility.

4. The land exchange commission and state board of investment authorized in Article VIII, Secs. 4 and 7, should be retained but their memberships should be provided for by law.

Because the memberships of the constitutionally created land exchange commission and state board of investment include constitutional officers whose offices would be deleted under earlier Commission recommendations, the make-up of these two bodies must be changed. The Commission is not prepared to recommend specific alternative memberships, which should be discussed by the Legislature and provided by statute.

5. There should be no changes in impeachment provisions of Article XIII except that the Lieutenant Governor should be added to those officers who may be impeached.

As the result of an apparent oversight when the Constitution was drafted, the Lieutenant Governor is not listed among those officers who may be impeached. The addition of this office to those subject to impeachment not only corrects this original oversight but is consistent with the strengthened office of Lieutenant Governor which the Commission supports.

6. The Legislature should be constitutionally mandated to provide by statute for succession in the event of removal, death, resignation or inability of the Governor, Lieutenant Governor, Governor-elect and Lieutenant Governor-elect.

While nothing in the present Constitution prevents the Legislature from providing for succession in the above instances, the proposed provision would *require* the Legislature to so provide. Statutory arrangements should insure continuity of government under every conceivable circumstance.

While the Commission offers no specific recommendation on the precise format that statutory succession should take, it does refer the Legislature to the Twenty-Fifth Amendment to the U.S. Constitution, and succession provisions in the *Model State Constitution* and the Illinois Constitution of 1970.

RECOMMENDATIONS ON THE JUDICIAL BRANCH

Although the Commission rejected several basic recommendations of the Judicial Branch Committee, this action was due in large part to the very comprehensive changes proposed in the committee report. Committee suggestions for change in our judicial system raised questions of constitutional theory and political practice, as well as pragmatic considerations, which were sufficiently controversial, in Commission opinion, to merit further study.

The major proposals of the Judicial Branch Committee were summarized in its report as:

(1) Merit selection of judges
(2) Election of judges on question of retention only
(3) A unified court system
(4) An intermediate court of appeals

As will be seen from the following discussion of Commission action, the selection aspect of the merit system was rejected largely because most Commission members believed it would weaken executive power over judicial appointments. They felt the present system had proved itself and saw some flaws in selection through a nominating commission.

The unified court system was not rejected as a matter of principle, but because the Commission preferred to await the results of a nationwide study being given court unification. The Commission did accept many committee recommendations which would give the Supreme Court greater administrative power over all state

courts, thus increasing uniformity, but stopping short of unification.

As to the intermediate appellate court, the Commission preferred an amendment which would not mandate the establishment of a court of appeals, but would give the Legislature discretion to establish this new judicial level.

Throughout all these discussions ran the pragmatic consideration that Minnesota voters had approved amendments to the judicial article both in 1956 and in 1972 and that the coming Legislature would very likely not give a judicial amendment priority over other more pressing matters. Minnesotans will thus have further time to consider important proposals for judicial reform included in the committee's report. It is the hope of the Commission that the controversial aspects of judicial change, especially merit selection and court unification, will be sufficiently discussed by Minnesotans so that the next judiciary amendment can be a definitive one.

1. The Commission failed to adopt the recommendation of the Judicial Branch Committee that the merit plan for selection of judges be constitutionally authorized.

The Judicial Branch Committee had recommended that vacancies be filled by gubernatorial appointment from a list of not less than three submitted by a "judicial nominating commission." This is the method of judicial selection commonly referred to as "the merit plan" or "the Missouri plan."

The committee report conceded that for the most part the present system, under which 85% of presiding district court judges and six of seven Supreme Court judges came to the bench by gubernatorial appointment, has resulted in a well-qualified judiciary. It advanced its proposal for a nominating commission as a measure "to improve the quality of an already fine judicial system."

A majority of the Commission was unwilling to dilute the governor's power and responsibility for the appointment of judges. It believed that the common criticism of state governments, including Minnesota's, is directed at the "weak executive." Because the power of judicial appointment is among the most important of the Governor's present prerogatives, we believe it should be retained.

In the opinion of the Commission, Minnesota governors have shown themselves sensitive to public insistence that the quality of judicial appointments be maintained at a high level. A majority of the Commission was reluctant to accord power to a nominating commission, the makeup of which was not specified and which might be as prone to make "political" nominations as the Governor.

The *minority view* of the Commission, expressed by a majority of the members of the Judicial Branch Committee, may be summarized as follows:

The present system of conferring unrestricted power on the governor to select virtually all of the judges of the State at every level of the court gives the executive branch of government a control over the judicial branch which tends to erode the constitutional concept that they are separate but equal branches of government. By the very nature of the process, judges have been almost uniformly appointed from among lawyers with political backgrounds. It is unrealistic to expect the governor to reach out for appointments which have no bearing on political affiliations and personal ties. Although a nominating commission cannot be expected to divorce itself entirely from all political considerations, if properly selected it would represent a broad spectrum of community views without being narrowly partisan. To that end, the committee recommended that the Commission consist of six laymen appointed by the Governor, four lawyers appointed by the Bar, and the Chief Justice who would act as chairman.

To say that the judiciary of Minnesota is free from scandal and functioning well is not to say that there is no room for improvement. The merit plan is simply one more significant step toward attracting the best qualified lawyers to the bench by a method which is objective, thorough and as free from politics as is pragmatically possible. It is a plan which has been adopted by an increasing number of states, particularly at the appellate level. It has been endorsed by nearly every commission, legal and judicial professional association, and citizens' conference which has studied the matter.

2. Vacancies caused by incumbent judges who do not file for reelection should be filled by gubernatorial appointment.

Though the Judicial Branch Committee had not considered this change in its report, its members approved. Usually a judge resigns before the end of his term, allowing the Governor to fill the vacancy. The rationale for the practice is that the public is less qualified in the first instance to choose between unproven judicial candidates than is a Governor, who has an opportunity to consult with persons and organizations whose knowledge of the legal profession enables them to recommend appointees of high judicial caliber. A judge so appointed would stand for election after serving four years.

3. Each judge should stand for retention in office at the next general election occurring more than four years after his appointment, and every six years thereafter, on a ballot which submits only the question of whether he shall be retained in office.

This retention recommendation embodies another aspect of the merit system or Missouri plan.

Judges should be both responsive to the people and sufficiently independent to exercise their own judgment in matters which the public may not fully understand. This recommended "retention vote" would substitute for open filings against an incumbent and would protect both the judge's independence and the public's opportunity to remove an incompetent judge.

Lack of voter awareness in selecting judges is shown by the large numbers (about a quarter of a million) who refrain from casting ballots for supreme court justices. Though the proposed "retention vote" would not necessarily improve voter interest, it would prevent this lack of interest from resulting in the election of an unqualified judge.

Under the present system a wholly unqualified candidate might be placed in judicial office by default through the death of an incumbent judge between the primary and general elections.

4. The Commission failed to adopt the recommendations of the committee for a unified court system which would consolidate all of the trial courts into a single district court.

The Judicial Branch Committee had recommended that district, probate and municipal courts be consolidated in all counties of the State. The committee reasoned that a unified plan would be more efficient and more flexible than the present system in utilizing special judicial talents and in adjusting to changing workloads.

The Commission rejected this recommendation on a tie vote. One of the reasons advanced against the proposal was that service on the lower courts (municipal, county and probate) has given governors and citizens an opportunity to examine the capabilities of lower court judges before elevating them to the district court.

An important factor in the Commission's decision was the information that a National Center for State Courts is being established in Washington, D.C., and that a regional center located in Minnesota will study court structure and function in this State. The results of this study would allow a future constitutional study commission to consider in greater depth the question of court unification in Minnesota.

* * * * *

Recommendations 5-9 are related to a unified court system, but are addressed to its administration rather than its structure. At the present time, the Supreme Court exercises some degree of *statutory* power over *administration* of courts in the State. The next five recommendations would enlarge the administrative powers of the Supreme Court.

5. The Chief Justice of the Supreme Court should be constitutionally designated as the "executive head of the judicial system" and should appoint an administrative director of courts and such assistants as the administrator deems necessary.

The Chief Justice has long exercised the powers specified in this recommendation, both by statutory authority and by the inherent authority constitutionally conferred on his office. With the judicial administrator, who acts as his assistant in these matters, he proposes the budget for the state court system and recommends to the Governor and the Legislature measures relating to the support and constitution of the state's courts.

6. The Supreme Court should adopt rules governing the administration, admissibility of evidence, practice and procedure in all courts. These rules should be subject to change by the Legislature by a two-thirds vote of each house.

In the past, the Legislature has provided for these matters by specific laws, but has gradually come to realize that this function is fundamentally a constitutional responsibility of the judiciary and therefore better performed by the court than the legislative body. The Legislature has delegated substantial control over court administration to the Judicial Council (MS 483.01 - 483.04) and power to adopt rules for civil and criminal cases to the Supreme Court (MS 480.05 - 480.59).

This proposed change would promote uniformity in lower courts and provide guidance to the bench and bar through a readily accessible code. It would permit adoption of integrated and comprehensive rules of evidence now accomplished on a case-by-case basis by the Supreme Court. The Legislature could, by a two-thirds majority, override a Supreme Court decision with respect to rules of evidence, practice and procedure. The change thus recognizes the prevailing competence of the judiciary in these areas and its fundamental constitutional responsibility, but permits the Legislature to discharge its duty of responding to the needs of the citizens they represent in a democratic manner.

7. The Supreme Court should appoint a chief judge from among the members of the district court of each judicial district.

The chief judge of each judicial district is now elected by the judges in his district (MS 484.34). Usually the position is rotated or routinely assigned to the judge who is senior in service but not necessarily blessed with the administrative skills which the position requires. Appointment by the Supreme Court would obviate embarrassment to colleagues, establish criteria for the position, and promote uniformity and efficiency in the selection of chief judges.

8. The Supreme Court should have constitutional authority to adopt rules of judicial conduct.

The Supreme Court has inherent power to supervise

the conduct of all members of the bar, including those who are members of the bench. This recommendation would simply implement a constitutional amendment adopted in November 1972, which confers on the Legislature the right to make provision for the removal or discipline of judges found guilty of "conduct prejudicial to the administration of justice." Rules of conduct have already been adopted by the Supreme Court pursuant to statute."

9. All judges should be required to be admitted and licensed to practice law in this State.

This language does two things: (1) It translates into constitutional language the recent interpretation of the Supreme Court that the present phrase "learned in the law" means admitted to the bar and licensed to practice; and (2) it extends this provision to constitutionally cover not only judges of the Supreme and district courts, but all judges hereafter appointed or elected to courts of inferior jurisdiction.

10. The judicial power of the State should be vested in a Supreme Court, a district court and such other courts, judicial officers and commissioners with jurisdiction inferior to the Supreme Court as the Legislature may establish.

The Judicial Branch Committee had recommended a constitutionally mandated intermediate appellate court system. Instead the Commission adopted language which would allow the Legislature to establish such a system if the need is demonstrated.

There is general agreement that the Supreme Court is burdened with a workload which impairs its efficiency. However, the Commission felt the Legislature might consider alternatives to an intermediate appellate court such as:

(1) increasing the number of justices from 7 to 9, which the present Constitution allows;

(2) utilizing a larger number of district court judges for temporary duty, as the 1972 judicial amendment permits.

This Commission recommendation would simply reinstate a legislative prerogative which prevailed before the 1956 judicial amendment — a right to vest the judicial power in "such other courts, inferior to the Supreme Court, as the Legislature may from time to time establish."

* * * * *

Several recommendations of the Judicial Branch Committee became part of the Constitution with passage of the judicial amendment in November 1972: (1) Probate courts are no longer constitutional offices; (2) more than one judge of the district court may serve temporarily on the Supreme Court at the same time; and (3) the Legislature may provide for the retirement, removal, and discipline of all judges.

RECOMMENDATIONS ON THE ELECTIVE FRANCHISE

The democratic goal is to involve people as much as possible in their government. State constitutions should enhance the attempt to reach that goal. Minnesota has a history of broad citizen participation in an open political process. The aim of Commission recommendations on the elective franchise is to expand and facilitate that participation to an even greater extent.

Because of the number of recommended changes, an entirely new elective franchise article is proposed by the Commission. Draft language of the proposed article may be found in the mimeographed committee report.

1. The residency requirement of Article VII, Sec. 1 should be reduced from six months to 30 days.

In a recent U.S. Supreme Court ruling, Minnesota's six-month residency requirement was declared unconstitutional. Since the ruling Minnesota has been operating under a 30-day precinct residency requirement which, according to Secretary of State Arlen I. Erdahl, has served as an effective deterrent to voter fraud.

2. The requirement of Article VII, Sec. 1 that qualified voters be United States citizens for three months should be amended to allow all citizens to vote if otherwise qualified.

The Commission believes that all citizens who are otherwise eligible should have the right of suffrage. The present three-month waiting period for new citizens serves no practical purpose and should be repealed.

3. The Legislature should be authorized to remove the prohibition of Article VII, Sec. 2 which denies the vote to felons and the mentally ill and mentally retarded.

The change being recommended by the Commission would allow greater flexibility to the Legislature in determining proper restrictions on the franchise rights of these citizens. The Legislature could provide such safeguards or qualifications as were felt necessary.

4. A new section should be added to the elective franchise article mandating the Legislature to provide for the administration of elections.

The intent of the proposed section is to allow the deletion of the State Canvassing Board (Article V, Sec. 2) and Secretary of State from the Constitution. The new section would mandate the Legislature to provide for administration of elections, nomination of candidates, establishment of residency for voting purposes, assurances of secrecy in voting, and absentee voting.

5. The minimum age for holding elective office specified in Article VII, Sec. 7 should be reduced from 21 to 18. (Approved by 9-7 vote of the Commission.)

Traditionally, those who have been old enough to vote in Minnesota have been eligible to hold public office with the exception of Governor and Lieutenant Governor, who must be 25 years old. The federal Constitution sets the minimum age for President, Vice President, Senator, and Congressman at 35, 35, 30 and 25 years respectively.

The practice of allowing those who are old enough to vote to hold office was altered in 1970 through passage of a constitutional amendment lowering the voting age to 19. That amendment retained the office-holding age at 21. Some confusion has resulted from passage of the amendment, however, because of a failure to amend Article IV, Sec. 25, which provides that state senators and representatives need only be "qualified voters of the state."

To eliminate confusion resulting from the 1970 amendment and to recognize the potential contribution of young people to governmental service, the Commission is recommending that the minimum age for elective office be reduced from 21 to 18. This, of course, would have no bearing on the minimum ages which are otherwise established in the state and federal constitutions.

RECOMMENDATIONS ON EDUCATION PROVISIONS

Current education provisions of the Minnesota Constitution are generally brief and flexible, leaving nearly all major policy determinations to the Legislature. Using this flexibility, the Legislature has been able to delegate a great deal of authority for the day-to-day operation of educational systems and institutions to governing boards and public agencies which are in a much better position to carry out specific responsibilities. This arrangement has left the Legislature free to deal with broad policy matters. Ultimate legislative control is maintained through educational appropriations.

This constitutional arrangement has encouraged the development of a system of elementary, secondary and higher education in Minnesota which is generally respected and admired throughout the country. Even more important, the present Constitution contains no impediments to a continuation of the kind of diversification and innovation which has attracted favorable national attention to our public educational system.

1. No change should be made in the present prohibition on aid to non-public schools as provided in Article I, Sec. 16 and Article VIII, Sec. 2.

The Commission believes that the integrity and independence of private education and the traditional separation of church and state require a continued constitutional prohibition on direct public support of non-public schools. Since any change in the present prohibition would be highly controversial, a great deal of public support would be required for passage of a proposed amendment on the subject.

To determine public sentiment on whether or not the Constitution should be altered to allow direct state support for private schools, a public hearing was held in Mankato. At that time, testimony was taken from a number of educational and religious organizations as well as interested individuals. All those who testified urged that present provisions which forbid aid to non-public schools be retained.

2. No change should be made in Article VIII to specify the organization or unification of the higher education systems in Minnesota. The Higher Education Coordinating Commission should be given statutory authority to review and make recommendations on the budgetary requests of the various higher education systems.

Although Article VIII, Sec. 3 recognizes the University of Minnesota, no specific constitutional reference is made to the organization of higher education in Minnesota. Rather, the Legislature has used its general power to create the State College System, the State Junior College System, and the Vocational-Technical Division of the State Department of Education.

The basic policy questions faced by the Commission were whether or not these separate educational systems should be brought together under a State Board of Higher Education and whether or not the present or altered organization of higher education should be specified in the Constitution.

At a public hearing in Moorhead, representatives of the various educational systems urged that no changes be made, either to spell out present higher education organization or to unify the various systems under a single administrative board or agency.

The Commission agrees that flexibility in servicing the higher educational needs of our State is best maintained by independent but coordinated higher education systems whose organization is not specified in the Constitution.

The Legislature would be aided by having the Higher Education Coordinating Commission review the budgetary requests of the various institutions. This power of review would parallel that which it now possesses with regard to curriculum and would not include the power to either veto or cut requests.

3. No change should be made in Article VIII to specify the organization and structure of the Minnesota Department of Education.

As is the case with higher education, innovative and

responsive elementary and secondary education requires the kind of flexibility which rigid constitutional structure makes impossible. Such flexibility is best maintained by a statutory State Department of Education, equipped to assume its important responsibility under broad guidelines established by the Legislature.

4. No change should be made in Article VIII, Sec. 3 relating to the autonomy of the University of Minnesota.

Article VIII, Sec. 3 acknowledges and confirms the establishment of the University of Minnesota and perpetuates to it "all the rights, immunities, franchises and endowments heretofore granted or confirmed."

The courts have held that this language incorporates the charter of the University into the State Constitution and implies that its alteration would require a constitutional amendment. Under its charter, the University's Board of Regents maintains a good deal of autonomy from the Legislature in managing the day-to-day operations of the University.

On the basis of both investigation and testimony presented at the Moorhead hearing of the Education Committee, the Commission has concluded that the Legislature maintains a good deal of control over the general operations of the University despite the language of Article VIII, Sec. 3. For example, legislative control can be, and is, exercised through the appropriations process. The Legislature has repeatedly placed "riders" on appropriations measures or passed special appropriations for limited purposes. Such enactments serve to direct the general policy of the University, particularly by allocating funds to particular fields of study, without entangling the Legislature in unnecessary detail.

5. There is no need for Article VIII, Secs. 1 and 2 to specify the State's role in the financing of elementary and secondary education.

Article VIII, Secs. 1 and 2, direct the Legislature to provide for a uniform system of public education in all parts of the State. Traditionally, elementary and secondary education has been financed through property taxes administered by individual school districts. In recent years, however, the State has increased dramatically its role in financing education through "state aids" raised from non-property sources.

To determine the need for specific constitutional language to spell out more clearly or alter the State's role in financing public education, the Education and Finance Committees of the Commission held a joint public hearing. In spite of testimony which called for greater state responsibility in financing public education, it was apparent that assumption of such responsibility would not be prohibited by present constitutional language. The Commission believes that the precise role of the State in financing elementary and secondary education is best left to legislative determination as required by changing circumstances.

RECOMMENDATIONS ON FINANCE PROVISIONS

The Commission sought, in analyzing Article IX and the other scattered provisions on finance, to identify those issues which cause problems in the functioning of Minnesota's financial system. Recommendations are for several changes to be made by amendment, but the Commission is not submitting a complete redraft of Article IX. In addition to its recommendations for constitutional change, several other issues have been identified for further study by future commissions.

1. Article IX, Sec. 1 should be amended to permit the State to levy taxes computed as a percentage of federal taxes or based on federal taxable income or other terms defined by federal law.

It is most helpful, in writing state income tax laws, to adopt the terminology and definitions of the federal system. This procedure makes it unnecessary for the Legislature to adopt and revise the full text of all provisions of the Internal Revenue Code. It also saves the taxpayer the difficulty of computing his taxes twice, using both a federal and a state formula. This use of a single formula is popularly referred to as "the piggyback tax."

The Supreme Court held in 1971 that the Legislature may adopt the federal law as the basis for state tax law, but only as that law exists at a particular moment. Any change in federal law requires that the Legislature readopt the Internal Revenue Code.

In making this change, we are not concerned about delegating to Congress the power to make tax definitions for our State. In the first place, Congress is a responsible political body, accountable to us all. Secondly, the Legislature would retain the power to repeal this delegation if Minnesotans became dissatisfied with the definitions adopted by Congress. The amendment would not establish such delegation, but would simply permit the Legislature to do so. (See Appendix E for draft language of the proposed constitutional amendment.)

2. The Constitution should be amended to simplify and consolidate limitations on state borrowing by changes which would:

(a) replace the present prohibition of "internal improvements" with a requirement that state borrowing or expenditure be "for a public purpose paramount to any resulting private use or benefit."

(b) authorize the State to make an unlimited guarantee of loans to its subdivisions or agencies which are general tax obligations of the issuer, and authorize limited cash guarantees of loans to its subdivisions or agencies which are secured only by non-tax revenues;

(c) simplify and consolidate the provisions relating to state debt: by requiring a two-thirds vote of each house of the Legislature for all state borrowing other than short-term certificates of indebtedness; by eliminating the 20-year maximum on maturity of state bonds; by authorizing the Legislature to designate an officer, committee or agency to determine the amount of money to be spent on each project, within criteria and limits set by the Legislature; and by consolidating debt provisions in other articles of the Constitution into Article IX;

(d) provide a 120-day period within which a citizen might sue to set aside or prevent state borrowing or other loan of state credit which violated the public purpose doctrine.

The draft language of a bill incorporating the changes of Recommendation 2 will be found on pages 5-11 of the mimeographed report of the Finance Committee.

(a) Internal Improvements: The Constitution now states that "the State shall never be a party in carrying on works of internal improvements" except in certain circumstances. The framers of the Constitution wanted the Legislature to be able to authorize construction of prisons, schools, a new Capitol, etc. and to carry on other works necessary for governmental uses, but not to use these same powers for nongovernmental purposes such as building roads or industrial facilities which might help develop underpopulated regions of the State.

It has been necessary over the years to modify these restrictions. This has been done in three ways:

(1) Constitutional amendments have allowed the State to spend money on highways, forest fire prevention and airports.

(2) Judicial interpretation has been increasingly lenient in ascribing a governmental purpose to legislative projects; only recently the courts have held that state support for construction of sewage systems is not a work of "internal improvement."

(3) The internal improvements language has been held not to apply to local units of government when they wish to build an auditorium, for example; local units are, however, required by judicial interpretation to limit expenditures to works serving a "public purpose."

It can thus be seen that the internal improvements provision of the Constitution is not a total obstacle to state programs, since some way is eventually found around it. However, the question of constitutionality becomes paramount in such situations. Accordingly, a court test must be arranged to determine validity of the project, causing both delay and needless expense.

In summary, the Commission believes that the obsolete "internal improvements" doctrine is now so riddled with exceptions that it provides little protection for the State against unwise spending, yet impedes programs generally accepted as wise and desirable. We recommend repeal of Section 5 of Article IX and substitution of the "public purpose" doctrine, safeguarded by the constitutional provision that the expenditure must be for "a public purpose paramount to any resulting private use or benefit."

(b) Loan Guarantees: Section 10 of Article IX prohibits the State from giving or loaning its credit. Two kinds of problems are presented by this prohibition:

If the State can guarantee its full faith and credit to the bonds of cities, villages, and school districts, this greater security allows the local unit to sell its bonds at a lower interest rate. The constitutional provision can be interpreted to either prevent or allow state guarantees, thus leading to delay caused by litigation.

A similar question arises when the State wishes to insure loans made by private individuals to other private individuals. Low-income housing is an example. Interest rates on borrowing for such construction would be lower with some guarantee of repayment. Can and should the State be allowed to make these guarantees, as does the FHA for certain kinds of housing?

The Commission recommends that the State be permitted to guarantee the borrowing of local government agencies, but that this liability be limited in certain circumstances. Under our proposal, the State could provide unlimited guarantee for municipal general obligation bonds meeting the "public purpose" test required for state bonds. Unless the municipal bonds fell into default, no state bonds would be issued; the State might then be able to recover against the municipality by requiring it to levy taxes to reimburse the State. The Legislature would have the power to place a dollar limit on all such bonds.

The Legislature would also be empowered to guarantee revenue bonds of municipalities or state agencies. The guarantee would be limited to a single cash amount set aside in a special reserve account, where it would be earning interest until used or released.

(c) State Debt: Commission proposals in regard to state debt aim mainly at clarification and simplification. The Constitution now calls for a three-fifths legislative vote only on that debt incurred for acquisition and improvement of "public lands and buildings and public improvements of a capital nature." While the Commission generally favored an extraordinary majority for the issuance of all bonds, it divided evenly on the question of whether this should be a two-thirds or the present three-fifths majority.

The Commission believes that the Legislature should have the power to delegate authority to determine what portions of bond revenues should be used for different purposes, once it has established proper criteria. In this way, the Legislature could authorize bonds for the construction of certain public buildings but set guidelines rather than fixed dollar amounts for each building, leaving necessary decisions to appro-

priate agencies. This would increase the flexibility and usefulness of our state building program.

In order that all financial provisions of the Constitution be contained in Article IX, the Commission recommends incorporating into that article the borrowing authority contained in Article XVI, Sec. 12 on highways; Article XIX, Sec. 2 on airports; and Article XVII on forest fire prevention.

(d) Litigation: In order to reduce the time-consuming and costly litigation that has often been required to validate state bonds, the Commission recommends that the burden of a court test be placed on those who oppose the issue.

Since no intelligent investor will loan large sums if there is any doubt that the investment is legal, it has been necessary in the past to arrange test cases. As an example, the Pollution Control Agency had to sue the State Auditor to obtain a declaration of the validity of bonds authorized by the Legislature, leading to expense and a year's delay in instituting a needed program.

Under the change recommended by the Commission, any taxpayer who believed the bond issue was not for public purposes would have to commence suit within 120 days. Putting the burden on the opposing party would eliminate the arranged court suits between governmental agencies but allow full time for citizens to oppose a project. The 120-day limit would not cause burdensome delay.

3. Section 32(a) of Article IV, providing a gross earnings tax on railroads in lieu of certain other taxes, should be repealed, thus allowing the Legislature to set the form and rate of taxation on railroads as it does for other businesses in Minnesota.

This special provision for railroads was approved in 1871 when Minnesota's economy depended on the extension of railroad lines to all corners of the developing state. It has long ceased to have any justification and does not, the Commission believes, represent a realistic assessment of the railroads' relative share of the state's fiscal burden. The percentage rate of the railroad's gross earnings tax cannot be changed, as can that for other businesses, when the Legislature finds it desirable, but must be submitted to the voters as a constitutional amendment. We believe the citizens of Minnesota have long been dissatisfied with this preferential treatment of one industry and are glad to say that at Commission hearings, the railroad companies generally signified their willingness to contribute to Minnesota's revenues in the same way as other industries.

The draft language of the constitutional amendment which would repeal Article IV, Sec. 32(a) constitutes Appendix F of this report.

* * * * *

The Commission examined the Permanent School and Permanent University Fund provisions of Article VIII, Secs. 4 through 7; the Internal Improvements Land Fund provisions of Article IV, Sec. 32(b); and some regulations on the administration of these funds found in Article IX, Sec. 12. We find no need for change in any provisions relating to these funds and their investment. The administration of the lands which produce the revenues for these funds is treated in the Natural Resources section of this report.

Some other, less important issues were also reported to the Commission by the Finance Committee as warranting further study by a future constitutional study commission.

1. Is the uniformity in classification provision of Article IX, Sec. 1 adequate to meet modern needs? Should the Constitution either put further restrictions on the Legislature's power to classify for tax purposes or widen these powers?

2. Should the State, as well as local units of government, be clearly authorized to levy special assessments against benefited property? Are there cases in which it would be desirable to have direct state construction or operation of certain kinds of facilities?

3. Should the nearly obsolete provisions of Article IX, Sec. 13 on banks and banking law be repealed? If not, should the two-thirds required to pass a banking law be changed to a majority?

RECOMMENDATIONS ON INTERGOVERNMENTAL RELATIONS AND LOCAL GOVERNMENT

A constitutional amendment of 1958 consolidated all local government provisions of the Constitution in Article XI, with the single exception of Article IV, Sec. 33, which limits the Legislature's power to enact special legislation.

The local government article is generally considered a progressive, flexible statement of relationships between state and local government. This constitutional flexibility has been used wisely to authorize innovative approaches to local government, now being used as models in a number of other states.

The Commission believes that Article XI provides a flexible framework under which the Legislature can achieve an appropriate balance between local autonomy and state sovereignty and encourage the maximum development of intergovernmental cooperation. The Commission is therefore recommending no major changes in local government provisions of the Minnesota Constitution. A statutory change would suffice to differentiate bills needing and not needing local approval. Constitutional recommendations on Sections 3 and 4 would clarify and consolidate. A new Section 4 would encour-

age cooperation among local units of government by the addition of specific constitutional language.

1. Sec. 645.023 of the Minnesota Statutes should be amended to require local approval of laws relating to one or a few units of government.

Though not a constitutional matter, this change is deemed sufficiently significant by the Commission to merit inclusion in its recommendations. In order to achieve an appropriate balance between the state sovereignty and local autonomy referred to above, some restriction must be placed on the passage of special legislation by the Legislature. The 1958 local government amendment recognized this premise and required that the affected localities be named in all special legislation and that local approval be required unless "otherwise provided by general law." The Legislature has used this "escape clause" in present constitutional language to remove the requirement of local government approval, largely to allow passage of regional or metropolitan legislation without requiring the approval of dozens or even hundreds of affected local government units.

The Commission appreciates the need to enact special legislation in certain circumstances. It believes, however, that in order to maintain local control over issues that are basically local in nature, local approval should be required for all special laws affecting one or several units of local government.

2. No further authorization for county home rule is needed than present Article XI, Sec. 3.

Under the present Constitution, counties have only those powers delegated to them by the Legislature. Several county officials and organizations asked that home rule powers for counties be specified in the Constitution. The present language of Article XI, Sec. 3 does, however, authorize the Legislature to provide by law for home rule for counties and is, the Commission believes, sufficient.

3. Article XI, Secs. 3 and 4, relating to home rule and charter commissions, should be simplified and consolidated and should eliminate reference to "freeholders" and to district court judges as the potential appointing body of charter commission members.

Sections 3 and 4, dealing with home rule charters and charter commissions, contain some redundancy and confusion of language, partly a residue of original constitutional phraseology. Section 4 also provides that property ownership "may" be used as a qualification for membership on a charter commission. Although the Legislature has required only that the commission member be a qualified voter, constitutional reference to so outmoded and undemocratic a qualification as property ownership should be expunged. The constitutional permission for district court appointment of charter commission members, presently utilized, should be removed; the appointing power should lie in the people, or their representatives, over whom commission deliberations have such great influence.

The precise language of a new Section 3, simplifying and combining present Sections 3 and 4, is found in the mimeographed committee report. It would give the Legislature full and flexible power to prescribe details relating to home rule charter commissions, and to the adoption, amendment and repeal of home rule charters.

4. A new section should be added to Article XI providing for the joint or cooperative exercise of powers of local government units with each other or with other agencies of government.

With the complex problems facing government at every level, new governmental alignments and strategies are, and will be, required. In many cases, local units of government are already finding cooperation essential, and are pooling resources and combining other efforts to solve the multitude of problems which reach across local government boundaries.

Minnesota has a progressive legislative and judicial history of encouraging cooperation between local units of government and providing regional approaches to wider problems. Much of this encouragement has come through aggressive interpretation and implementation of the Joint Exercise of Powers Act (Minnesota Statutes 471.59) first enacted in 1942. The Commission believes it desirable to remove any doubt as to the constitutionality of such cooperation and to further encourage appropriate intergovernmental activities. The precise wording of the proposed new Section 4 may be found in the mimeographed committee report.

RECOMMENDATIONS ON THE AMENDING PROCESS

The Commission decided to recommend changes in both ways of revising the State Constitution — the separate amendment process of Sec. 1 and the constitutional convention process covered in Secs. 2 and 3. Although the Commission is not recommending a constitutional convention, perhaps citizens and Legislature may not agree with the decision, or future needs of the State may make a convention desirable.

The Minnesota Constitution puts great difficulty in the way of both separate amendments and a constitutional convention.

The Commission agrees with the assessment contained in W. Brooke Graves' definitive *State Constitutional Revision:*

> If a state constitution is to serve its proper purposes the door must be open to change by reasonable procedures. Where the amending process is too difficult, such as the requirement of an extraordinary popular vote, the document tends to get out of date . . . Ideally, the amending

process should be more difficult than the ordinary legislative process, but not impossibly difficult.[18]

Minnesota is one of a handful of states still retaining the "extraordinary popular vote" cited above.

Many states, facing up to the need for thorough-going revision of old constitutions, have encountered their first opposition in the revising sections of these very documents. As the first step to reform, they have had to amend the revising article.

Illinois was the first to adopt such an amendment. Between 1870 and 1946, Illinois tried on five occasions to ease its extraordinarily difficult amending process and failed, owing to the high ratification majority which was one of its targets. In 1950, legislators and interested citizens joined in an all-out effort to pass what they dubbed the "Gateway Amendment," since it would open up pathways to badly needed change. Voters passed the amendment, three to one.

Since then, state after state has eased the way to constitutional reform by the kind of gateway amendment needed to solve its particular problems. These amendments have usually done one or more of the following: (1) relaxed the legislative procedure for putting an amendment on the ballot, either by lowering the majority from two-thirds to one-half or by making passage in one session sufficient; (2) allowed revision of an entire article; (3) permitted submission of more than one article at an election; (4) lowered the majority needed to ratify an amendment or a new constitution; or (5) permitted the legislature to act as a constitutional convention.

The following recommendations comprise the specific changes which the Commission believes would make revision of our Constitution workable — easier than at the present, yet not open to capricious change by a determined minority. Our goal is expressed in the following quotation:

> The constitutional amendment procedure ought to be sufficiently difficult to protect the document against frivolous amendments and sufficiently liberal to permit necessary ones. . . . The advantage of including rigorous restrictions of the amending process must be weighed against the disadvantages of inflexibility and obsolescence of the document as a whole. . . . Restrictions of the amending process are in some measure intended to be protections against constitutional instability.[19]

The draft language of the Gateway Amendment proposed by the Commission constitutes Appendix G of this report.

1. Amendments should continue to be submitted to the voters by a majority vote in each House, as provided in Article XIV, Sec. 1.

The submission stage of the amending process has always been unusually easy in Minnesota. Only 17 other states require only a majority vote, and 10 of these require passage in more than one session.

The Commission heard testimony from some authorities favoring a two-thirds vote of each house, since that higher majority would insure that amendments had wide legislative support and would also enhance chance of passage by the voters.

The Commission found more persuasive the argument that the two-thirds majority would make it necessary to please so many legislators of varying viewpoints that the quality of the amendment might be diluted.

Practically speaking, amendments selected to appear on the ballot have survived scrutiny of several legislative committees before being voted on by the Legislature. Furthermore, the final vote is usually almost unanimous.

2. The Constitution should continue to make no provision that amendments can be initiated by petition, with the single exception of alterations affecting the structure of the Legislature.

The case for initiated amendments is put thus by the *Model State Constitution:*

> Some way should be provided by which the people may directly effect constitutional change without depending on existing governmental institutions. No extensive use is either expected or hoped for. . . . The initiative is merely a salutary counterweight to refusal by the legislature . . . to take popularly desired action.[20]

In 1916, during the Progressive Reform Era, when the initiative, referendum and recall were being widely advocated, an amendment allowing initiated measures was submitted to Minnesota voters and defeated.

The 14 states which have adopted initiated amendments have not found the method very productive. All 10 of the amendments initiated in these states between 1968 and 1970 failed. Too often, initiated amendments are used for emotional, high-pressure purposes. The Commission feels that regardless of the theoretical merits of the initiative process, to include it in a Gateway Amendment would dangerously increase the controversial aspect of that amendment.

The Commission does feel, however, that legislatures are naturally less responsive to citizen convictions on questions that relate to their own composition and function than on other matters. It therefore recommends that Minnesota follow the recent example of Illinois, which allows citizens to initiate changes in the structure and procedures of the Legislature. The Commission does not recommend such citizen action with regard to procedures of the Legislature, these being internal matters of legislative reform already in process of commendable change. However, many citizens feel strongly about a unicameral legislature and the size of our Legislature, and the recommended change would provide an avenue of action for these convictions if widespread enough. The specific provisions of the recommended initiative procedure will be found in Section 3 of Appendix G.

3. There should be no change in the present requirement of Article XIV, Sec. 1 that proposed amendments be limited to one subject.

If the Legislature adopts the speeded-up revision process recommended by the Commission, it will be necessary to amend entire articles at one time. To do this, many states have included in their gateway amendments a provision that a complete article, or even a package of articles, could be accepted by a single vote. Must Minnesota do the same?

The MCC of 1948 recommended that the Legislature be allowed complete discretion in framing amendments, but a constitutional change to that effect was badly defeated in the general election of that year.

The Commission recommends against changing the present provision of Article XIV on "multifarious amendments," as they are called. One reason for our decision is that the voters might turn down the Gateway Amendment if it gave the Legislature this much power. A much more important reason is that the Minnesota courts have been very generous in ruling on amendments that were challenged on the ground of covering more than one subject. (The mimeographed Amending Process report gives the legal background on pages 19-24.) Entire articles (home rule, judiciary) have been amended by one vote and never challenged. If such a challenge is made in the future, the Commission believes courts will defer to legislative judgment.

4. Amendments should be approved either by a majority of those voting at the election, as now provided in Article XIV, Sec. 1; or by 55% of those voting on the proposition.

This change is the heart of the Gateway Amendment. The present provision that amendments must be approved by a majority of everyone who votes in the election is, in the opinion of the Commission, both unfair and so difficult that it will impede implementation of the Commission's other recommendations.

In the process of adopting gateway amendments, many states have recently abandoned a similar amending majority so that Minnesota is now one of only four states that require the approval of a majority of all electors for amendment passage.

The testimony to the Commission was unanimous in recommending an easing of Minnesota's amending majority. The following reasons were stressed:

1. An enormous amount of effort is expended by ad hoc committees set up to pass amendments and by such organizations as the League of Women Voters, which speaks of the great amount of time and energy (and money, we know) needed to capture the attention of *every* voter with amendment information. The League says it is necessary to spend as much time explaining the process, and the necessity for voting, as in explaining the amendment. The League and other organizations which have worked for amendments might well remind Minnesotans of the remark of a well-known expert on constitutional reform: "In any society there is just so much political energy. . . . You have to use it rather carefully."[21]
2. The present provision gives undue weight to the non-participating voter. To count all non-votes as no votes is unrealistic. Many who fail to vote would favor the amendment if they understood it. Comparison of precincts with voting machines and precincts voting by paper ballot proves that many voters simply fail to find the amendments on voting machines.
3. The difficult majority now used makes legislators wary of putting on the ballot as many amendments as they know the Constitution needs. They fear jeopardizing a favored amendment by submitting more controversial ones at the same election.
4. The difficult ratifying vote wastes time and money. Since 1920 alone, 10 amendments which were rejected when first submitted were finally adopted, being resubmitted from one to five times. Minnesota had to vote 30 times to finally adopt these 10 amendments, which were generally quite non-controversial.
5. The present majority is undemocratic. A minority can thwart the will of the majority. A citizen's vote is diluted in the same way as it is under an unfair reapportionment. Amendments which have received three times as many yes as no votes have been defeated in Minnesota.

As we saw on pages 4-5, Minnesota's Constitution originally contained the easiest amending process in the nation. It took only a majority of legislators to submit an amendment to the people; amendments could be submitted each year; and, most important of all, amendments were adopted or rejected by a *majority of those voting on the amendment.*

From 1858 to 1898, a total of 66 amendments were submitted to the voters and, under this easy amending majority, 73% were adopted. These changes enormously improved the original document. However, in 1898 the voters approved a change in the amending process which made it extremely difficult to pass amendments. This change required the yes vote of a *majority of everyone voting in the election,* not just of those voting on the question. There was an immediate, striking change in the adoption rate for amendments. As many amendments were now rejected as had formerly been adopted. From 1900 through 1920, voters rejected 77% of submitted amendments.

A few members of the Commission wished to return to the easy amending procedure of the original Constitution, by requiring for ratification only a simple majority of those voting on the question. Most members felt that a return to this simple majority would make Minnesota's amending process too facile. They saw wisdom in the opinion quoted above[19] that some restriction on the amending process is a safeguard against constitutional instability. A wide-open amending process may invite the addition of non-basic, statutory-like material which seems necessary only at the moment of adoption.

Four-fifths of the 50 states require more than a simple majority at either the submission or the ratification stage of a constitutional amendment.[22] The Commission prefers to remain in their company — especially in view of our recommendations for special elections and a limited initiative, which open up the amending process in other ways.

In the 1950's Illinois adopted the kind of ratification alternative we suggest: either a majority of all electors or two-thirds of those voting on the question. Their experience has shown that the two-thirds is not much easier to attain than a majority of all electors. We are sure that our alternative of 55% will strike a good balance between flexibility and stability in our amending process.

5. The Legislature should be able to submit amendments at a special election if two-thirds of each house concur.

The Commission believes that time may be of the essence in some cases. Therefore, the Legislature should be able to provide for a special election in those instances by an extraordinary vote. The Commission is not encouraging the submission of amendments at special elections, only providing for the contingency in which a time factor might be critical.

6. The Legislature should be permitted to submit the question of calling a constitutional convention to the people by a majority of the members of each house. (Approved by 8-7 vote of the Commission.)

At present, two-thirds of each house is required to submit this question. The majority of states (26) require only a majority. The Commission feels that in view of other constitutional safeguards against hasty adoption of a new charter, a majority of both houses is sufficient to initiate the process.

7. The Legislature should be able to submit the question of calling a constitutional convention at a special election if two-thirds of each house concur.

Should a convention be desired by Legislature and citizens, this recommendation could speed up a process that is now very lengthy.

8. The present provisions of Article XIV, Sec. 2 should not be changed to allow for citizen initiation or periodic submission of the question of calling a constitutional convention.

Although periodic submission of this question has resulted in the calling of a constitutional convention in a few states where legislators have resisted citizen pressure, periodic convention calls are usually turned down. Since the Commission has recommended a very easy submission process by the Legislature, it believes there is no rationale for citizen initiation or periodic submission.

9. A constitutional convention should be approved by either a majority of those voting at the election, as now provided in Article XIV, Sec. 2; or by 55% of those voting on the question, whichever is less.

This change would parallel the majority required to approve a constitutional amendment.

10. The present provision of Article XIV, Sec. 3 that a new Constitution be ratified by three-fifths of those voting on the question should not be changed.

A three-fifths vote makes it more difficult to approve a new Constitution than to adopt an amendment. The Commission believes that is proper.

This provision of the Constitution was adopted in 1954 by a vote of three to one, so represents both a recent and a well-considered opinion of Minnesota citizens.

11. A new Constitution should be submitted, according to the judgment of the convention which framed it, at either a special, a primary or a general election, to be held between two and six months after adjournment of the convention.

The Commission believes that the present constitutional provision that a new constitution be voted on only at a general election is too restrictive. The MCC report and the *Model State Constitution* both contain provisions similar to our recommendation. Conventions in recent states have been enabled to set election dates within similar limits. The two months' minimum prevents too-hasty adoption. Anything over the six months' maximum would probably result in loss of citizen interest.

RECOMMENDATIONS ON TRANSPORTATION

A transportation "policy" must cover all available modes of transportation—air, highways, rail and water, as well as the combination of modes necessary for mass transit in metropolitan centers.

By this definition, Minnesota's Constitution does not set forth a transportation policy. Nor has the Commission attempted to draft a new and comprehensive transportation policy, believing that is a legislative matter.

As a beginning, the Commission has evaluated those provisions of the present Constitution which deal with transportation: Article XIX on aeronautics; Article XVI on highways; and two short sections dealing with railroads.

A basic issue faced by the Commission was whether transportation provisions should be general in nature, simply outlining legislative authority, or long and detailed as is the highway amendment with its specifications on bond and interest limits, highway routes and mileage limits.

1. No change should be made in Article XIX, relating to aeronautics.

In 1944 Minnesota voters approved a constitutional amendment which authorized the State to finance the construction and maintenance of airports. This constitutional authority was deemed wise to obviate the possibility of airport expenditures being challenged under the prohibition of Article IX, Sec. 5, against the State engaging in works of internal improvement.

Under Article XIX the State may itself build, maintain and operate airports and other air navigation facilities or it may assist local units of government in so doing. Following passage of this amendment, the Legislature created a Department of Aeronautics, which the Commission believes has done a most effective job over the years.

Sections 3 and 4 of Article XIX authorize the Legislature to impose a tax on flight fuel and aircraft. These taxes are not dedicated to a particular purpose, but the Legislature has consistently expended these funds for the purposes authorized in Article XIX.

The Commission believes that the strong role assumed by the State in encouraging and financing airports should be continued and that Article XIX provides ample and flexible powers for that purpose.

2. Article XVI should be repealed except for Section 1 and the following language of Section 12: "The Legislature may provide by law for the issue and sale of bonds of the State in such amount as may be necessary to carry out the provisions of this article."

Whether or not highway user taxes should continue to be dedicated to highway construction and maintenance is a controversial question. The same sharp division of opinion apparent among Minnesota citizens was also evidenced within the Commission. The final vote was 10 for undedication of highway funds; 6 for retention of such dedication.*

The dedication of highway funds was the only question on which the Commission adopted the minority rather than the majority report of a study committee. Although the repeal of Article XVI is usually characterized as a rural-urban split, that division was not entirely true of the Commission vote, since three metropolitan members voted against undedication of the highway funds.

Because the Commission adopted a minority report of a study committee, because the decision was so close, and because the issue is so controversial, this report will summarize the arguments both for and against retention of the dedication of highway user taxes.

Arguments for Retaining Dedicated Highway Funds— The automobile has contributed immeasurably to the development and mobility of American society. Americans are now irretrievably dependent on the automobile as a means of transportation, both economically and socially. Withdrawing funds for the construction of new highways and the maintenance and improvement of those we now have would mean severe deterioration in the mobility of the American public, affecting both our economic growth and our societal life style.

Undedicating the highway funds is especially feared in the rural areas, where the need for new roads is especially acute. It is the duty of the State to fulfill these desires before abandoning a policy approved by the voters themselves in 1956.

The continuing abandonment of railroad branch lines will have an enormous impact on the need to upgrade outstate roads to a nine-ton capacity. Some 115 Minnesota communities with 177 grain elevators which are now served by railroads have less than the nine-ton capacity they would need if branch lines were abandoned. (The Commission took no action on any policy relating to railroad branch line abandonment, but refers interested readers to the mimeographed Transportation Committee report, which considers the problem in depth and outlines possible state and federal approaches.)

It is a stark political reality that a constitutional amendment must be passed by all citizens of the State and that rural Minnesota is united in opposition to a repeal of highway fund dedication.

Commission members who advance the above reasons for retention of dedicated highway funds are acutely aware of the serious impact of the automobile on our natural and social environment. They wholeheartedly support the development of attractive transportation alternatives, the development of more efficient automobile engines and mandatory installation of effective anti-pollution devices on all motor vehicles.

Arguments for Repealing Dedicated Highway Funds— As a matter of consitutional principle, the dedication of funds to a specific purpose limits legislative judgment, substituting rigidity for the kind of flexibility needed to attack changing problems. The majority of Commission members trust the Legislature to establish a public policy for financing transportation that will

*Representatives Aubrey Dirlam and Richard Fitzsimons, Senator Carl Jensen and Mr. Orville Evenson wish to be publicly recorded as voting against undedicating the highway funds.

serve the changing needs of all peoples in all parts of the State.

Despite taxes on gasoline and motor vehicle licenses, the automobile does not come close to paying the enormous costs of road construction and maintenance or its impact on our natural and social environment. Transportation alternatives to the automobile must be encouraged to mitigate the environmental ravages of more and more, wider and wider highways, with their disruption of community patterns and resources, their pollution of the air and their dangerous threat to our dwindling supplies of fossil fuels.

The needs of the urban area for mass transit will never be met under the provisions of Article XVI. Both urban and rural areas should be able to expend the funds allotted to them as they see fit. This flexibility in allowing the large metropolitan area to develop plans for rapid mass transit would not keep the rural areas from building the roads demanded by changing population patterns in outstate Minnesota.

Support is growing on the federal level for more flexibility in the use of highway funds. Secretary of Transportation John Volpe recommended to Congress "The Federal-Aid Highway and Mass Transportation Act of 1972" which would establish a new urban transportation program for financing urban mass transit and highway projects and would provide a rural general transportation program, including a continuance of existing primary and secondary federal aid systems.

Only with a more flexible highway program than that provided by Article XVI could Minnesota take advantage of the funding changes being seriously and increasingly considered at the federal level.

3. If the Legislature does not act favorably on Recommendation 2 above, the mileage, bond and interest limitations of Article XVI should be repealed.

Article XVI suggests mileage limitations for streets and highways eligible for state aids. It also imposes restrictions on the highway bonding authority of the state, both in total amount ($150 million) and in interest rate (5%).

The mileage limitations have proved to be meaningless suggestions, since the Legislature has extended them as the article provides it may do.

Bonding and interest limitations have also proved unrealistic. In recent years the 5% interest limit has made it difficult to sell bonds. Since 1957 three factors have changed, all calling for a re-evaluation of the $150 million bonding limit: an increase in property values, a rise in individual and aggregate income and a great increase in population. Needed checks on government spending for these purposes are better left to legislative discretion.

4. The Legislature or other groups designated by the Legislature should undertake a comprehensive study to determine the need for revision of the highway-user distribution formula of Article XVI, Sec. 5.

The formula for distributing highway funds provides that 62% of the highway-user funds be used for trunk highways, 29% for county state-aid roads and 9% for municipal state-aid roads. The Legislature was also granted power after January 1963 to set aside 5% of the net proceeds of the entire fund to be apportioned as it saw fit.

The Commission believes this distribution formula is too rigid to be practicable. As it is over 18 years since the formula was devised, the Commission believes that the Legislature should revise the percentages to adapt them to changing circumstances.

5. Article IX, Sec. 15, which restricts the bonding authority of municipalities to aid in the construction of railroads to 5% of the value of taxable property within the municipality, should be repealed.

Minnesota's Constitution contains two provisions relating to railroads. The provision of Article IV, Sec. 32(a), which applies a different form of taxation to railroads than to other industries, has been recommended for change in the Finance section of this report.

The other section relating to railroads (Article IX, Sec. 15) appears to authorize a limited expenditure of public funds by municipalities to aid in the construction of railroads. In 1872, when local communities were attempting to lure railroads into their areas by financial aids, the Legislature submitted and the voters approved an amendment which limited indebtedness for this purpose to ten percent of the value of the taxable property of the county, township, city or village issuing the bonds. In 1879 another amendment lowered the ten percent to five percent.

This provision is obviously obsolete and should be repealed. If in the future, constitutional authorization is needed to expend state or local funds for construction and maintenance of railroad branch lines or mass transit systems, the committee feels specific authority should be provided, not through a constitutional provision originally drafted for other purposes, but through a new constitutional authorization.

RECOMMENDATIONS ON NATURAL RESOURCES PROVISIONS

Minnesotans are justly proud of the wealth of natural resources possessed by our State. The Commission believes that, for the most part, conservation and management of natural resources are best handled by the

Legislature and administrative and regulatory agencies, and that they are being well-administered at present. Nevertheless, certain fundamental responsibilities of the State to provide a healthy environment for its citizens and to protect its natural resources can and should be set out in the state Constitution.

1. A new article should be added to the Minnesota Constitution establishing the provision and maintenance of a healthful environment as public policy and mandating the Legislature to provide for the implementation and enforcement of this public policy.

There seems to be universal agreement that protection of the environment is a prime duty of modern state government. As pollution threatens our air and water and other kinds of poorly planned development pose a threat to our forests and lakes, the State must take firm measures to combat these environmental threats.

The proposed amendment, affirming the duty of the State to provide a healthy environment for its people, would firmly articulate a policy of great importance to the people of Minnesota and would serve as a constant reminder of this fundamental duty of state government.

2. There should be no change in constitutional provisions of Article VIII, Secs. 4-7 and Article IV, Sec. 32(b) which relate to the administration of state trust fund lands.

In the process of becoming a state, certain lands were granted to Minnesota by the federal government. Because income from the sale or lease of the trust fund lands is largely dedicated to education, the lands must be sold or leased in order to generate income. This restriction on management precludes the use of the lands solely as wilderness areas, parks or scientific preserves.

The income generated by sale or lease of the trust fund lands is important to educational financing, providing funds which would otherwise have to come from additional tax receipts. The Department of Natural Resources, which is charged with administration of these lands, has long placed stringent ecological restraints on their management.

Because the Department of Natural Resources manages the lands in a manner which matches income production with sound ecological principles, the Commission is recommending no change in the constitutional provisions on trust fund land administration.

3. There should be no change in the provisions of Article XVII relating to forest fire prevention and Article XVIII relating to forestation.

Forest fire prevention and forestation were specifically authorized as legitimate activities of the State by amendments adopted in 1924 and 1926. The provisions on forest fire prevention allow the contracting of state debt. Unless and until the restrictions on internal improvements are lifted, the Commission recommends no change in this specific authorization of Article XVII.

Article XVIII authorizes a special tax treatment for forest lands, which otherwise might conflict with provisions of Article IX, Sec. 1.

SECTION FOUR

PRIORITY RECOMMENDATIONS TO THE 1973 LEGISLATURE

The Constitutional Study Commission of 1972 was asked by the 1971 Legislature to examine Minnesota's Constitution for needed changes and to suggest a revised constitutional format in preparation for either a constitutional convention or further amendments to the present Constitution.

As the eleven study committees of the Commission began reporting, it became evident that Minnesota's Constitution did not need so many and such far-reaching changes that they could be accomplished only by a constitutional convention called to rewrite the entire document.

The Commission was also dissuaded from recommending a constitutional convention by the lack of citizen interest in a project that demands the greatest degree of public commitment for success.

In the last twenty years, over four-fifths of our 50 states have undertaken major revision of their basic charters. A review of their relative success led the Commission to conclude that less had been accomplished by the preparation and submission of entirely new documents by constitutional conventions than by the amending process when comprehensive changes had been submitted to the voters in an orderly fashion over the course of several elections.

Our first recommendation to the 1973 Legislature is therefore that Minnesota's Constitution be improved through a process commonly known as "phased, comprehensive revision"—or a series of separate, but coordinated amendments planned for submission over several elections.

All states which have undertaken major constitutional overhaul in recent decades have used constitutional study commissions to identify problems, hear public testimony, suggest amendments or entirely new documents, advise legislative committees and help educate the public before the vote on amendments or a new constitution. Usually these commissions contain both legislators and lay members, are carefully bipartisan in nature and are appointed jointly by the governor and legislative bodies.

We recommend that the 1973 Legislature create another study commission to consider those many constitutional provisions not thoroughly reviewed by the present commission, to further review the provisions herein presented and to recommend the second and subsequent phases of revision.

If Minnesota is to update its document by separate amendments, it is essential that the amending process of our Constitution be fair and workable. The Commission believes that constitutions should not be changed too easily, but that Minnesota puts unreasonable difficulties in the way of constitutional change. Minnesota is one of only four states which require that an amendment receive the affirmative vote of a majority of all voters in that election, whether or not they vote on the proposal. This procedure counts all non-votes as no-votes. This is not, we feel, democratic or fair.

Many other states, facing up to the need for comprehensive improvement of old constitutions, have had to open the way to change by revising their revising articles. These changes are commonly described as "gateway amendments."

We therefore recommend that Minnesota facilitate the purpose of constitutional improvement by placing on the 1974 ballot a Gateway Amendment which would provide (1) that an amendment be approved either by a majority of all electors or by 55% of those voting on the proposal, whichever is less; (2) that citizens be able to initiate amendments on matters of legislative structure; (3) that the Legislature, by a two-thirds vote of both houses, be able to submit amendments at a special election; and (4) that the calling of a constitutional convention be made easier by lowering from two-thirds to one-half the legislative majority needed to submit the question to the people, by allowing submission of the question at a special election if two-thirds of each house agree, and by requiring the call to be approved either by a majority of all electors or by 55% of those voting on the proposal, whichever is less.

One of the first actions of the Constitutional Study Commission was appointment of a Committee on Structure and Form to prepare the "revised constitutional format" requested by the Legislature. The result is a document which shortens, clarifies, updates, and reorganizes the present Constitution without making consequential change.

We recommend that a revised constitutional format which would delete obsolete and inconsequential provisions, clarify and modernize the language, reorganize logically related provisions, shorten the length by one-third and reduce the articles from 21 to 14, be placed on the 1974 ballot for approval.

The above recommendations would require submission to the voters in 1974 of two constitutional amendments. The entire Commission agreed that these two

were essential to the method of constitutional improvement which we urge the 1973 Legislature to adopt. Commission members agreed that another three amendments should go on the ballot in 1974.

Timeliness was the main criterion which we applied to our choice of high-priority amendments. What constitutional changes are particularly pertinent in 1973 and 1974?

We quickly and unanimously decided that timing was of the essence in regard to that amendment which shifts the reapportioning power from the Legislature to a Districting Commission. Never before have legislators been so willing to rid themselves of a burden that they find heavy and difficult of accomplishment. Never again will the public remember so keenly the litigation in courts of every level, state and federal, that accompanied the redistrictings of 1959, 1965 and 1971. Never again will political parties be so conscious of the difficulty of fielding candidates in fluid districts lines. Never again in this decade will legislators be so free from the fear of relinquishing a familiar district.

We accordingly recommend that in 1974 the voters of Minnesota be asked to remove the reapportioning power from the Legislature to a bipartisan Districting Commission of four legislative and nine non-legislative members, empowering the Legislature to set standards and guidelines for the commission.

The Finance Committee of the Commission strongly urged the present need for a constitutional change which would allow the Legislature to levy state income taxes by the "piggyback" method, computing them as a percentage of the federal income tax. We are aware that there is disagreement over the advisability of the piggyback tax, and of the need for a constitutional change to implement it. However, the recommended amendment would not only assure the constitutionality of such a taxing method if agreed on by the Legislature, but would highlight arguments for and against a change which many citizens presently see as a great convenience, and test their final reaction to the new taxing procedure.

We therefore recommend that the voters of 1974 be asked to pass on an amendment which would allow the Legislature to levy and compute state income taxes as a percentage of the federal income tax, a procedure commonly known as the "piggyback income tax."

The Commission also agreed on the advisability of deleting from the Constitution the special taxing method applied to railroads in this State. The application of a gross earnings tax in lieu of taxes paid by other industries is anachronistic and long overdue for repeal. It is the one Minnesota tax which can be changed only by a constitutional amendment.

For the first time, most railroads operating in Minnesota agree on the need for repeal and are ready to accept the same taxes as applied to other industries in the State.

We therefore suggest, as our final recommendation, that the provision for a five percent gross earnings tax on railroads in lieu of all other taxes be removed from the Constitution by amendment.

The members of the 1972 Constitutional Study Commission are keenly aware that the Legislature may not agree with their recommendations for priority amendments. The Legislature may feel other changes are more important or, agreeing, they may feel that certain provisions of the recommended amendments need modification. The 1973 and 1974 sessions may also highlight issues which transcend those we have discussed. But we are confident that the unanimous agreement of a commission which included 12 experienced legislators among its 21 members is testimony to the need for the improvements we herein respectfully submit to the citizens of Minnesota and to their elected representatives.

FOOTNOTES

1. Commission on Intergovernmental Relations, *A Report to the President for Transmittal to Congress* (1955), p. 37.
2. *Ibid.*, p. 56.
3. See the bibliography for recent surveys.
4. *The Book of States* published by the Council on State Governments each biennium begins with a section on state constitutions and their revision, presently being compiled by Albert L. Sturm.
5. William Anderson and A. J. Lobb's *A History of the Constitution of Minnesota* (1921) is the definitive source for Minnesota's constitutional history from territorial days up to 1920.
6. *Ibid.*, p. 129.
7. *Ibid.*, p. 147.
8. League of Women Voters, *Constitutional Revision* (1967), p. 2.
9. *Ibid.*, p. 3.
10. Legislative Reports of the League of Women Voters for 1955 and 1957.
11. G. Theodore Mitau, "Constitutional Change by Amendment: Recommendations of the Minnesota Constitutional Commission in a Ten Years' Perspective," *Minnesota Law Review*, vol. 44, no. 3, p. 480 (1960).
12. League of Women Voters, *Constitutional Revision*, pp. 2-3.
13. *Ibid.*, p. 3.
14. Harvey Walker in W. Brooke Graves, *Major Problems in Constitutional Revision* (1960), p. 15.
15. *Ibid.* For the contribution and role of state constitutional commissions see chiefly W. Brooke Graves, *Major Problems in Constitutional Revision*, pp. 31ff. and chapter 6; Albert L. Sturm, *Thirty Years of Constitution-Making, 1938-1968*, especially chapter 3, pp. 109-112 and Appendix D; and Sturm, *Trends in State Constitution-Making, 1968-1970, passim.*
16. *Model State Constitution*, p. 27. For further annotations to Section Three of this report see the mimeographed committee reports.
17. *Op. cit.*, p. 118.
18. David Fellman in W. Brooke Graves, *Major Problems in State Constitutional Revision* (1960), p. 154.
19. Frank P. Grad, *The Drafting of State Constitutions* (1967), p. 32.
20. *Model State Constitution*, p. 106.
21. John Bebout in *Contemporary Approaches to State Constitutional Revision* (1970), p. 32.
22. Arizona, Arkansas, Missouri, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, Pennsylvania and South Dakota require only a majority of the elected members of the legislature to submit an amendment and a simple majority of those voting on the question to approve. Seven of these 10 states also allow initiated amendments. Three do not allow amendments to be submitted at a special election.

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APPENDIX A — ACTION TAKEN ON MAJOR RECOMMENDATIONS OF THE 1948 COMMISSION

Legislature (Article IV)	
Allow extended sessions, annual sessions	1962 amendment extended sessions, 1972 amendment allowed flexible sessions
Empower legislature to call special sessions	No action taken; recommended by 1972 Commission
Provide greater power over procedures	No amendment passed; some recommendations made by 1972 Commission; present practice accomplishes other objectives
Allow legislators to resign and run for other offices	1968 amendment
Provide backup reapportionment commission	No action taken; substitute reapportionment agency recommended by 1972 Commission
Executive (Article V)	
Eliminate constitutional-elective secretary of state, auditor, treasurer	No action taken; similar action for secretary of state and auditor recommended by 1972 Commission
Extend terms of executive officers to four years	1958 amendment
Require governor to submit budget message three weeks after taking office	Present practice
Provide for a constitutionally established civil service	No action taken
Remove chief justice from pardon board	No action taken; recommended by 1972 Commission
Clarify succession to office of governor	1960 amendment; further action recommended by 1972 Commission for governor and lieutenant governor
Allow lieutenant governor's salary to be set by the legislature	1972 amendment
Empower governor to limit matters considered by special sessions	Present practice
Judiciary (Article VI)	
Make clerk of supreme court appointive by court	1956 amendment
Set terms of all judges at six years	1956 amendment
Delete justice of peace	1956 amendment
Statutory, not constitutional, provisions on district court	1956 amendment
Extend district court clerk term to six years	1956 amendment
Make state law librarian appointive by court	1956 amendment
Clarify retirement and removal provisions	1972 amendment
Create administrative council	No constitutional action taken; provided by statute; amendment recommended by 1972 Commission
Create merit plan for selection of supreme court justices	No action taken; not recommended by 1972 Commission
Allow temporary assignment of district judges to supreme court	1956 amendment; 1972 amendment
Local Government (Article XI)	
Allow certain special legislation	1958 amendment
Ease restrictions on home rule	1958 amendment; simplification recommended by 1972 Commission
Ease restrictions on charter commissions	1958 amendment; change recommended by 1972 Commission
Highways (Article XVI)	
Consolidate language on finances	1956 amendment
Delete specific reference to highway routes	1956 amendment
Taxation and Finance (Article IX unless otherwise indicated)	
Eliminate debt limitation	1962 amendment
Restrict changes in taconite taxation	1964 amendment
Eliminate language on banking laws	1954 amendment (partial deletion)
Delete reference to railroad gross earnings and referendum	No action taken; deletion recommended by 1972 Commission
Consolidate and simplify trust fund provisions (IV, 32(b); VIII)	1956 amendment; 1962 amendment (partial consolidation); further consolidation recommended by 1972 Commission
Allow legislature to deal with tax-exempt property	1970 amendment
Create legislative post-auditor	No action taken
Constitutional Revision (Article XIV)	
Require two-thirds of legislature to propose amendments	No action taken; retention of simple majority recommended by 1972 Commission
Require majority voting on question to ratify amendments	No action taken; present majority of all electors or 55% of voters on question recommended by 1972 Commission
Allow submission of amendments or new constitution at special election	No action taken; recommended by 1972 Commission
Require periodic submission of question of calling a constitutional convention	No action taken; not recommended by 1972 Commission in view of other liberalizations
Provide that question of calling a convention require only a majority vote of legislature	No action taken; recommended by 1972 Commission
Require that a new constitution be ratified by the voters	1954 amendment
Allow submission of amendments on "one general subject"	No action taken. Because of liberal judicial interpretation not recommended by 1972 Commission

APPENDIX B—CONSTITUTIONAL STUDY COMMISSIONS OPERATIVE BETWEEN 1968 AND 1972[1]

State	Number of Members	Appropriation	Duration	Action
Alabama	25: 2 ex officio, 23 appointed, representing all congressional districts	$100,000 (70-71)	1969-	Interim 1971 report recommended changes in five areas. Final report due May 1973, to propose total revision
Arkansas	30: 10 appointed by gov., 5 by ch. justice, 5 by spkr. of hs., 5 by pres. of sen., 5 by bar assn.	$100,000	1967-68	Recommended constitutional convention (unsuccessful). Proposed new document
California	74: 14 ex officio legislators; 60 appointed by Jt. Comm. on Legislative Organization	Open-ended (at least $2,883,315)	1963-71	Proposed series of amendments almost completely revising constitution over several elections
Delaware	15: 5 appointed by gov., 5 by pres. of sen., 5 by spkr. of hs., representing all counties, Wilmington and both parties	$25,000 plus foundation aid	1967-69	Submitted new constitution
Georgia	28: 7 ex officio, 5 legislators, 16 appointed by governor	$75,000	6 mos. in 1969; much done by 1965-69 comm.	Submitted new constitution
Idaho	15: 5 appointed by leg. council, 5 by gov., 5 by chief justice	$47,000	1965-69	Submitted new constitution, revised by legislature and rejected by voters in 1970
Illinois	26: 10 appointed by gov., 8 by spkr. of hs., 8 by pres. of sen. (equal party representation)	$75,000	1967-69	Recommended constitutional convention (successfully held) and permanent commission
Indiana	34: 16 appointed by lt. gov., 16 by spkr. of hs., 1 by gov., 1 by sup. court (equal party representation)	Open-ended	1967-71	Recommended series of amendments and permanent commission
Kansas	12: 3 appointed by gov., 3 by pres. of sen., 3 by spkr. of hs., 3 by ch. justice	$31,840	9 mos. in 1968-69	Recommended extensive change
Louisiana	48: 27 legislators, clerk of hs., sec. of sen., lt. gov., 18 appointed by specific organizations	$100,000	1970-72	Requested to report to each session till total revision completed. Reported 1971 and 1972
Minnesota	21: 6 appointed by each house, 1 by ch. justice, 8 by gov.	$25,000	1971-72	Recommended phased revision, 5 priority amendments for 1973, and another study commission
Montana	16: 4 appointed by each house, by gov., by ch. justice (equal party representation)	$50,000	1969-71	Recommended constitutional convention (successfully held)
Nebraska	12: 6 appointed by leg., 3 by gov., 3 by sup. ct., representing all congressional districts	$75,000	1969-70	Recommended series of amendments
New Mexico	11 appointed by gov., representing all judicial districts and both parties; 4 advisory legislators	$138,000	1963-69	Recommended constitutional convention (unsuccessful) and new document
North Carolina	25, appointed by bar assn. (15 lawyers, 10 non-lawyers)	$25,000 foundation grant	9 mo. in 1969	Recommended 10 extensive amendment changes, submitted as series by legislature
Ohio	32: all appointed, 12 from legislature	$100,000 first biennium, now $150,000 a year	1969-79	Requested to report each two years. Began reports in 1971
Oklahoma	21, all appointed: 11 legislators, 10 others representing all congressional districts	$25,000	6 mo. in 1969	Recommended extensive changes in major articles
South Carolina	12: lt. gov., spkr. of hs., 6 legislators, 4 appointed by gov.	about $40,000	1966-69	Recommended 17 articles to substitute for present constitution. 5 approved, 1970; 5 more, 1972
South Dakota	13: 11 appointed, 2 ex officio, representing both parties	$25,000 initially; $111,500 thru 1973	1969-75	Recommending series of articles

APPENDIX B—CONSTITUTIONAL STUDY COMMISSIONS OPERATIVE BETWEEN 1968 AND 1972[1]—Continued

State	Number of Members	Appropriation	Duration	Action
Texas	25: 10 legislators, 10 appointed by gov., 5 by ch. justice	Open-ended	1967-68	Submitted revised document
Utah	16: 9 appointed to select 6 others, 1 ex officio	$20,000 first yr. $30,000 a yr. thereafter	1969-75	Recommending series of amendments; new legislative article adopted 1972
Vermont	11: ch. justice, atty. gen., 6 legislators, 3 appointed by gov.	$2,000	1968-71	Recommended limited constitutional convention, 1968; 15 proposals in 11 areas, 1971
Virginia	11 appointed by gov.	$75,000	9 mos. in 1968-69	Submitted revised document; approved 1970 as proposed
Washington	20: 2 ex officio, 18 appointed by gov.	Up to $25,000	1968-69	Recommended gateway amendment and phased revision; submitted 8 model articles

[1]Data from *Book of States* for 1970-71 (pp. 22-25) and 1972-73 (pp. 17-19); and Appendix B of *Modernizing State Constitutions, 1966-1972,* both published by the Council of State Governments.

APPENDIX C — TEXT OF FORM REVISION OF THE CONSTITUTION OF THE STATE OF MINNESOTA

(As Recommended to the 1973 Legislature by the Constitutional Study Commission)

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

ARTICLE I
Bill of Rights

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

RIGHTS AND PRIVILEGES. Sec. 2. No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the state otherwise than as punishment for a crime of which the party has been convicted.

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

TRIAL BY JURY. Sec. 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy. A jury trial may be waived by the parties in all cases in the manner prescribed by law. The legislature may provide that the agreement of five-sixths of a jury in a civil action or proceeding, after not less than six hours' deliberation, is a sufficient verdict.

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

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

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

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

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

RIGHT AGAINST UNREASONABLE SEARCHES. Sec. 10. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

PROHIBITION EX POST FACTO LAWS, OR LAWS IMPAIRING CONTRACTS. Sec. 11. No bill of attainder, ex post facto law, or any law impairing the obligation of contracts shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

IMPRISONMENT FOR DEBT; PROPERTY EXEMPTION. Sec. 12. No person shall be imprisoned for debt in this state, but the legislature may provide for imprisonment or holding to bail persons charged with fraud in contracting a debt. A reasonable amount of property shall be exempt by law from seizure or sale for the payment of a debt or liability. All property exempted shall be liable to seizure and sale for debts incurred to any person for work done or materials furnished in the construction, repair or improvement of the property and for any debt to any laborer or servant for labor or service performed thereon.

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

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

LANDS DECLARED ALLODIAL; LEASES, WHEN VOID. Sec. 15. All lands within the state are allodial and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural lands for a longer period than 21 years reserving rent or service of any kind shall be void.

FREEDOM OF CONSCIENCE; NO PREFERENCE TO BE GIVEN TO ANY RELIGIOUS ESTABLISHMENT OR MODE OF WORSHIP. Sec. 16. The enumeration of rights in this constitution shall not deny or impair others retained by

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

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

ARTICLE II
Name and Boundaries

NAME AND BOUNDARIES. Section 1. This state shall be called the state of Minnesota and shall have jurisdiction over the territory embraced in the act of Congress entitled, "An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states," and the propositions contained in that act are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States.

JURISDICTION ON BORDERING RIVERS. Sec. 2. The state of Minnesota has concurrent jurisdiction on all rivers and waters forming a common boundary with any other state or states. Navigable waters shall be common highways and forever free to citizens of the United States without any tax, duty, impost or toll therefor.

ARTICLE III
Distribution of the Powers of Government

DIVISION OF POWERS. Section 1. The powers of government shall be divided into three distinct departments — legislative, executive, and judicial; and no person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution.

ARTICLE IV
Legislative Department

HOUSE AND SENATE. Section 1. The legislature consists of the senate and house of representatives.

NUMBER AND APPORTIONMENT OF MEMBERS. Sec. 2. The number of members who compose the senate and house of representatives and the bounds of districts shall be prescribed by law. The representation in both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof.

APPORTIONMENT. Sec. 3. At its first session after each enumeration of the inhabitants of this state made by the authority of the United States, the legislature shall prescribe the bounds of congressional districts and apportion anew the senators and representatives. Senators shall be chosen by single districts of convenient contiguous territory. No representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series.

TERMS OF OFFICE. Sec. 4. Representatives shall hold office for a term of two years, except to fill a vacancy. Senators shall hold office for a term of four years, except to fill a vacancy and except there shall be an entire new election of all the senators at the election of representatives next succeeding each new apportionment provided for in this article. The governor shall issue writs of election to fill vacancies in either house of the legislature.

RESTRICTION AS TO HOLDING OFFICE. Sec. 5. No senator or representative shall hold any other office under the authority of the United States or the state of Minnesota, except that of postmaster or of notary public. If elected or appointed to another office, a legislator may resign from the legislature by tendering his resignation to the governor.

QUALIFICATION OF LEGISLATORS. Sec. 6. Senators and representatives shall be qualified voters of the state, and shall have resided one year in the state and six months immediately preceding the election in the district from which elected. Each house shall be the judge of the election returns and eligibility of its own members. The legislature shall prescribe by law the manner for taking evidence in cases of contested seats in either house.

RULES OF GOVERNMENT. Sec. 7. Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member; but no member shall be expelled the second time for the same offense.

OATH OF OFFICE. Sec. 8. Each member and officer of the legislature before entering upon his duties shall take and subscribe an oath or affirmation to support the constitution of the United States and the constitution of this state and faithfully to discharge the duties of his office to the best of his judgment and ability.

COMPENSATION. Sec. 9. The compensation of senators and representatives shall be prescribed by law. No increase of compensation shall take effect during the period for which the members of the existing house of representatives have been elected.

PRIVILEGE FROM ARREST. Sec. 10. The members of each house in all cases except treason, felony and breach of the peace shall be privileged from arrest during the session of their respective houses and in going to or returning from the same. For any speech or debate in either house they shall not be questioned in any other place.

PROTEST AND DISSENT OF MEMBERS. Sec. 11. Two or more members of either house may dissent and protest against any act or resolution which they think injurious to the public or to any individual and have the reason of their dissent entered on the journal.

LEGISLATURE MEETS BIENNIALLY; LENGTH OF SESSION. Sec. 12. The legislature shall meet at the seat of government in regular session in each biennium at the times prescribed by law for not exceeding a total of 120 legislative days. The legislature shall not meet in regular session, nor in any adjournment thereof, after the first regular session, nor in any adjournment thereof after the first Monday following the third Saturday in May of any year. After meeting at a time prescribed by law, the legislature may adjourn to another time. "Legislative day" shall be defined by law. A special session of the legislature may be called by the governor.

Neither house during a session of the legislature shall adjourn for more than three days (Sundays excepted) nor to any other place than that in which the two houses shall be assembled without the consent of the other house.

QUORUM. Sec. 13. A majority of each house constitutes a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members in the manner and under the penalties it may provide.

OPEN SESSIONS. Sec. 14. Each house shall be open to the public during its sessions except in such cases as in its opinion require secrecy.

OFFICERS; JOURNAL OF PROCEEDINGS. Sec. 15. The house of representatives shall elect its presiding officer and the senate and house of representatives shall elect such other officers as may be provided by law; they shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on the journals.

ELECTIONS VIVA VOCE. Sec. 16. In all elections by the legislature, members shall vote viva voce, and their votes shall be entered on the journal.

LAWS TO EMBRACE ONLY ONE SUBJECT. Sec. 17. No law shall embrace more than one subject, which shall be expressed in its title.

BILLS OF REVENUE TO ORIGINATE IN HOUSE. Sec. 18. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as on other bills.

READING OF BILLS. Sec. 19. Every bill shall be reported three different days in each house, unless, in case of urgency, two-thirds of the house where the bill is pending deem it expedient to dispense with this rule.

ENROLLMENT OF BILLS. Sec. 20. Every bill passed by both houses shall be enrolled and signed by the presiding officer of each house. Any presiding officer refusing to sign a bill passed by both houses shall thereafter be disqualified from any office of honor or profit in the state. Each house by rule shall provide the manner in which a bill shall be certified for presentation to the governor in case of such refusal.

PASSAGE OF BILLS ON LAST DAY OF SESSION PROHIBITED. Sec. 21. No bill shall be passed by either house upon the day prescribed for the adjournment of the session in any year. This section shall not preclude the enrollment of a bill or its transmittal from one house to the other or to the executive for his signature.

MAJORITY VOTE OF ALL MEMBERS-ELECT TO PASS A LAW. Sec. 22. The style of all laws of this state shall be: "Be it enacted by the legislature of the state of Minnesota." No law shall be passed unless voted for by a majority of all the members elected to each house of the legislature, and the vote entered on the journal of each house.

APPROVAL OF BILLS BY GOVERNOR; ACTION ON NON-APPROVAL. Sec. 23. Every bill passed in conformity to the rules of each house and the joint rules of the two houses shall be presented to the governor. If he approves a bill, he shall sign it, deposit it in the office of secretary of state and notify the house in which it originated of that fact. If he disapproves a bill, he shall return it with his objections to the house in which it originated. His objections shall be entered on the journal. If, after reconsideration, two-thirds of that house agree to pass the bill, it shall be sent, together with the governor's objections, to the other house, which shall likewise reconsider it. If approved by two-thirds of that house it becomes a law and shall be deposited in the office of the secretary of state. In such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house. Any bill not returned by the governor within three days (Sundays excepted) after it is presented to him becomes a law as if he had signed it, unless the legislature by adjournment within that time prevents its return. Any bill passed during the last three days of a session for any year may be presented to the governor during the three days following the day of final adjournment and becomes law if the governor signs and deposits it in the office of the secretary of state within 14 days after the adjournment of the legislature. Any bill passed during the last three days of the session for any year which is not signed and deposited within 14 days after adjournment does not become a law.

If a bill presented to the governor contains several items of appropriation of money, he may disapprove one or more of the items, while approving the bill. At the time he signs the bill the governor shall append to it a statement of the items he disapproves and the disapproved items shall not take effect. If the legislature is in session, he shall transmit to the house in which the bill originated a copy of the statement, and the items disapproved shall be separately reconsidered. If on reconsideration any item is approved by two-thirds of the members elected to each house, it is a part of the law notwithstanding the objections of the governor.

DISAPPROVAL OF RESOLUTIONS. Sec. 24. Each order, resolution or vote requiring the concurrence of the two houses, except such as relate to the business or adjournment of the legislature, shall be presented to the governor and is subject to his disapproval as prescribed in case of a bill.

PUNISHMENT FOR DISORDERLY CONDUCT. Sec. 25. During a session each house may punish by imprisonment for not more than twenty-four hours any person not a member guilty of disorderly or contemptuous behavior in its presence.

BANKING LAW. Sec. 26. To pass a general banking law requires the vote of two-thirds of the members of each house of the legislature.

ARTICLE V
Executive Department

OFFICERS IN EXECUTIVE DEPARTMENT. Section 1. The executive department consists of a governor, lieutenant governor, secretary of state, auditor, treasurer and attorney general, who shall be chosen by the electors of the state. The governor and lieutenant governor shall be chosen by a single vote applying to both offices in a manner prescribed by law.

OFFICIAL TERM OF GOVERNOR AND LIEUTENANT GOVERNOR; QUALIFICATIONS. Sec. 2. The term for governor and lieutenant governor is four years and until a successor is chosen and qualified. Each shall have attained the age of 25 years, shall have been a resident of the state for one year next preceding his election and shall be a citizen of the United States.

POWERS AND DUTIES OF GOVERNOR. Sec. 3. The governor shall communicate by message to each session of the legislature information touching the state and country. He is commander-in-chief of the military and naval forces and may call them out to execute the laws, suppress insurrection and repel invasion. He may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to their duties. With the advice and consent of the senate he may appoint notaries public and other officers provided by law. He may appoint commissioners to take the acknowledgment of deeds or other instruments in writing to be used in the state. He shall take care that the laws be faithfully executed. He shall fill any vacancy that may occur in the offices of the secretary of state, treasurer, auditor, attorney general, and the other state and district offices hereafter created by law until the end of the term for which the person who had vacated the office was elected or the first Monday in January following the next general election, whichever is sooner, and until a successor is chosen and qualified.

OFFICIAL TERM OF OTHER EXECUTIVE OFFICERS. Sec. 4. The terms of the secretary of state, treasurer, attorney general and state auditor are four years, and until a successor is chosen and qualified. The duties and salaries of the executive officers shall be prescribed by law.

DUTIES OF LIEUTENANT GOVERNOR AND SUCCESSION TO OFFICE OF GOVERNOR DURING EMERGENCY. Sec. 5. In case a vacancy occurs, from any cause whatever, in the office of governor, the lieutenant governor shall be governor during such vacancy. The compensation of the lieutenant governor shall be prescribed by law. The last elected presiding officer of the senate shall become lieutenant governor in case a vacancy occurs in that office. In case the governor is unable to discharge the powers and duties of his office, the same devolves on the lieutenant governor. The legislature may provide by law for the case of the removal, death, resignation or inability both of the governor and lieutenant governor to discharge the duties of governor and may provide by law for continuity of government in periods of emergency resulting from disasters caused by enemy attack in this state, including but not limited to, succession to the powers and duties of public office and change of the seat of government.

OATH OF OFFICE TO BE TAKEN BY STATE OFFICERS. Sec. 6. Each officer created by this article before entering upon his duties shall take and subscribe an oath or affirmation to support the constitution of the United States and of this state and to faithfully discharge the duties of his office to the best of his judgment and ability.

PARDON BOARD. Sec. 7. The governor, the attorney general and the chief justice of the supreme court constitute a board of pardons. Its powers and duties shall be defined and regulated by law. The governor in conjunction with the board of pardons has power to grant reprieves and pardons after conviction for an offense against the state except in cases of impeachment.

ARTICLE VI

Judiciary

JUDICIAL POWER. Section 1. The judicial power of the state is hereby vested in a supreme court, a district court and such other courts, judicial officers and commissioners with jurisdiction inferior to the district court as the legislature may establish.

SUPREME COURT. Sec. 2. The supreme court consists of one chief judge and not less than six or more than eight associate judges as the legislature may establish. It shall have original jurisdiction in such remedial cases as are prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in the supreme court.

As provided by law judges of the district court may be assigned temporarily to act as judges of the supreme court upon its request.

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

JURISDICTION OF DISTRICT COURT. Sec. 3. The district court has original jurisdiction in all civil and criminal cases and shall have appellate jurisdiction prescribed by law.

JUDICIAL DISTRICTS; DISTRICT JUDGES. Sec. 4. The number and boundaries of judicial districts shall be established in the manner provided by law but the office of a district judge may not be abolished during his term. There shall be two or more district judges in each district. Each judge of the district court in any district shall be a resident of that district at the time of his selection and during his continuance in office.

QUALIFICATIONS; COMPENSATION. Sec. 5. Judges of the supreme court and the district court shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office.

HOLDING OTHER OFFICE. Sec. 6. A judge of the supreme court or district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the United States and shall not hold any other office under this state. His term of office shall terminate at the time he files as a candidate for an elective office of the United States or for a nonjudicial office of this state.

TERMS OF OFFICE; ELECTION; REELECTION. Sec. 7. The term of office of all judges shall be six years and until their successors are qualified, and they shall be elected in the manner provided by law by the electors of the territory wherein they are to serve.

VACANCY. Sec. 8. Whenever there is a vacancy in the office of judge the governor shall appoint in the manner provided by law a qualified person to fill the vacancy until a successor is elected and qualified. The successor shall be elected for a six-year term at the next general election occurring more than one year after appointment.

RETIREMENT. Sec. 9. The legislature may provide by law for retirement of all judges, for the extension of the term of any judge who becomes eligible for retirement within three years after expiration of the term for which he is selected and for the retirement, removal or other discipline of any judge who is disabled, incompetent or guilty of conduct prejudicial to the administration of justice.

RETIRED JUDGES. Sec. 10. As provided by law a retired judge may be assigned to hear and decide any cause over which the court to which he is assigned has jurisdiction.

JURISDICTION OF PROBATE COURT. Sec. 11. Original jurisdiction in law and equity for the administration of the estates of deceased persons and all guardianship and incompetency proceedings, including jurisdiction over the administration of trust estates and for the determination of taxes contingent upon death shall be provided by law.

PROBATE JUDGES. Sec. 12. If the probate court is abolished by law, judges of that court who are learned in the law shall become judges of the court that assumes jurisdiction of matters described in section 11.

DISTRICT COURT CLERKS. Sec. 13. There shall be in each county one clerk of the district court whose qualifications, duties and compensation shall be prescribed by law. He shall serve at the pleasure of a majority of the judges of the district court in his district.

ARTICLE VII

Elective Franchise

ELECTIVE FRANCHISE. Section 1. Every person 18 years of age or more who has been a citizen of the United States for three months and who has resided in the precinct for 30 days next preceding an election shall be entitled to vote in that precinct. The place of voting by one otherwise qualified who has changed his residence within 30 days preceding the election shall be prescribed by law. A person not meeting the above requirements; a person who has been convicted of treason or felony, unless restored to civil rights; a person under guardianship; or a person who is non compos

mentis or insane; shall not be entitled or permitted to vote at any election in this state.

RESIDENCE NOT LOST IN CERTAIN CASES. Sec. 2. For the purpose of voting no person loses residence solely by reason of his absence while employed in the service of the United States nor while engaged upon the waters of this state or of the United States nor while a student in any seminary of learning nor while kept at any almshouse or asylum nor while confined in any public prison. No soldier, seaman or marine in the army or navy of the United States is a resident of this state solely in consequence of being stationed within the state.

UNIFORM OATH AT ELECTIONS. Sec. 3. The legislature shall provide for a uniform oath or affirmation to be administered at elections and no person shall be compelled to take any other or different form of oath to entitle him to vote.

CIVIL PROCESS SUSPENDED ON ELECTION DAY. Sec. 4. During the day on which an election is held no person shall be arrested by virtue of any civil process.

ELECTIONS BY BALLOTS. Sec. 5. All elections shall be by ballot except for such town officers as may be directed by law to be otherwise chosen.

RIGHT TO HOLD OFFICE. Sec. 6. Every person who by the provisions of this article is entitled to vote at any election and is 21 years of age is eligible for any office elective by the people in the district wherein he has resided 30 days previous to the election, except as otherwise provided in this constitution or the constitution and law of the United States.

OFFICIAL YEAR OF THE STATE. Sec. 7. The official year for the state of Minnesota commences on the first Monday in January in each year, and all terms of office terminate at that time. The general election shall be held on the first Tuesday after the first Monday in November in each even-numbered year.

ELECTION RETURNS TO BE SENT TO SECRETARY OF STATE. Sec. 8. The returns of every election for officeholders elected statewide shall be made to the secretary of state, who shall call to his assistance two or more of the judges of the supreme court and two disinterested judges of the district courts. They shall constitute a board of canvassers to canvass the returns and declare the result within three days after the canvass.

ARTICLE VIII

Impeachment and Removal from Office

IMPEACHMENT POWERS. Section 1. The house of representatives has the sole power of impeachment through a concurrence of a majority of all its members. All impeachments shall be tried by the senate. When sitting for that purpose, senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators present.

IMPEACHMENT AND REMOVAL FROM OFFICE. Sec. 2. The governor, secretary of state, treasurer, auditor, attorney general and the judges of the supreme and district courts may be impeached for corrupt conduct in office or for crimes and misdemeanors; but judgment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit in this state. The party convicted shall also be subject to indictment, trial, judgment and punishment according to law.

Sec. 3. No officer shall exercise the duties of his office after he has been impeached and before his acquittal.

Sec. 4. No person shall be tried on impeachment before he has been served with a copy thereof at least 20 days previous to the day set for trial.

Sec. 5. The legislature of this state may provide for the removal of inferior officers for malfeasance or nonfeasance in the performance of their duties.

ARTICLE IX

Amendments to the Constitution

AMENDMENTS TO CONSTITUTION; MAJORITY VOTE OF ELECTORS VOTING MAKES AMENDMENT VALID. Section 1. A majority of the members elected to each house of the legislature may propose amendments to this constitution. Proposed amendments shall be published with the laws passed at the same session and submitted to the people for their approval or rejection at a general election. If a majority of all the electors voting at the election vote to ratify an amendment, it becomes a part of this constitution. If two or more amendments are submitted at the same time, voters shall vote for or against each separately.

REVISION OF CONSTITUTION. Sec. 2. Two-thirds of the members elected to each house of the legislature may submit to the electors at the next general election the question of calling a convention to revise this constitution. If a majority of all electors voting at the election vote for a convention, the legislature at its next session shall provide by law for calling the convention. The convention shall consist of as many delegates as there are members of the house of representatives. Delegates shall be chosen in the same manner as members of the house of representatives and shall meet within three months after their election. Section 5 of Article IV of the constitution does not apply to election to the convention.

SUBMISSION TO PEOPLE OF REVISED CONSTITUTION DRAFTED AT CONVENTION. Sec. 3. A convention called to revise this constitution shall submit any revision to the people for approval or rejection at the next general election held not less than 90 days after submission of the revision. If three-fifths of all the electors voting on the question vote to ratify the revision, it becomes a new constitution of the state of Minnesota.

ARTICLE X

Taxation

POWER TO TAX. Section 1. The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects and shall be levied and collected for public purposes, but public burying grounds, public school houses, public hospitals, academies, colleges, universities and seminaries of learning, churches, church property and houses of worship, institutions of purely public charity and public property used exclusively for any public purpose shall be exempt from taxation except as provided in this section. There may be exempted from taxation personal property not exceeding in value $200 for each household, individual or head of a family and household goods and farm machinery as the legislature determines. The legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to cash valuation. The legislature by law may define or limit the property exempt under this section other than churches, houses of worship and property used solely for educational purposes by academies, colleges, universities and seminaries of learning.

FORESTATION AND REFORESTATION. Sec. 2. To encourage and promote forestation and reforestation of lands in this state, whether owned by private persons or the public,

laws may be enacted fixing in advance a definite and limited annual tax on such lands for a term of years and imposing a yield tax upon the timber and other forest products at or after the end of the term.

OCCUPATION TAX. Sec. 3. Every person engaged in the business of mining or producing iron ore or other ores in this state shall pay to the state an occupation tax on the valuation of all ores mined or produced, which tax shall be in addition to all other taxes provided by law. The tax is due on May first of the calendar year next following the mining or producing. The valuation of ore for the purpose of determining the amount of tax shall be ascertained as provided by law. Funds derived from the tax shall be used as follows: 50 percent to the state general revenue fund, 40 percent for the support of elementary and secondary schools and ten percent for the general support of the university.

AIRCRAFT FUEL. Sec. 4. The state may levy an excise tax upon any fluids or other means or instrumentalities for propelling aircraft or for propelling motor or other vehicles or other equipment used for airport purposes and not used on the public highways of this state.

AIRCRAFT TAX. Sec. 5. The legislature may tax on a more onerous basis than other personal property aircraft using the air space overlying the state and the airports thereof. Any such tax on aircraft shall be in lieu of all other taxes. The legislature may impose the tax upon aircraft of companies paying taxes under any gross earnings system of taxation notwithstanding that earnings from the aircraft are included in the earnings upon which gross earnings taxes are computed. The law may exempt from taxation aircraft owned by a nonresident of the state and temporarily using the air space overlying the state or its airports.

TACONITE TAXATION. Sec. 6. Laws of Minnesota 1963, Chapter 81, relating to the taxation of taconite and semi-taconite, and facilities for the mining, production and beneficiation thereof shall not be repealed, modified or amended, nor shall any laws in conflict therewith be valid, until November 4, 1989; and laws may be enacted, fixing or limiting for a period of not more than 25 years but not extending beyond the year 1990, the tax to be imposed upon persons or corporations engaged in (1) the mining, production or beneficiation of copper, (2) the mining, production or beneficiation of copper-nickel, or (3) the mining, production or beneficiation of nickel. Taxes imposed upon the mining or quarrying of taconite or semi-taconite and upon the production of iron ore concentrates therefrom which are in lieu of a tax on real or personal property shall not be considered to be occupation, royalty or excise taxes within the meaning of this amendment.

CHANGE OF FORM OF TAXATION OF RAILROADS TO BE VOTED UPON. Sec. 7. Any law heretofore or hereafter enacted which provides that railroad companies shall pay a certain percentage of their gross earnings in lieu of all other taxes and assessments upon their real estate, roads, rolling stock and other personal property may be amended or repealed only by a law ratified by a majority of the electors of the state voting at a general election.

ARTICLE XI

Appropriations and Finances

APPROPRIATIONS REQUIRED. Section 1. No money shall be paid out of the treasury of this state except in pursuance of an appropriation by law.

CREDIT OF THE STATE LIMITED. Sec. 2. The credit of the state shall never be given or loaned in aid of any individual, association or corporation except as hereinafter provided.

INTERNAL IMPROVEMENTS. Sec. 3. The state shall never be a party in carrying on works of internal improvements except as authorized by this constitution. If grants have been made to the state especially dedicated to specific purposes the state shall devote the avails of the grants to those purposes and may pledge or appropriate the revenues derived from the works in aid of their completion.

POWER TO CONTRACT PUBLIC DEBTS. Sec. 4. The state may contract public debts for which its full faith, credit and taxing powers may be pledged at the times and in the manner authorized by law, but only for the purposes and subject to the conditions stated in section 5. Public debt includes any obligation payable directly in whole or in part from a tax of statewide application on any class of property, income, transaction or privilege, but does not include any obligation which is payable from revenues other than taxes.

PURPOSES OF DEBT; AUTHORIZED IMPROVEMENTS. Sec. 5. Public debt may be contracted and works of internal improvements carried on for the following purposes:

(a) to acquire and to better public land and buildings and other public improvements of a capital nature and to provide monies to be appropriated or loaned to any agency or political subdivision of the state for such purposes if the law authorizing the debt is adopted by the vote of at least three-fifths of the members of each house of the legislature;

(b) to repel invasion or suppress insurrection in time of war;

(c) to borrow temporarily as authorized in section 6;

(d) to refund outstanding bonds of the state or any of its agencies whether or not the full faith and credit of the state has been pledged for the payment of the bonds;

(e) to establish and maintain highways subject to the limitations of Article XIV;

(f) to promote forestation and prevent and abate forest fires, including the compulsory clearing and improving of wild lands whether public or private;

(g) to construct, improve and operate airports and other air navigation facilities;

(h) to develop the state's agricultural resources by extending credit upon real estate security in the manner and upon the terms prescribed by law;

and (i) as otherwise authorized in this constitution.

As authorized by law political subdivisions may engage in the works permitted by (f) and (g) and contract debt therefor.

Sec. 6. As authorized by law certificates of indebtedness may be issued during a biennium, commencing on July 1 in each odd-numbered year and ending on and including June 30 in the next odd-numbered year, in anticipation of the collection of taxes levied for and other revenues appropriated to any fund of the state for expenditure during that biennium.

No certificates shall be issued in an amount which with interest thereon to maturity, added to the then outstanding certificates against a fund and interest thereon to maturity, will exceed the then unexpended balance of all monies which will be credited to that fund during the biennium under existing laws. The maturities of certificates may be extended by refunding to a date not later than December 1 of the first full calendar year following the biennium in which the certificates were issued. If monies on hand in any fund are not sufficient to pay all non-refunding certificates refunding the same, plus interest thereon, which are outstanding on December 1 immediately following the close of the biennium, the state auditor shall levy upon all taxable property in the state a tax collectible in the ensuing year sufficient to pay the same on or before

December 1 of the ensuing year with interest to the date or dates of payment.

Sec. 7. Public debt other than certificates of indebtedness authorized in section 6 shall be evidenced by the issuance of bonds of the state. All bonds issued under the provisions of this section shall mature not more than 20 years from their respective dates of issue and each law authorizing the issuance of bonds shall distinctly specify the purposes thereof and the maximum amount of the proceeds authorized to be expended for each purpose. The state treasurer shall maintain a separate and special state bond fund on his official books and records. When the full faith and credit of the state has been pledged for the payment of bonds, the state auditor shall levy each year on all taxable property within the state a tax sufficient with the balance then on hand in said fund to pay all principal and interest on bonds issued under this section due and to become due within the ensuing year and to and including July 1 in the second ensuing year. The legislature by law may appropriate funds from any source to the state bond fund. The amount of monies actually received and on hand pursuant to appropriations prior to the levy of the tax in any year shall be used to reduce the amount of tax otherwise required to be levied.

PERMANENT SCHOOL FUND; SOURCE; INVESTMENT. Sec. 8. The permanent school fund of the state consists of (a) the proceeds of lands granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, (c) all cash and investments credited to the permanent school fund and to the swamp land fund, and (d) all cash and investments credited to the internal improvement land fund and the lands therein. No portion of these lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of the lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund. Within limitations prescribed by law, to secure the maximum return thereon consistent with the maintenance of the perpetuity of the fund and with the approval of the state board of investment the fund may be invested in (1) interest-bearing fixed income securities of the United States and of its agencies, fixed income securities guaranteed in full as to payment of principal and interest by the United States, bonds of the state of Minnesota, or its political subdivisions or agencies, or of other states, but not more than 50 percent of any issue by a political subdivision shall be purchased; (2) stocks of corporations on which cash dividends have been paid from earnings for five consecutive years or longer immediately prior to purchase, but not more than 20 percent of the fund shall be invested therein at any given time nor more than one percent in stock of any one corporation, nor shall more than five percent of the voting stock of any one corporation be owned; (3) bonds of corporations whose earnings have been at least three times the interest requirements on outstanding bonds for five consecutive years or longer immediately prior to purchase, but not more than 40 percent of the fund shall be invested in corporate bonds at any given time. The percentages referred to above shall be computed using the cost price of the stocks or bonds. The principal of the permanent school fund shall be perpetual and inviolate forever. This does not prevent the sale of any public or private stocks or bonds at less than the cost to the fund; however, all losses not offset by gains shall be repaid to the fund from the interest and dividends earned thereafter. The net interest and dividends arising from the fund shall be distributed to the different school districts of the state in proportion to the number of students in each district between the ages of five and 21 years.

A board of investment consisting of the governor, the state auditor, the state treasurer, the secretary of state and the attorney general is hereby constituted for the purpose of administering and directing the investment of all state funds. The state board of investment shall not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or his agent.

INVESTMENT OF PERMANENT UNIVERSITY FUND. Sec. 9. The permanent university fund of this state may be loaned to or invested in the bonds of any county, school district, city, town or village of this state and in first mortgage loans secured upon improved and cultivated farm lands of this state, but no such investment or loan shall be made until approved by the board of investment designated by law to regulate the investment of the funds of this state; nor shall a loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed 15 percent of the assessed valuation of the taxable property of the county, school district, city, town or village issuing the bonds; nor shall any farm loan or investment be made when the investment or loan would exceed 30 percent of the actual cash value of the farm land mortgaged to secure the investment; nor shall investments or loans be made at a lower rate of interest than two percent per annum nor for a shorter period than one year nor for a longer period than 30 years.

EXCHANGE OF PUBLIC LANDS; RESERVATION OF RIGHTS. Sec. 10. As the legislature may provide, any of the public lands of the state, including lands held in trust for any purpose, with the unanimous approval of a commission consisting of the governor, the attorney general and the state auditor, may be exchanged for lands of the United States or privately owned lands. Lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject. The state shall reserve all mineral and water power rights in lands transferred by the state.

TIMBER LANDS SET APART AS STATE FORESTS; DISPOSITION OF REVENUE. Sec. 11. Such of the school and other public lands of the state better adapted for the production of timber than for agriculture may be set apart as state school forests or other state forests, as the legislature may provide. The legislature may provide for their management on forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.

COUNTY, CITY OR TOWNSHIP AID TO RAILROADS LIMITED. Sec. 12. The legislature shall not authorize any county, township or municipal corporation to become indebted to aid in the construction or equipment of railroads to any amount that exceeds five per cent of the value of the taxable property within the county, township or municipal corporation. The amount of the taxable property shall be determined by the last assessment previous to the incurring of the indebtedness.

STATE SCHOOL FUND; INVESTMENT; SAFE KEEPING; ALL STATE FUNDS TO BE DEPOSITED IN NAME OF STATE. Sec. 13. All officers and other persons charged with the safekeeping of state funds shall be required to give ample security for funds received by them; to keep an accurate entry of each sum received and of each payment and transfer. If any person converts to his own use in any manner or form, or shall loan, with or without interest, or shall deposit in his own name, or otherwise than in the name of the state of Minnesota; or shall deposit in banks or with any person or persons, or exchange for other funds or property, any portion of the funds of the state or the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid state and school funds, or either of the same, as shall thus be taken, or loaned, or deposited or exchanged, and shall be a felony; and any failure to pay over, produce or account for the state school funds, or any part of the same entrusted to such officer or persons as by law required on demand, shall be held and be taken to be prima facie evidence of such embezzlement.

ARTICLE XII

Special Legislation; Local Government

AGAINST SPECIAL LEGISLATION. Section 1. In all cases when a general law can be made applicable, a special law shall not be enacted except as provided in section 2. Whether a general law could have been made applicable in any case shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law authorizing the laying out, opening, altering, vacating or maintaining of roads, highways, streets or alleys; remitting fines, penalties or forfeitures; changing the names of persons, places, lakes or rivers; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights upon minors; declaring any named person of age; giving effect of informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; granting divorces; exempting property from taxation or regulating the rate of interest on money; creating private corporations, or amending, renewing, extending or explaining the charters thereof; granting to any private corporation, association or individual any special or exclusive privilege, immunity or franchise whatever or authorizing public taxation for a private purpose. The inhibitions of local or special laws in this section shall not prevent the passage of general laws on any of the subjects enumerated.

SPECIAL LAWS. Sec. 2. Every law which upon its effective date applies to a single local government unit or to a group of such units in a single county or a number of contiguous counties is a special law and shall name the unit, or in the latter case the counties, to which it applies. The legislature may enact special laws relating to local government units, but a special law unless otherwise provided by general law shall become effective only after its approval by the affected unit expressed through the voters of the governing body and by such majority as the legislature may direct. Any special law may be modified or superseded by a later home rule charter or amendment applicable to the same local government unit, but this does not prevent the adoption of subsequent laws on the same subject. The legislature may repeal any existing special or local laws, but shall not amend, extend or modify any of the same except as in this section.

LOCAL GOVERNMENT, LEGISLATION AFFECTING. Sec. 3. The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats. A county boundary may not be changed or county seat transferred until approved in each county affected by a majority of the voters voting on the question.

HOME RULE CHARTERS. Sec. 4. Any city or village, and any county or other local government unit when authorized by law, may adopt a home rule charter for its government. A charter shall become effective if approved by such majority of the voters of the local government unit as the legislature prescribes by general law. If a charter provides for the consolidation or separation of a city or county, in whole or in part, it shall not be effective without approval of the voters both in the city and in the remainder of the county by the majority required by law.

CHARTER COMMISSIONS. Sec. 5. The legislature shall provide by law for charter commissions. Notwithstanding any other constitutional limitations the legislature may require that commission members be freeholders, provide for their appointment by judges of the district court, and permit any member to hold any other elective or appointive office other than judicial. Home rule charter amendments may be proposed by a charter commission or by a petition of five percent of the voters of the local government unit as determined by law and shall not become effective until approved by the voters by the majority required by law. Amendments may be proposed and adopted in any other manner provided by law. A local government unit may repeal its home rule charter and adopt a statutory form of government or a new charter upon the same majority vote as is required by law for the adoption of a charter in the first instance.

ARTICLE XIII

Miscellaneous Subjects

UNIFORM SYSTEM OF PUBLIC SCHOOLS. Section 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state.

PROHIBITION AS TO AIDING SECTARIAN SCHOOLS. Sec. 2. In no case shall any public monies or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.

UNIVERSITY OF MINNESOTA. Sec. 3. All the rights, immunities, franchises and endowments heretofore granted or conferred upon the University of Minnesota are perpeutated unto the university.

LANDS TAKEN FOR PUBLIC USE. Sec. 4. Lands may be taken for public way and for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for the lands and for the damages arising from taking it. All corporations which are common carriers enjoying the right of way in pursuance of the provisions of this section shall be bound to carry the mineral, agricultural and other productions of manufacturers on equal and reasonable terms.

PROHIBITION OF LOTTERIES. Sec. 5. The legislature shall not authorize any lottery or the sale of lottery tickets.

AGAINST COMBINATIONS OR POOLS TO AFFECT MARKETS. Sec. 6. Any combinations of persons either as individuals or as members or officers of any corporation to monopolize the markets for food products in this state or to interfere with or restrict the freedom of such markets is a criminal conspiracy and shall be punished as the legislature may provide.

NO LICENSE TO PEDDLE. Sec. 7. Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.

VETERANS BONUSES. Sec. 8. The state may pay an adjusted compensation to persons who served in the Armed Forces of the United States during the period of the Vietnam conflict. Whenever authorized and in the amounts and on the terms fixed by law, the state may expend monies and may pledge the public credit to provide money for the purposes of this section. The duration of the Vietnam conflict may be defined by law.

MILITIA ORGANIZATION. Sec. 9. The legislature shall pass laws necessary for the organization, discipline and service of the militia of the state.

SEAT OF GOVERNMENT. Sec. 10. The seat of government of the state is at the city of St. Paul. The legislature may provide by law for a change of the seat of government by a majority vote of the people or may locate the same upon the land granted by Congress for the seat of government. If the seat of government is changed, the capitol building and grounds

shall be dedicated to an institution for the promotion of science, literature and the arts to be organized by the legislature of the state and of which institution the Minnesota Historical Society shall always be a department.

STATE SEAL. Sec. 11. A seal of the state shall be kept by the secretary of state and used by him officially. It shall be called the great seal of the state of Minnesota.

ARTICLE XIV

Public Highway System

AUTHORITY OF STATE. Section 1. The state may construct and maintain public highways, may assist political subdivisions in such work and by law may authorize any political subdivisions to aid in such work within its boundaries.

TRUNK HIGHWAY SYSTEM. Sec. 2. There is hereby created a trunk highway system which shall be constructed and maintained as public highways by the state. The highways shall extend as nearly as appropriate along the routes number 1 through 70 described in the constitutional amendment adopted November 2, 1920, and the routes described in any act of the legislature which has made or hereafter makes a route a part of the trunk highway system.

The legislature may add by law new routes to the trunk highway system. The trunk highway system may not exceed 12,200 miles in extent, except the legislature may add trunk highways in excess of the mileage limitation as necessary or expedient to take advantage of any federal aid made available by the United States to the state of Minnesota.

Any route added by the legislature to the trunk highway system may be relocated or removed from the system as provided by law. Trunk highways numbered 1 through 70 may be relocated as provided by law but no relocation shall cause a deviation from the starting points or terminals nor cause any deviation from the various villages and cities through which the routes are to pass under the constitutional amendment adopted November 2, 1920. The location of routes may be determined by boards, officers or tribunals in the manner prescribed by law.

COUNTY STATE-AID HIGHWAY SYSTEM. Sec. 3. A county state-aid highway system shall be constructed and maintained by the counties as public highways in the manner provided by law. The system shall include streets in municipalities of less than 5,000 population where necessary to provide an integrated and coordinated highway system and may include similar streets in larger municipalities.

MUNICIPAL STATE-AID STREET SYSTEM. Sec. 4. A municipal state-aid street system shall be constructed and maintained as public highways by municipalities having a population of 5,000 or more in the manner provided by law.

HIGHWAY USER TAX DISTRIBUTION FUND. Sec. 5. There is hereby created a highway user tax distribution fund to be used solely for highway purposes as specified in this article. The fund consists of the proceeds of any taxes authorized by sections 9 and 10 of this article. The net proceeds of the taxes shall be apportioned: 62 percent to the trunk highway fund; 29 percent to the county state-aid highway fund; nine percent to the municipal state-aid street fund. Five percent of the net proceeds of the highway user tax distribution fund may be set aside and apportioned by law to one or more of the three foregoing funds. The balance of the highway user tax distribution fund shall be transferred to the trunk highway fund, the county state-aid highway fund, and the municipal state-aid street fund in accordance with the percentages hereinbefore set forth. No change in the apportionment of the five percent may be made within six years of the last previous change.

TRUNK HIGHWAY FUND. Sec. 6. There is hereby created a trunk highway fund which shall be used solely for the purposes specified in section 2 of this article and the payment of principal and interest of any bonds issued under the authority of section 11 of this article, and any bonds issued for trunk highway purposes prior to July 1, 1957. All payments of principal and interest on bonds shall be a first charge on monies coming into this fund during the year in which the principal or interest is payable.

COUNTY STATE-AID HIGHWAY FUND. Sec. 7. There is hereby created a county state-aid highway fund. The county state-aid highway fund shall be apportioned among the counties as provided by law. The funds apportioned shall be used by the counties as provided by law for aid in the construction and maintenance of county state-aid highways. The legislature may authorize the counties by law to use a part of the funds apportioned to them to aid in the construction and maintenance of other county highways, township roads, municipal streets and any other public highways, including but not limited to trunk highways and municipal state-aid streets within the respective counties.

MUNICIPAL STATE-AID STREET FUND. Sec. 8. There is hereby created a municipal state-aid street fund to be apportioned as provided by law among municipalities having a population of 5,000 or more. The fund shall be used by municipalities as provided by law for construction and maintenance of municipal state-aid streets. The legislature may authorize municipalities to use a part of the fund in the construction and maintenance of other municipal streets, trunk highways and county state-aid highways within the counties in which the municipality is located.

TAXATION OF MOTOR VEHICLES. Sec. 9. The state may tax motor vehicles on a more onerous basis than other personal property. Any such tax on motor vehicles shall be in lieu of all other taxes thereon, except wheelage taxes imposed by political subdivisions solely for highway purposes. The legislature may impose such tax upon motor vehicles of companies paying taxes under the gross earnings system of taxation notwithstanding that earnings from the vehicles may be included in the earnings upon which gross earnings taxes are computed. The law may exempt from taxation any motor vehicle owned by a non-resident of the state properly licensed in another state and transiently or temporarily using the streets and highways of the state. The proceeds of the tax shall be paid into the highway user tax distribution fund.

TAXATION OF MOTOR FUEL. Sec. 10. The state may levy an excise tax upon any substance for propelling vehicles used on the public highways of this state or upon the business of selling it. The proceeds of the tax shall be paid into the highway user tax distribution fund.

BONDS. Sec. 11. The legislature may provide by law for the sale of bonds to carry out the provisions of section 2. Bonds issued and unpaid shall not at any time exceed $150,000,000 par value. The proceeds shall be paid into the trunk highway fund. Any bonds shall mature serially over a term not exceeding 20 years, shall not be sold for less than par and accrued interest and shall not bear interest at a greater rate than five percent per annum. If the trunk highway fund is not adequate to pay principal and interest of the bonds authorized by the legislature as hereinbefore provided when due, the legislature may levy upon all taxable property of the state in an amount sufficient to meet the deficiency or it may appropriate to the monies in the state treasury not otherwise appropriated.

APPENDIX D — TEXT OF THE LEGISLATIVE ARTICLE AMENDMENT RELATING TO REAPPORTIONMENT AND SPECIAL SESSIONS

A bill for an act

proposing an amendment to the Minnesota Constitution, Article IV, Sections 1, 2, 23 and 24; providing for periodic redistricting of congressional and legislative seats, terms of legislators and special legislative sessions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. The following amendment to the Minnesota Constitution, Article IV, Sections 1, 2, 23 and 24, is proposed to the people. If the amendment is adopted Article IV, Section 1, will read as follows:

Section 1. The legisiature shall consist of the senate and 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~~ elected by the qualified voters at the general election held in an even numbered year for a term beginning at noon of the second Tuesday in January next following the election and ending at noon of the second Tuesday in January four years thereafter, except that there shall be an entire new election of all the senators at the election of representatives next succeeding each new districting provided for in this article. The house of representatives shall be composed of members elected by the qualified voters at the general election held in each even numbered year for a term beginning at noon of the second Tuesday in January next following the election and ending at noon of the second Tuesday in January two years thereafter.

The legislature shall meet at the seat of government in regular session in each biennium at the times prescribed by law for not exceeding a total of 120 legislative days. The legislature shall not meet in regular session, nor in any adjournment thereof, after the first Monday following the third Saturday in May of any year. After meeting at a time prescribed by law, the legislature may adjourn to another time. "Legislative day" shall be defined by law.

A special session of the legislature may be called ~~as otherwise provided by this constitution~~ by the governor as provided by this constitution. The legislature may also call itself into session upon the petition of two-thirds of the members of each house.

Article IV, Section 2, will read as follows:

Sec. 2. 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.~~

Article IV, Section 23, will read as follows:

Sec. 23. ~~The legislature shall have the power to provide by law for an enumeration of the inhabitants of this State, and also have the power at their first session after each enumeration of the inhabitants of this state made by the authority of the United States, 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 section second of this article.~~

The entire state shall be divided into as many separate congressional, senatorial and representative election districts as there are congressmen, senators and representatives respectively. No representative district shall be divided in the formation of a senate district. The congressional, senatorial and representative districts, respectively, shall be separately numbered in a regular series.

Congressional, senatorial and representative districts shall be composed of compact and contiguous territory and be as nearly equal in population as is practicable.

Unless absolutely necessary to meet the other standards set forth in this section, no county, city, town, township or ward shall be divided in forming a congressional, senatorial or representative district.

and Article IV, Section 24, will read as follows:

Sec. 24. ~~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. The senate districts shall be numbered in a regular series. The terms of office of senators and representatives shall be the same as now prescribed by law until the general election of the year one thousand eight hundred and seventy eight (1878), at which time there shall be an entire new election of all senators and representatives. Representatives chosen at such election, or at any election thereafter, shall hold their office for the term of two years, except it be to fill a vacancy; and the senators chosen at such election by districts designated as odd numbers shall go out of office at the expiration of the second year, and senators chosen by districts designated by even numbers shall go out of office at the expiration of the fourth year; and thereafter senators shall be chosen for four years, except there shall be an entire new election of all the senators at the election of representatives next succeeding each new apportionment provided for in this article.~~ (a) In each year following that in which the federal decennial census is officially reported as required by federal law, or whenever a new districting is required by court order, the districting commission created under this section shall prescribe anew the bounds of the congressional, senatorial and representative districts in the state.

The commission shall also prescribe anew the bounds of senatorial or representative districts whenever the number of members who compose the senate or house has been altered by law.

In performing these duties, the commission shall be guided by the standards set forth in section 23 of this article and shall assure all persons fair representation.

(b) Not later than January 15 of the year following that in which the federal decennial census is officially reported as required by federal law, the governor shall request the persons designated herein to appoint members of the districting commission, as hereinafter provided.

(c) (1) The districting commission shall consist of 13 members and the concurrence of eight of its members shall be required to adopt a final plan of districting.

The speaker and minority leader of the house of representatives, or two representatives appointed by them, shall be members. The majority and minority leaders of the senate, or two senators appointed by them, shall be members.

The governor shall appoint two members. Two members shall be appointed by the state executive committee of each political party, other than that to which the governor belongs, whose candidate for governor received 20 or more percent of the votes at the most recent gubernatorial election, or by any successor authority to the state executive committee which is charged by law with the administration of the party's affairs.

Within ten days after the governor has requested the appointment of a districting commission, the speaker and minority leader of the house of representatives, the majority and minority leaders of the senate, the governor and the state executive committees of the political parties, or their successor authorities, shall certify the members of the commission to the secretary of state[1] and notify the secretary of state of any failure to make an appointment.

Within three days after receiving notice that an appointing authority has failed to appoint its quota of members, the secretary of state shall so inform the chief justice of the state supreme court. Within ten days after such information has been received, a majority of the entire membership of the supreme court shall appoint the necessary number of commission members and certify them to the secretary of state.

The commission members so certified shall meet within seven days of their certification and within 17 days thereafter shall elect, by unanimous vote, the number of members necessary to complete the commission and certify them to the secretary of state, or notify the secretary of state of their failure to do so. Within three days after receiving notice of failure to complete the membership of the commission, the secretary of state shall so inform the chief justice of the state supreme court. Within 17 days after such information has been received, a majority of the entire membership of the supreme court shall appoint the members necessary to complete the commission and certify them to the secretary of state.

(2) No United States senator, member of the United States house of representatives and no member of the state senate or house, other than the speaker and minority leader of the house, the majority and minority leaders of the senate, and their appointees, if any, shall be eligible for membership on the commission.

(3) In making their appointments, the state executive committees, or their successor authorities, the eight original commission members and the state supreme court shall give due consideration to the representation of the various geographical areas of the state.

(4) Any vacancy on the commission shall be filled within five days by the authority that made the original appointment.

(5) A majority of all the members of the commission shall choose a chairman and a vice chairman and establish its rules of procedure.

[1]See note on page 18 above.

(6) Members of the commission shall hold office until the new districting in which they participated becomes effective. Except for the speaker and minority leader of the house of representatives, the majority and minority leaders of the senate and their designees, they shall not be eligible for election to Congress or the state legislature until the general election following the first one under the districting in which they participated.

(7) The secretary of state shall be secretary of the commission without vote and in that capacity shall furnish all technical services requested by the commission. Commission members shall receive compensation at a rate not less than $35 per day plus expenses. The legislature shall appropriate funds to enable the commission to perform its duties.

(d) (1) Not later than five months after the commission has been finally constituted, or the population count for the state and its political subdivisions as determined by the federal decennial census is available, whichever is later in time, the commission shall file its final districting plans and maps of the districts with the secretary of state.

(2) Within ten days from the date of such filing, the secretary of state shall publish the final plans once in at least one newspaper of general circulation in each congressional, senatorial and representative district. The publication shall contain maps showing all the new congressional, senatorial and representative districts in the state and a separate map showing the districts in the principal area served by the newspaper in which publication is made. The publication shall also state the population of the congressional, senatorial and representative districts having the smallest and largest population, respectively, and the percentage variation of such districts from the average population for congressional, senatorial and representative districts.

(3) The final plans shall have the force and effect of law upon the date of such publications.

(4) The secretary of state shall keep a public record of all the proceedings of the commission.

(e) Within 30 days after any redistricting plan adopted by the commission is published by the secretary of state, any qualified voter may petition the state supreme court to review the plan. The state supreme court shall have original jurisdiction to review such plan, exclusive of all other courts of this state.

If a petition for review is filed, the state supreme court shall determine whether such plan complies with the requirements of this constitution and the United States constitution. If the state supreme court determines that such plan complies with constitutional requirements, it shall dismiss the petition within 45 days of the filing of the original petition. If the state supreme court, or any United States court, finally determines that such plan does not comply with constitutional requirements, the state supreme court, within 45 days of the filing of the original petition or 30 days of the decision of the United States court, shall modify the plan so that it complies with constitutional requirements and direct that the modified plan be adopted by the commission.

(f) If the commission fails to adopt final plans to prescribe anew the bounds of congressional, senatorial and representative districts by the time specified herein, each member of the commission, individually or jointly with other members, may

submit a proposed plan or plans to the state supreme court within 30 days after the date for commission action has expired. Within 90 days after such submission, the supreme court shall select the plan which it finds most closely satisfies the requirements of this constitution and, with such modifications as it may deem necessary to completely satisfy these requirements, shall direct that it be adopted by the commission and published as provided herein.

If no commission member submits a plan by the time specified, a majority of the entire membership of the supreme court shall select a panel of three state court judges, other than supreme court justices, to prescribe anew the bounds of congressional districts, or senatorial and representative districts, or both. The panel shall do so within four months after the date for the submission of individual member plans has expired.

The districting prescribed by the panel shall be subject to review by the state supreme court and the federal courts in the manner provided for review of a plan adopted by the districting commission.

(g) Each new districting made in accordance with the provisions of this article shall govern the next succeeding general elections of congressmen, senators and representatives.

Sec. 2. The proposed amendment shall be submitted to the people at the 1974 general election. The question proposed shall be:

"Shall the Minnesota Constitution be amended to provide for periodic redistricting of legislative and congressional seats by a commission, to more exactly define legislative terms and to permit the legislature to call itself into session?

Yes.....
No....."

APPENDIX E — TEXT OF THE AMENDMENT ALLOWING DETERMINATION OF STATE INCOME TAX ON BASIS OF FEDERAL INCOME TAX

A bill for an act

proposing an amendment to the Minnesota Constitution, Article IX, Section 1; permitting as the basis for determining a state tax, either income or a tax on income as determined by federal law.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. The following amendment to Minnesota Constitution, Article IX, Section 1, is proposed to the people of the state. The section, if the amendment is adopted, shall read as follows:

Section 1. The power of taxation shall never be surrendered, suspended or contracted away, but a law may prospectively or otherwise adopt as the basis for determining a Minnesota tax, either income or a tax on income as determined by existing or subsequent laws of the United States. Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes, but public burying grounds, public school houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property and houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation except as provided in this section, and there may be exempted from taxation personal property not exceeding in value $200, for each household, individual or head of a family, and household goods and farm machinery, as the legislature may determine; provided, that the legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to a cash valuation. The legislature may by law define or limit the property exempt under this section, other than churches, houses of worship, and property solely used for educational purposes by academies, colleges, universities and seminaries of learning.

Sec. 2. The proposed amendment shall be submitted to the people at the 1974 general election. The question proposed shall be:

"Shall the Minnesota Constitution be amended to enable the law to adopt the federal definition of income or a percentage of the federal income tax as the basis for Minnesota taxation?

Yes.....
No ....."

APPENDIX F — TEXT OF AMENDMENT REPEALING SPECIAL TAX PROVISIONS FOR RAILROADS

A bill for an act

proposing an amendment to the Minnesota Constitution, repealing Article IV, Section 32(a); providing that railroads may be taxed in the same manner as other enterprises.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. An amendment to the Minnesota Constitution repealing Article IV, Section 32(a), is proposed to the people. If the amendment is approved, Article IV, Section 32(a), shall be repealed.

Sec. 2. The proposed amendment shall be submitted to the voters at the general election for the year 1974. The question proposed shall be:

"Shall the Minnesota Constitution be amended to allow railroads to be taxed in the same way that other enterprises are taxed?

Yes.....
No ....."

APPENDIX G — TEXT OF THE GATEWAY AMENDMENT

A bill for an act

proposing an amendment to the Minnesota Constitution, Article XIV; regulating the procedure for amending the Constitution.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. The following amendment to the Minnesota Constitution, Article XIV, is proposed to the people. If the amendment is adopted the article shall read as follows:

Article XIV

Section 1. Whenever a majority of ~~both~~ each of the 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 proposed by an affirmative vote of two-thirds of the members of each of the houses of the legislature, the alteration or amendment may be submitted to the people for their approval or rejection at a special election called for such purpose not less than 30 nor more than 60 days after passage of the proposal unless a general election shall be held within that period. If it shall appear, in a manner to be provided by law, that ~~a majority~~ 55 percent of all the electors voting upon the question at a general or special election or a majority of all the electors voting at ~~said~~ a general election shall have voted for and ratified such alterations or amendments, the same shall be valid to all intents and purposes as a part of this Constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.

Sec. 2. Whenever ~~two-thirds~~ a majority of the members ~~elected to~~ of each branch of the legislature shall think it necessary to call a convention to revise this constitution, they shall recommend to the electors to vote at the next ~~election for members of the legislature,~~ general election for or against a convention~~; and if a majority of all the electors voting at said election~~. If proposed by an affirmative vote of two-thirds of the members of each of the houses of the legislature, the convention proposal may be submitted to the people for their approval or rejection at a special election called for such purpose not less than 30 nor more than 60 days after passage of the proposal unless a general election shall be held within that period. If it shall appear, in a manner to be provided by law, that 55 percent of all the electors voting upon the question at a general or special election or a majority of all the electors voting at a general election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid. Section 9 of Article IV of the Constitution shall not apply to election to the convention. Any convention called to revise this constitution shall submit any revision thereof by said convention to the people of the State of Minnesota for their approval or rejection by election on a date chosen by the convention not less than 60 days nor more that 180 days after adjournment of the convention; and, if it shall appear in the manner provided by law that three-fifths of all the electors voting on the question shall have voted for and ratified such revision, the same shall constitute a new Constitution of the State of Minnesota. Without such submission and ratification, said revision shall be of no force or effect.

Sec. 3. ~~Any convention called to revise this constitution shall submit any revision thereof by said convention to the people of the State of Minnesota for their approval or rejection at the next general election held not less than 90 days after the adoption of such revision, and, if it shall appear in the manner provided by law that three-fifths of all the electors voting on the question shall have voted for and ratified such revision, the same shall constitute a new constitution of the State of Minnesota. Without such submission and ratification, said revision shall be of no force or effect. Section 9 of Article IV of the Constitution shall not apply to election to the convention.~~

Sec. 3. Alterations or amendments to the structure of the legislature may be proposed by a petition signed by a number of electors in each congressional district equal to at least eight percent of the total votes cast for candidates for governor in the district in the preceding gubernatorial election. A petition shall contain the text of the proposed amendment and the date of the general election at which the proposed amendment is to be submitted, shall have been signed by the petitioning electors not more than 24 months preceding that general election and shall be filed with the secretary of state at least six months before that general election. The procedure for determining the validity and sufficiency of a petition shall be provided by law. If the petition is valid and sufficient, the proposed amendment shall be submitted to the electors at that general election and shall become effective if approved by either 55 percent of those voting on the amendment or a majority of those voting in the election.

Sec. 2. The proposed amendment shall be submitted to the people at the 1974 general election. The question proposed shall be:

"Shall the Minnesota Constitution be amended to provide for the submission to the people of constitutional amendments and of the question of calling a constitutional convention at special elections and in certain instances, to alter the majority required for submission and approval of the calling of a constitutional convention, to alter the method of computing an affirmative vote upon a proposed amendment or convention, and to permit the submission of amendments to the structure of the legislature by petition of the voters?

Yes.....
No....."