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Constitutional Change by Amendment: Recommendations of the Minnesota Constitutional Com- mission in Ten Years' Perspective

A perennial question arising in many states is whether constitutional change can better be effected by convention or by amendment. Professor Mitau evaluates the recent accomplishments of the amendment process in Minnesota, which he deems considerable. Although pointing up some of the shortcomings inherent in that process, he pays tribute to the achievements of the Minnesota Constitutional Commission of 1947-48 and sees in that process a rather realistic but cumbersome alternative to the calling of a convention, which so far has been heavily resisted in this state. He suggests that the time may be propitious to appoint a second commission to prescribe further reform and consolidation.

G. Theodore Mitau*

Analysis of the legislative background and objectives of the Minnesota Constitutional Commission reveals that this group was intended neither to draft an entirely new state constitution nor to take the place of a regular constitutional convention.¹ Under the terms of the 1947 statute² which established it, this interim commission was authorized to make a study of the 1857 constitution and its amend-

* Professor of Political Science, Chairman of the Department, Macalester College. Much of the research for this Article was undertaken in connection with a chapter in a forthcoming basic revision by this writer of A HISTORY OF THE CONSTITUTION OF MINNESOTA (1921) written by Professor William Anderson. This revision is sponsored by the Minnesota Historical Society. Further aspects of the subject matter of this Article will be discussed in that chapter.

1. A number of the key legislators supporting the bill creating the Minnesota Constitutional Commission [hereinafter referred to as MCC] viewed this commission as a "short-cut plan" for overhauling the entire constitutional document. See Halloran, *New Plan Urged for Constitution*, Minneapolis Sunday Tribune, March 2, 1947, § L (Upper Midwest), p. 1, col. 6.

2. Minn. Laws 1947, ch. 614.

ments "in relation to political, economic, and social changes and developments which have occurred and which may occur," to propose amendments, and to report its recommendations and revisions to the next session of the Minnesota legislature.³

The twenty-one member Commission included eight senators, eight representatives, four gubernatorial appointees (one from the executive branch and three citizens-at-large) and one person selected by the chief justice of the state supreme court.⁴ On July 1, 1947, at the first regular organizational session, Dr. Lloyd M. Short, Professor of Political Science and Director of the Public Administration Center at the University of Minnesota, and one of Governor Youngdahl's appointees to the Commission, was elected chairman; Mr. Earl L. Berg, then State Commissioner of Administration and the representative from the executive branch, was elected secretary.⁵ The report submitted by the Commission eighteen months later attests to the high quality of public service rendered by its chairman and its entire membership, all of whom volunteered hundreds of hours of participation in one or more of the eight major subject matter committees into which the Commission divided itself for purposes of research and public hearings.⁶

The final report submitted to the legislature recommended the addition of six new sections to the then-existing Minnesota constitution. It also called for *major* changes in 34 sections and for "*minor* changes, consolidations, or deletions of obsolete material in 78 other sections. . . ."⁷ The state constitution, if revised to conform to the Commission's prescriptions, would run nearly 10,000 words less than

3. REPORT OF THE CONSTITUTIONAL COMMISSION OF MINNESOTA 9 (1948). Dr. Lloyd M. Short's courtesy in permitting the author to examine the minutes and correspondence of the MCC is hereby gratefully acknowledged.

4. The members of the MCC consisted of the following: Senators William E. Dahlquist, A. R. Johanson, Henry A. Larson, Milton C. Lightner, Gerald T. Mullin, Elmer Peterson, Gordon Rosenmeier (Vice-Chairman), and Harry L. Wahlstrand; Representatives Thomas N. Christie, E. B. Herseth, Stanley W. Holmquist, Frank B. Johnson, O. L. Johnson, Harold R. Lundeen, Howard W. Rundquist, and Robert J. Sheran; Justice Leroy E. Matson, Mr. Earl L. Berg (Secretary), Mr. George W. Lawson, Mrs. Mabeth Hurd Paige (resigned May 17, 1948), Miss Helen Horr (appointed July 19, 1948), and Dr. Lloyd M. Short (Chairman).

5. The MCC was assisted by a small research staff consisting of three part-time graduate assistants in the Public Administration Center of the University of Minnesota; Thomas L. Culhane was the Director of Research.

6. Banks and Corporations, Rep. Robert J. Sheran, Chairman; Education, Sen. Harry L. Wahlstrand, Chairman; Executive, Rep. Howard W. Rundquist, Chairman; Highways and Airports, Rep. O. L. Johnson, Chairman; Judiciary, Justice Leroy E. Matson, Chairman; Legislative, Sen. Gordon Rosenmeier, Chairman; Local Government, Sen. William E. Dahlquist, Chairman; and Taxation and Finance, Sen. Gerald T. Mullin, Chairman. Mr. Val Bjornson was Chairman of the Committee on Public Information, which included newspaper publishers, editors, radio commentators, and journalism professors from the University of Minnesota. There were also a number of other prominent representatives from legislative, civic, and professional groups on each of these committees.

7. MCC REPORT, *op. cit. supra* note 3, at 15.

the then-existing document. A brief break-down of the major recommendations would necessarily include mention of the following: (1) strengthened provisions for home rule by Minnesota municipalities; (2) removal from the constitution of the specific enumeration and description of the state's seventy basic trunk highways; (3) provisions for a more highly unified state judicial system with compulsory judicial retirement at age seventy; (4) appointment rather than election of such state constitutional officers as secretary of state and treasurer; (5) submission to the voters at twenty-year intervals of the question of whether or not a constitutional convention should be held; (6) removal of the unrealistic state debt limit—this to be replaced by explicit and stricter provisions for debt retirement; (7) clarification of the order of gubernatorial succession; (8) mandatory legislative reapportionment following each federal census; (9) consolidations of certain trust funds; (10) constitutional safeguarding of a state-wide merit system; (11) formalized procedures for the executive budget; (12) modification of the existing dedicated fund procedures to permit the deducting of their administrative costs and the investment of the resulting net proceeds only; (13) changes in the constitutional amendment process to make the submission of amendments somewhat more difficult but the ratification considerably easier.

The purposes of this present study are to examine the substance of some of these recommendations and to determine the extent to which the subsequent constitutional amendments adopted by Minnesota voters have incorporated or have not incorporated the reforms proposed by the 1947 Commission.

I. RECOMMENDATIONS AND CHANGES

A. Legislature

The Commission⁸ suggested that the rigid ninety-day limit on regular sessions be modified, and that the legislature be considered a "continuous body" with power to exceed the ninety-day limit, if it so voted by concurrent resolution in both houses within the first seventy-five days of session.⁹ This suggestion, of course, would also

8. The MCC legislative committee had divided itself into the following subcommittees: Elections, Suffrage and Impeachment, Rep. Harold R. Lundeen, Chairman; Legislative Procedure, Rep. Walter F. Rogosheske, Chairman; Membership, Mr. R. J. Quinlivan, Chairman; and Restrictions on the Legislature, Sen. Milton C. Lightner, Chairman.

9. At least four of the total of eight specific research reports prepared for this MCC committee by the research staff dealt with this provision: MCC Research Staff, *Constitutional Limitations on Length of Legislative Sessions*, MCC LEGIS. COMM. REP. NO. 5 (1948); MCC Research Staff, *Study of Bills Remaining on Senate Orders at the Close of the 1947 Legislative Session*, MCC LEGIS. COMM. REP. NO. 6 (1948); MCC Research Staff, *Minnesota Legislators' Views on Length of Legislative Session*, MCC LEGIS. COMM. REP. NO. 7 (1948); MCC Research Staff, *Late Introduction of Bills and Legislative Congestion*, MCC LEGIS. COMM. REP. NO. 8 (1948).

permit annual sessions, as had been mandatory in Minnesota until 1877.¹⁰ With regard to special sessions, the Commission recommended that the legislature be empowered to call itself into session either "by law or by the joint rules of the Senate and House. . . ."¹¹ And it also recommended that when the governor calls the legislature into special session, as he may do under the current constitutional provisions, he should have authority to "limit the matters to be considered at any such session to those specified in the call."¹²

The Commission favored the granting of greater power to the legislature in procedural matters. In addition to recommending that "no resolution or rule relating to the conduct of the business or adjournment . . . shall require the approval of the Governor,"¹³ it suggested that the legislature be permitted to dispense with roll calls whenever it chose by unanimous consent to do so, and that the requirement to read each bill three times "and at length at least twice" be abolished.¹⁴

Under the existing constitution, legislators are forbidden to hold any additional state or federal office, other than that of postmaster, even if they wish to resign before the end of their term to seek such office. It was recommended that such disqualification apply only if the legislator wishes to retain his seat until expiration of his term. The Commission suggested revocation of the rule currently preventing a legislator from accepting any state office within one year after expiration of his term if said office is one "created or the emoluments of which are increased during the session of the legislature of which he was a member."¹⁵

To date, none of the Commission's legislative recommendations has found its way into the constitution. In 1959, voters rejected an amendment¹⁶ which would have liberalized the "holding of other offices" restrictions. However, this issue will come up again in 1960 at which time the general election ballot is scheduled to include a proposed amendment originating in last summer's special session of the legislature. Also included in this pending amendment is the old MCC proposal that the legislature be empowered to extend the sub-

10. MCC LEGIS. COMM. REP. No. 7, *op. cit. supra* note 9 includes a survey ascertaining the views of Minnesota legislators presented in reply to a questionnaire of the MCC legislative committee. 108 of the 198 legislators questioned replied; 34 favored no time limit on legislative sessions, 11 favored annual sessions, 12 favored 120 day sessions, 42 favored maintaining the status quo, and the remainder of the responses fell on a continuum ranging from 60 to 180 days.

11. MCC REPORT, *op. cit. supra* note 3, at 78.

12. *Id.* at 85.

13. *Id.* at 80.

14. *Id.* at 81. The "unanimous consent" requirement originated in a provision added to the draft in committee. See MCC Minutes, Aug. 19, 1948.

15. MCC REPORT, *op. cit. supra* note 3, at 81.

16. Minn. Laws 1957, ch. 922, § 1.

sequent regular session (such extension not to exceed thirty days).¹⁷ Another stipulation in the pending amendment is that, after the seventieth day of a session, the authorization for introducing new bills be based on the joint rules of the house and senate rather than on the written request of the governor.

B. Reapportionment

The Commission recommended that the existing ratio of one senator per 5,000 inhabitants and one representative per 2,000 inhabitants be changed to 40,000 and 20,000 respectively. Apportionment also was to be "as nearly equal as practicable" — this wording to replace the rigid, unqualified "equality" specified in the existing constitution. Two new safeguards were suggested for "area-representation" interests: first, that "no county shall be entitled to more than one-eighth of all the senators"; and second, that the "area included at the time of the adoption of this amendment in any two contiguous counties shall not have more than one-fourth of the total number of senators."¹⁸

The notorious unwillingness of the Minnesota legislature to pass any basic reapportionment bill since 1913, despite its constitutional authority in this matter and notwithstanding tremendous population changes and shifts, prompted the Commission to provide mandatory language and more effective constitutional sanctions. The Commission studied a number of enforcement schemes which have been employed in other states. For example, in Florida the governor can call a special session if the legislature fails to reapportion;¹⁹ in Kentucky, the supreme court can review reapportionment upon a citizen's suit;²⁰ and in Arizona, Arkansas, Missouri, and Ohio, where the legislature has nothing to do with the reapportionment process, enforcement powers are lodged in the secretary of state,²¹ in county

17. Minn. Laws Extra Sess. 1959, ch. 89, § 1.

18. MCC REPORT, *op. cit. supra* note 3, at 78. This provision was added to the draft in a committee meeting. See MCC Minutes, Aug. 19, 1948.

19. FLA. CONST. art. VII, § 3.

20. *Stiglitz v. Scharden*, 239 Ky. 799, 802, 40 S.W.2d 315, 317 (1931), where the court said: "It is settled that the courts, in a proper case, may interpose for the protection of political rights, and the right to be equally represented in the legislative bodies of the state is not only a political but a constitutional right as well."

A similar rule may prevail in Ohio on the basis of State *ex rel. Herbert v. Bricker*, 139 Ohio St. 499, 44 N.E.2d 377 (1942), where the court held that any violation of the express provisions of Article XI (reapportionment provision of Ohio Constitution) by the apportioning board makes the apportionment a nullity, and mandamus will lie to compel compliance with the constitutional requirements.

21. Mo. CONST. art. 3, § 2 provides as follows for the reapportionment of state representatives only:

On the taking of each decennial census of the United States, the secretary of state shall forthwith certify to the county courts, and to the body authorized to establish election precincts in the city of St. Louis, the number of representatives to be elected in the respective counties.

boards of supervisors,²² or in special reapportionment commissions.²³ Of these various plans, the Commission decided that the Missouri law applicable to the reapportionment of senators, providing for a gubernatorially-appointed ten-member bipartisan reapportionment commission, seemed most fruitful.

The MCC plan worked as follows: If a legislature failed to reapportion following a decennial federal census, each of the major parties would be required to submit a list of ten names to the governor—this to be done within thirty days after legislative adjournment. From these lists the governor would then select a ten-member committee equally divided between the parties. Upon completion of its work, this committee would submit its recommendations (based upon its majority vote) “showing the boundaries and numbers of the districts and the number of members to be elected therein.”²⁴ If the committee should fail to discharge its responsibilities, then the upper house would be elected on the basis of five senators-at-large for each congressional district, and the lower house on the basis of one representative for each county. Taking cogni-

22. ARIZ. CONST. art. 4, pt. 2, § 1, which provides as follows:

Not less than eight months prior to the regular general election following such apportionment at which Representatives are to be chosen, the secretary of state shall notify the board of supervisors of each county the number of Representatives such county will be entitled to elect, and the board shall, not less than six months prior to such election, divide the county into as many legislative districts as there are Representatives to be elected.

Note that this provision actually divides the enforcement powers between the county boards of supervisors and the secretary of state.

23. The composition of these special reapportionment commissions differs from state to state.

ARK. CONST. art. 8, § 1, as amended, provides:

A Board to be known as “the Board of Apportionment,” consisting of the Governor (who shall be Chairman), the Secretary of State and the Attorney General is hereby created and it shall be its imperative duty to make apportionment of representatives in accordance with the provisions hereof

MO. CONST. art. 3, § 7, relating to the reapportionment of state senators only, provides:

Within sixty days after this constitution takes effect, and thereafter within sixty days after the population of this state is reported to the President for each decennial census of the United States, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senators and the numbers of their districts among the counties of the state. If either of the party committees fail to submit a list within such time the governor shall appoint five members of his own choice from the party of such committee.

OHIO CONST. art. XI, § 11 provides:

The governor, auditor, and secretary of state, or any two of them, shall at least six months prior to the October election . . . at each decennial period . . . ascertain and determine the ratio of representation, according to the decennial census, the number of representatives and senators each county or district shall be entitled to elect, and for what years within the next ensuing ten years

24. MCC REPORT, *op. cit. supra* note 3, at 79.

zance of the traditional reluctance of the judiciary to assume jurisdiction in reapportionment cases,²⁵ the Commission stated that the "validity of any reapportionment hereafter made," upon suit by a qualified voter, is made a "*judicial question* of which the Supreme Court shall have original jurisdiction. . . ."²⁶

Turning from the MCC proposals to the actual legislative history of reapportionment, we find that although this issue has occupied Minnesota legislatures intensively since 1947 and although the state population has increased by over one-third since the apportionment act of 1913, no measure was successful until the extra session of 1959.²⁷ A plethora of bills failed because of various factors; perhaps the deep split between the advocates of population-based representation and the advocates of area-representation was most fundamental.

There has also been recourse to the judiciary in the attempt to compel reapportionment.²⁸ In *State ex rel. Meighen v. Weatherill*²⁹ the Supreme Court of Minnesota refused to declare the 1913 act invalid, stating that "the only objection to the act is that there is not an entire uniformity in the population of the different districts," and that this alone was "insufficient to justify the court in declaring the act unconstitutional."³⁰ In 1945, there was another attempt to obtain judicial intervention when a voter questioned "the validity of the existing legislative districts . . . [and] sought determination of his rights as a citizen to equal representation in the legislature, as a voter to an equal voice in the selection of public officials, and as a taxpayer to an equal voice in the enactment of laws taxing and otherwise affecting citizens and taxpayers."³¹ Rejecting this appeal on the basis of the separation of powers doctrine, the court held that in matters of reapportionment, "the remedy lies in the political conscience of the legislature, where lies the burden of the constitutional mandate. It is not within the province of this court to prompt the action of that conscience."³²

In 1958, an attempt was made in a federal court³³ to have the

25. Such judicial reluctance is usually predicated on the separation of powers doctrine, with the court saying that the case presents a "political question" rather than a "justiciable question." See, e.g., *State ex rel. Martin v. Zimmerman*, 249 Wis. 101, 23 N.W.2d 610 (1946); *Fergus v. Marks*, 321 Ill. 510, 152 N.E. 557 (1926). See also *Colegrove v. Green*, 328 U.S. 549 (1946) (5-3 decision in a case involving reapportionment of United States representatives).

26. MCC REPORT, *op. cit. supra* note 3, at 79.

27. Minn. Laws Extra Sess. 1959, ch. 45.

28. See Note, *The Role of the Judiciary in Legislative Reapportionment*, 42 MINN. L. REV. 617 (1958).

29. 125 Minn. 336, 147 N.W. 105 (1914).

30. *Id.* at 342-43, 147 N.W. at 107.

31. Note, *The Role of the Judiciary in Legislative Reapportionment*, 42 MINN. L. REV. 617, 625 (1958).

32. *Smith v. Holm*, 220 Minn. 486, 492, 19 N.W.2d 914, 916 (1945).

33. *Magraw v. Donovan*, 163 F. Supp. 184 (D. Minn., 1958).

legislature's failure to reapportion itself declared a denial of the due process and equal protection clauses of the fourteenth amendment. Acknowledging the "unmistakable duty of the State Legislature to reapportion itself periodically in accordance with recent population changes," the court then stated that "it is not to be presumed that the Legislature will refuse to take such action as is necessary to comply with its duty under the State Constitution."³⁴ Leaving the matter once more to the conscience of the legislature, the court said that it would "afford them . . . full opportunity to heed the constitutional mandate to redistrict."³⁵

Finally, in 1959 the legislature passed a reapportionment act³⁶ maintaining the senate membership at sixty-seven but increasing that of the house from 131 to 135 beginning with the 1963 session. Under the provisions of this act, certain rural counties previously holding one senatorial seat each were combined into a new district to be represented by one senator only; one large city in a rural county was given representation separate from its county; and the metropolitan districts were allotted important additional seats. The senatorial contingent from Hennepin County was increased from nine to thirteen and its house delegation from eighteen to twenty-six; Ramsey County increased from six to seven senators and from twelve to fourteen representatives. Rural interests estimated that the 1959 act cost them a net loss of six senators and fifteen representatives.³⁷

In addition to this statutory reapportionment, the 1959 extra session approved an amendment³⁸ (to be submitted to popular vote in the 1960 general election) under the terms of which the future representation in the 135-member house would be based on population, whereas the 67-member senate would be apportioned "in a manner which will give fair representation to all parts of the state," provided, however, that the five counties adjacent to and including Ramsey County comprising thirty-five per cent or more of the total population of the state shall make up thirty-five per cent³⁹ of the senate. Beginning in 1970, should the legislature fail to reapportion following a decennial census, the amendment requires that it go into special or extraordinary session and remain in session without compensation until its reapportionment task is completed.

This amendment was strongly favored by various rural interests and rural legislators; some of them had hoped even to make the statutory reapportionment dependent upon its passage. However, it

34. *Id.* at 187.

35. *Ibid.*

36. Minn. Laws Extra Sess. 1959, ch. 45.

37. Minnesota Farm Bureau News, July 1959, p. 1.

38. Minn. Laws Extra Sess. 1959, ch. 47.

39. It is not clear whether the provision means "at least thirty-five per cent" or "not more than thirty-five per cent."

differed rather fundamentally from the recommendations submitted by Governor Freeman's twenty-seven-member Citizen-Legislator Reapportionment Committee, which had proposed a senate apportioned "solely on the basis of population" and a house apportioned by a formula which assigns one representative to each county above a minimum population with the remaining representatives assigned strictly according to population.⁴⁰ The governor's committee suggested that if the legislature failed to reapportion itself, the responsibility should then be placed in a commission of district judges designated by and representative of every judicial district in the state.⁴¹

In a special message explaining his unwillingness to approve the reapportionment amendment proposed by the legislature, Governor Freeman criticized it on several grounds.⁴² First, it lacked any explicit standard to guide the senate in allocating the non-metropolitan sixty-five per cent of its membership; second, it contained no principle to assure equal representation according to population; third, the enforcement machinery was inadequate and defective, because its "no-pay" feature placed the wealthier representatives in a favored position, at the same time placing the entire legislature under possible pressures from special interests. Moreover, the assumption that the legislature in extraordinary session would prove any more mindful of its responsibility to reapportion than it has been throughout so many years of regular sessions seemed to the governor unpersuasive and unrealistic. Asserting that ample time remained to pass a better amendment before the 1970 census, the governor chided the legislature for approving the pending measure, particularly because it allows the senate to "perpetuate its own ideas of apportionment and thus its independency from the will of the people. It could continue to avoid and evade the consequences of change and progress."⁴³

The vagueness as to general standards of apportionment, the great discretionary powers left to the senate in allocating its own membership, the strong opposition of the governor, and the dissatisfaction of those who demand strong enforcement provisions, and other factors make the electoral prospects of the reapportionment amendment appear dim indeed.

Projecting these recent developments in reapportionment against the MCC's recommendations suggests two observations. First, the reapportionment act of 1959 dealt much more generously with the

40. *Citizen-Legislator Reapportionment Committee Makes Recommendations*, 44 MINN. MUNICIPALITIES 59 (1959).

41. Final Report of the Citizen-Legislator Committee on Reapportionment 4 (1959), dittoed copy in executive files.

42. Statement by Governor Orville L. Freeman regarding proposed constitutional amendment on reapportionment, June 25, 1959, mimeographed copy in executive files.

43. *Ibid.*

metropolitan areas than did the MCC report, in which it was declared that "no county shall be entitled to more than one-eighth of all the senators" and that "no two contiguous counties shall . . . have more than one-fourth of the total number of senators."⁴⁴ These rather rigid ceilings on metropolitan representation suggests a failure on the part of the Commission to anticipate the direction and intensity of the state's population influx and shifts. Of the estimated thirteen per cent increase in Minnesota's population since 1950, nearly fifty-six per cent has occurred in the Twin Cities metropolitan area.⁴⁵ The five metropolitan counties now comprise forty per cent of the total population of the state.

As a second observation, it can be noted that the mandatory sanctions so prominent in the MCC proposal, that is, the provision for the gubernatorial ten-member commission, together with the explicit conferral upon the supreme court of original jurisdiction over reapportionment cases, are still very much missing from the present Minnesota constitution and the pertinent amendment approved by the legislature and pending before the voters.

C. Executive

In the interests of a strengthened governorship, the Commission⁴⁶ recommended reducing the number of constitutional officers from six to three while lengthening their terms from two to four years. Since the auditor would be elected by the legislature in the future, the only remaining popularly-chosen officers in the executive branch, other than the governor, would be the lieutenant governor and the attorney general. To afford the governor better opportunity to fashion an integrated program, the Commission suggested that he be allowed up to three weeks subsequent to the convening of the legislature in which to prepare his legislative and budget messages. And to protect the governor against the pressures exerted on behalf of patronage and special favor, the MCC urged inclusion in the constitution of a section safeguarding the civil service system and principle.⁴⁷

44. See note 18 *supra*.

45. Minn. Dep't of Employment and Security, *Employment Trends*, June 1959, p. 1.

46. Research reports for the executive committee included the following: MCC Research Staff, *Constitutional Provisions for Elective Officers*, MCC EXEC. COMM. REP. No. 1 (1947); MCC Research Staff, *Succession to the Governorship*, MCC EXEC. COMM. REP. No. 2 (1948); MCC Research Staff, *Constitutional and Statutory Duties of Certain State Officers—With Special Reference to the Term of Office and Power of Appointment of the Governor*, MCC EXEC. COMM. REP. No. 3 (1948); MCC Research Staff, *Election Years of State Officials*, MCC EXEC. COMM. REP. No. 4 (1948); MCC Research Staff, *Constitutional Provisions on the Executive Budget*, MCC EXEC. COMM. REP. No. 5 (1948); MCC Research Staff, *Veto Power of the Governor*, MCC EXEC. COMM. REP. No. 6 (1948).

47. This recommendation was in line with the long-standing suggestions of the

The MCC recommended two other changes affecting the powers and duties of the governor. One of these proposals would change the composition of the State Board of Pardons (now composed of the governor, the attorney general, and the chief justice) by replacing the chief justice with a person appointed by the governor with the advice and consent of the senate. Such a measure would make pardons a strictly executive function.⁴⁸

A second proposal clarified succession to the governorship. If for any reason a vacancy occurred in the office of governor, the powers and duties of that office would devolve on the lieutenant governor, the president pro tem of the senate, and the speaker of the house, in that order. To further reduce uncertainty in the event that these three are all unavailable, the Commission suggested that "the oldest member in chronological age of the Senate shall call the Senate together to elect a President Pro Tempore."⁴⁹

Unlike the proposals relating to the legislative branch, some of the MCC proposals regarding the executive branch have since been adopted. A 1954 amendment⁵⁰ empowered the governor to fill executive vacancies not merely "until the next election" and "until their successors are chosen and qualified," as heretofore specified in the constitution, but to make appointments extending to the end of the term of the vacated office or to the first Monday in January following the next general election, whichever came sooner. Also, an amendment passed in 1958,⁵¹ to take effect in 1963, provides for four-year simultaneous terms not only for the governor, lieutenant governor, and attorney general (as recommended by the Commission) but for the remaining two of the present five constitutional officers as well.

After studying the important question of gubernatorial succession, the 1959 legislature passed and submitted to the voters an amendment⁵² incorporating most of the MCC objectives in this area. The "vacancy in the office of governor" clause was replaced by new language directing the lieutenant governor to assume responsibility whenever the governor "shall be unable to discharge the powers and duties of his office. . . ." This amendment also gives the legislature the power to provide by law for succession, not only in the case of a governor or lieutenant governor's death but also in cases of "removal, . . . resignation, or inability . . . to discharge the duties . . ."; and in addition, the legislature is specifically authorized to

Civil Service Reform League.

48. On the essentially executive nature of clemency actions by the pardons board, see Letter from Chief Justice Loring to Chairman Lloyd M. Short, May 14, 1948.

49. MCC REPORT, *op. cit. supra* note 3, at 85.

50. Minn. Laws 1953, ch. 762, § 4.

51. Minn. Laws 1957, ch. 813, §§ 3, 5.

52. Minn. Laws 1959, ch. 680.

provide by law for "continuity of government in periods of emergency resulting from disasters caused by enemy attack . . . including but not limited to, succession to the powers and duties of public office and change of the seat of government."⁵³

Still remaining unadopted, however, are the MCC's recommendations to reduce the number of constitutional officers, to anchor the civil service explicitly in the constitution, to provide for an executive budget, to re-structure the pardon board, and to empower the governor to restrict a legislature in special or extraordinary session to matters "specified in the call."

D. Judiciary

The changes prescribed by the MCC for the judiciary were both far-reaching and basic.⁵⁴ The over-all aim of these recommendations was to develop a strongly integrated and administratively unified system and to provide a method of electing judges which would guarantee and strengthen the independence of the entire bench. In order to facilitate the internal operations of the judiciary, the legislature was to be given a mandate to establish an administrative council. This group, chaired by the chief justice, would include one representative from the public, one from the legal profession, and one from each of the different types of courts composing the state's judiciary. It would be given responsibility to "formulate policies for the efficient administration of the court system" without at the same time "interfer[ing] with the exercise of the judicial functions of a judge. . . ." ⁵⁵

Adopting a modified version of the so-called Missouri plan, the Commission advocated far-reaching changes in the election of supreme court judges. According to the new plan, the legislature would provide by law for a nonpartisan judicial commission, which

53. Minn. Laws 1959, ch. 680, § 1.

54. The MCC had before it a careful study of the Minnesota judiciary prepared in 1942 by the Committee on the Unification of the Courts to the Judicial Council of Minnesota. This group, under the chairmanship of Chief Justice Loring, proposed a revision of Article VI, which aimed at correcting three major features in Minnesota's then-existing court structure which it considered particularly weak: (1) lack of unity and administrative supervision in our courts; (2) lack of rule-making powers in the courts; (3) unsatisfactory method of selecting the judiciary and the brevity of tenure. A number of the basic provisions of the report were incorporated into the MCC draft. See MCC JUDIC. COMM. REP. No. 7 (1948).

55. MCC REPORT, *op. cit. supra* note 3, at 88. Correspondence in the files of the Commission revealed considerable criticism by leading members of the district bench concerning the extent of power that might be lodged in such an administrative council. Also discussed in committee but finally rejected were new provisions (1) for allowing jury trials to persons charged with violating a municipal ordinance and (2) or imposing a restriction of \$100.00 minimum for jury trials in controversies arising at common law. See MCC JUDIC. COMM. REP. No. 3 (1948); MCC Minutes, July 22, 1948.

group in turn would submit a list of three names to the governor whenever a supreme court vacancy occurred. The governor would then make the appointment from this set of nominees. A judge so selected would serve until the next election, and if after one election "on his own" he sought re-election, the ballot would be so constructed that the voter would merely vote on the question of "whether [the incumbent] shall be continued in office" or not.⁵⁶

In regard to retirement policies, the MCC not only specified a compulsory retirement age of seventy for judges⁵⁷ but also empowered the governor to force prior "retirement" when "it appears that any justice or judge is so incapacitated as substantially to prevent him from performing his judicial duties. . . ."⁵⁸ Such forced retirements could be executed upon recommendation from a commission of inquiry appointed by the governor.

Two amendments have been added to the judiciary article since the MCC made its report. A 1954 measure⁵⁹ dealing with the probate court and its jurisdiction gave the legislature power to determine the qualifications of probate judges and to confer jurisdiction on these courts (by two-thirds vote). Two years later a more comprehensive amendment⁶⁰ was passed, the twelve sections of which affected nearly all phases of Minnesota's judiciary. In language taken almost verbatim from the Commission's report, the amendment defined the judiciary as follows: "The judicial power of the State is . . . vested in a supreme court, a district court, a probate court, and such other courts, minor judicial officers and commissioners with jurisdiction inferior to the district court as the legislature may establish."⁶¹ Also in line with MCC recommendations, the clerkship of the supreme court was made an appointed, rather than an elected, office; the terms for all state judges were set at six years; the position of justice of the peace was removed from the constitution; the qualifications of all other judges were made a statutory matter, as was district court jurisdiction; the elected term of district court clerks was lengthened from four to six years; and the state law librarian (heretofore a gubernatorial appointee) was made an appointee of the supreme court.

The 1956 amendment, however, deviated in a number of major respects from the MCC proposals. First and foremost, it made no

56. Discussion of this provision centered around a basic conflict of views concerning independence of the judiciary. See note 92 *infra* and accompanying text.

57. MCC REPORT, *op. cit. supra* note 3, at 44-45. By its terms, this provision applies only to supreme court justices and district and probate court judges.

58. *Id.* at 88.

59. Minn. Laws 1953, ch. 759, § 1.

60. Minn. Laws 1955, ch. 881.

61. MCC REPORT, *op. cit. supra* note 3, at 41.

provision for an administrative council. Second, it made no explicit reference to the Missouri plan for selecting supreme court justices. Third, it lacked constitutional provision for a compulsory judicial retirement age and, likewise, for gubernatorial removal of a judge upon determination of his substantial incapacity. And fourth, whereas the MCC had lodged the making of "rules of practice, procedure, and evidence for all the courts" in the hands of the legislature, the 1956 amendment remained silent on that subject.⁶²

E. Local Government

Amendments adopted in 1881 and 1891 contained strong prohibitions against special legislation. Consequently, whenever the Minnesota legislature wished to raise salaries of certain local officials or to regulate local governmental powers and duties, it was obliged to write thinly disguised general laws in lieu of special laws. The MCC wished to acknowledge the need for certain types of special legislation without encouraging at the same time an unwarranted and camouflaged intrusion into the affairs of local governments.⁶³ To this end, the MCC approved a return to special laws, provided that two conditions could be met, namely, that the law specify the locality affected, and that the voters of the said locality concur (by majority vote). Home rule for cities, villages, and even counties was to be further encouraged by new provisions greatly simplifying charter adoption, reform, and even abandonment.

To the MCC, some such encouragement of home rule seemed desirable. It might be noted that in 1958 only eighty-six Minnesota cities had home rule charters, and only sixty-three out of 731 villages had adopted optional village forms departing from the standard village pattern.⁶⁴ Among the reasons for this rather lukewarm interest are: the heavy majority required for charter adoption (four-sevenths

62. Professor Maynard E. Pirsig conducted a very thorough and scholarly analysis on the development of judicial reform in Minnesota from 1942 up to the submission of the 1956 amendments. Pirsig concluded:

[Although] the proposed judiciary article contains a substantial number of desirable improvements over the present constitution . . . with respect to the three major needs of court organization existing in this state, the article is a disappointment. These are the need for an effective administrative organization of the courts, the reorganization of the local court structure, and substitution of court appointment for the present election of clerks of district court.

See Pirsig, *The Proposed Amendment of the Judiciary Article of the Minnesota Constitution*, 40 MINN. L. REV. 815, 841 (1956). Pirsig was a special consultant to the MCC judiciary committee and prepared a separate draft for its consideration.

63. There were two research reports for the committee on local government: MCC Research Staff, *Extracts: Constitutional Provisions on County Consolidation, City-County Consolidation, City-County Separation*, MCC LOCAL GOV'T COMM. REP. NO. 1 (1948), and MCC Research Staff, (A) *Constitutional Provisions on Local Government Options for Governmental Organization, Areas and Powers and (B) Formation of New Counties*, MCC LOCAL GOV'T COMM. REP. NO. 2 (1948).

64. 43 MINN. MUNICIPALITIES 267 (1958).

of the vote) and for charter amendment (three-fifths); the complex and expensive newspaper publication requirements for proposed charters; the rigid six-month time limit on the deliberations of the charter commission; and the atmosphere of doubt concerning the legal powers of a city or village to abandon a once-adopted charter.⁶⁵

With these impediments in mind, the Commission urged the removal from the state constitution of administrative details relating to the submission, filing, and publication of charters. Instead, broad enabling statutes were deemed sufficient to cover such matters as the initiation and preparation of charters by charter commissions, the size of majority required for adoption, and the size of vote required for modification or for termination. Also left to legislative discretion were questions involving the direct election of charter commissions (as against their appointment by district judges) and the propriety of city-county consolidations by means of home rule charters.

The 1958 local government and home-rule amendment⁶⁶ implemented nearly all of the relevant objectives of the MCC. Going even further, this amendment removed the 50,000-population minimum previously required for city-county consolidation under a home rule charter. A complicated classification of local governments on the basis of population and other criteria was entirely revoked and replaced by broader language granting the legislature enabling powers to "provide by law for the creation, organization, administration, consolidation, division, and dissolution of local government units and their functions . . . including [the] qualifications for office, both elective and appointive. . . ."⁶⁷

F. Highways

The MCC offered an entirely new and greatly abbreviated Article XI eliminating the detailed description and listing of Minnesota's seventy basic trunk highways as enumerated in the famous Babcock amendment of 1920. Also it urged consolidation of other constitutional language dealing with highway finances,⁶⁸ and it recommended the extension of state supervision and control of highways constructed with state funds.⁶⁹ In place of three funds—the state road and bridge fund, the trunk highways sinking fund, and the trunk highway fund—the MCC advocated the establishment of one

65. *Ibid.*

66. Minn. Laws 1957, ch. 809.

67. Minn. Laws 1957, ch. 809, § 1.

68. See MINN. CONST. art. IX, § 5.

69. The highways and airports committee had two special research studies prepared for its consideration: MCC Research Staff, *Determination of Routing of State Highways*, MCC HWYS. & AIRPORTS COMM. REP. No. 1 (1948), and MCC Research Staff, *State Highway Funds and Finances*, MCC HWYS. & AIRPORTS COMM. REP. No. 2 (1948).

fund into which all gasoline and motor vehicle taxes should be paid. It also recommended a legislatively-established special highway commission "to study the trunk highway system"⁷⁰ and to recommend changes to the legislature. According to the Commission, all additions, changes, and deletions within the basic state road system should be considered legislative functions.

Once again, MCC recommendations were to find acceptance in an amendment adopted in 1956⁷¹ which deleted the detailed highway descriptions, granted the state highway department greater supervision and control over construction and maintenance, and permitted a certain flexibility in routing. With reference to the last-named provision, the amendment stated that the "said highways shall extend as nearly as may be along the routes numbered 1 through 70,"⁷² but it permitted deviations provided the starting points, terminals, and villages and cities en route were respected. Specific locations, however, were left to "boards, officers, or tribunals," as provided by law.⁷³

This amendment authorized the legislature to add 12,000 miles of new highways to the system, and to add even more if "necessary or expedient to meet, use, or otherwise take advantage of any federal aid made available by the United States. . . ."⁷⁴ Unlike the MCC recommendations, the 1956 amendment added county state-aid and municipal state-aid highways, permitting the legislature to provide for highways within a system "established, located, constructed, reconstructed, improved and maintained"⁷⁵ by counties, cities, villages, or boroughs.

Three major types of highway funds were created by the 1956 amendment: the highway user tax distribution fund, the trunk highway fund, and the county and municipal state-aid funds. Net proceeds of the highway user tax are to be distributed according to formula, with sixty-two per cent allotted to the trunk highway fund, twenty-nine per cent to the county fund, and nine per cent to the municipal fund. Whereas the MCC did not specify limits on the issuance and sale of bonds for highway purposes, the 1956 amendment placed a ceiling of 150 million dollars on bonds issued and unpaid. It also specified a maturation period of twenty years and directed that the interest rate not exceed five per cent per annum.

G. Other Major MCC Recommendations

After study of the constitutional articles and sections dealing with

70. MCC REPORT, *op. cit. supra* note 3, at 68.

71. Minn. Laws 1955, ch. 882.

72. Minn. Laws 1955, ch. 882, § 2.

73. *Ibid.*

74. Minn. Laws 1955, ch. 882, § 1.

75. *Ibid.*

finance, corporations, and taxation, the MCC made a number of proposals.⁷⁶ It urged the elimination of a most unrealistic \$250,000 state debt limit; it recommended a two-thirds vote requirement for legislation changing rates or methods of taconite ore taxation; and it advocated deletion of most of the present constitutional language referring to banking laws, including the imposition of double liability on state bank stockholders.⁷⁷ In addition, the Commission proposed the elimination of the constitutional requirement that the legislature submit to the voters (in amendment form) any increases in the gross-earnings tax on railroads.

Some action has been taken on these matters since 1948. The occupation tax section of the constitution was altered in 1956⁷⁸ to permit allocation of these monies to current state education needs as follows: Fifty per cent will go into the state general revenue fund as before. However, forty per cent of the remainder (formerly earmarked for permanent trust funds) will be given to state elementary and secondary education, and the remaining ten per cent will be allocated to the University of Minnesota.

Among the most significant of the MCC recommendations were those relating to constitutional conventions and the amendment process. In studying these matters, the Commission was able to make comparisons between the pre-1898 situation and the decades following. Before that year, an amendment could pass with the approval of a simple majority of those voting on the question; after 1898, passage required a majority of all those voting in that election.

| Years | Number of amendments proposed | Number adopted | Number rejected | Percentage adoptions | Percentage rejections |
|-------------|-------------------------------|----------------|-----------------|----------------------|-----------------------|
| 1858 - 1898 | 66 | 48 | 18 | 72.7 | 27.3 |
| 1898 - 1946 | 80 | 26 | 54 | 32.5 | 67.5 |
| 1946 - 1958 | 22 | 11 | 11 | 50.0 | 50.0 |

The table⁷⁹ shows rather clearly the changing pattern in percentage of adoptions and rejections since revocation of the pre-1898

76. Research studies for the taxation and finance committee included the following: MCC Research Staff, *Obsolete Provisions of the Minnesota Constitution Relating to Taxation and Finance*, MCC TAX & FIN. COMM. REP. NO. 2 (1948); MCC Research Staff, *Constitutional Debt Limits in the States*, MCC TAX. & FIN. COMM. REP. NO. 3 (1948); MCC Research Staff, *Land Grants and Trust Funds*, MCC TAX & FIN. COMM. REP. NO. 4 (1948); MCC Research Staff, *Property Exempt from Taxation in the Various States*, MCC TAX. & FIN. COMM. REP. NO. 5 (1948); MCC Research Staff, *Estimated Assessed Value of Personal Property and Taxes Payable Thereon in Minnesota—1948*, MCC TAX & FIN. COMM. REP. NO. 6 (1948); MCC Research Staff, *Dedication of Revenues by State Constitution*, MCC TAX. & FIN. COMM. REP. NO. 7 (1948); MCC Research Staff, *Forestry Provisions in State Constitutions*, MCC TAX & FIN. COMM. REP. NO. 9 (1948).

77. An amendment relating to liability of stockholders was successfully ratified in 1954. Minn. Laws 1953, ch. 760.

78. Minn. Laws Extra Sess. 1955, ch. 6, §§ 1, 1A.

79. Figures from 1858-1946 were compiled by the MCC.

amendment procedure, which, compared with other states, was one of the easiest amendment formulas available. Basically, the Commission called for a return to the pre-1898 formula but with a stiffening of the legislative phase of the process. Instead of approval by a simple majority, the MCC felt it wiser to require a two-thirds legislative majority as prerequisite to the submission of an amendment to popular vote. While obviously slowing down the rate of submission, such a formula would enhance submitted amendments' chances with the voting public.

Even more far-reaching were the Commission's proposals regarding constitutional conventions: (1) Not later than 1960 and every twenty years thereafter, the question of a constitutional convention is to be submitted to the electorate. (2) If a majority of those voting on the question declare in favor of a convention, the legislature must provide for the calling of one. (3) Upon completion of the convention session and submission of its draft to the public, an election must be held on the proposed constitution or amendments—this to take place not less than sixty days, nor more than six months, following adjournment. (4) If a majority of those voting on the proposals approve, they shall take effect.

Minnesota voters defeated two relevant amendments in 1948. One of these would have permitted the legislature to submit two or more amendments to the public without requiring a separate vote on each.⁸⁰ The other amendment would have permitted the legislature to call a constitutional convention without submitting the question to the people.⁸¹ In 1954, an amendment passed⁸² which required that in order for a revised constitution to take effect (when submitted by a convention), it must be affirmed by three-fifths of those voting on it. This same amendment made it permissible for members of the legislature to become candidates for membership in a constitutional convention.

II. SUMMARY AND CONCLUDING OBSERVATIONS

Even the briefest survey of constitutional changes via the amendment process cannot help but reveal significant substantive achievements since 1948. The governorship and judiciary have been strengthened. Municipal home rule and other types of local government units enjoy a constitutionally more friendly climate for change than formerly. The new highway article has permitted more effective integration of the highway system while furnishing it with a better financial base. Portions⁸³ of the occupation tax have been made

80. Minn. Laws 1947, ch. 640, § 1.

81. Minn. Laws 1947, ch. 641, § 1.

82. Minn. Laws 1953, ch. 761, § 1.

83. For a statement of the portions of the tax allocated for educational purposes, see text commencing at note 78 *supra*.

available for immediate educational needs. Pending on the 1960 ballot are additional amendments involving a variety of matters: gubernatorial succession,⁸⁴ continuity of government in the face of military emergencies,⁸⁵ extension of legislative sessions,⁸⁶ liberalizing of the impediments to legislators' quests for other offices,⁸⁷ provisions to facilitate voting by persons who have moved from their precinct within thirty days preceding an election,⁸⁸ removal from the constitution of obsolete language governing the franchise of Indians,⁸⁹ and reapportionment.⁹⁰

Whatever their electoral prospects, the mere presence of these amendments on the ballot testifies to the increasing pressures for constitutional reform in Minnesota. To obtain further confirmation of this trend, one need only note the remarkable increase in the ratio of amendments adopted to amendments rejected since 1948.⁹¹ This trend, when considered along with the reapportionment act of 1959, indicates an increased willingness among legislators and the public to support reforms, and to do so via the piecemeal revisionism of statutory and amendment processes. Among some persons, it might be hazarded, this willingness is motivated less by enthusiasm for reform per se than by fear that otherwise a constitutional convention—the more drastic alternative hovering in the background of Minnesota politics—might be thrust upon them.

But the amendment process, which Minnesotans seem to prefer to the wholesale revisions effected by a constitutional convention, contains some real weaknesses. The record of rejected amendments shows that reforms relating to governmental structure and other technical reforms of great importance may yet fail to evoke sufficient public support to meet the onerous requirements for passage in an election. This has been true particularly in the case of proposals dealing with obsolete voter qualifications. The imprecise or incomplete wording of an amendment—which is a necessary evil, given

84. Minn. Laws 1959, ch. 680, § 1.

85. Minn. Laws 1959, ch. 680.

86. Minn. Laws Extra Sess. 1959, ch. 89, § 1. Currently, prospects for the adoption of this amendment, however, are not very bright. Based on the findings of the Minnesota Poll, a majority of all those interviewed appear to oppose it:

| | Total | Men | Women |
|------------|-------|-----|-------|
| In favor | 31% | 30% | 31% |
| Against | 54% | 62% | 47% |
| No opinion | 15% | 8% | 22% |

Minnesota Poll—54% Against Proposed Measure on '60 Ballot, Minneapolis Sunday Tribune, Nov. 1, 1959, § E (Ed.-Bus.), p. 3, cols. 7, 8.

87. Minn. Laws Extra Sess. 1959, ch. 89, § 2.

88. Minn. Laws 1959, ch. 675, §§ 2, 3, 5.

89. Minn. Laws 1959, ch. 696, § 1.

90. Minn. Laws Extra Sess. 1959, ch. 47.

91. To compare the ratio of amendments adopted and rejected between 1898 and 1948 and from 1948 to the present, compare the table in the text preceding note 79 *supra* with the tables appended to this Article.

the exigencies of the printed ballot—may compromise its chances of success, thus entailing repeated submission and added expense. Because of the great pressures and other adverse conditions under which harassed legislators must work during their limited session, the careful deliberation and the impeccable wording a constitutional amendment deserves are not always attainable. Also, there is something in the very nature of the amendment process, namely, that it is difficult to debate selected aspects of a proposed amendment without endangering its passage and thus forfeiting the many real reforms latent in the measure as a whole. Critics of the judiciary article, for example, may well have felt concern over the extent to which rules of evidence and procedure might pass out of the hands of the judiciary, and they may have feared loss of the independence of the judiciary from other branches of government;⁹² and yet the benefits of the proposed amendment so far outweighed these misgivings that many of them voted for it notwithstanding.

Viewing the work of the Minnesota Constitutional Commission in the perspective of the last ten years, one impression stands out above all others. Minnesota owes this body a profound debt of gratitude for the care with which it phrased its recommendations, for its professional and scholarly approach, and for its lively concern for the possible and the practical. 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 prescriptions.

Yet, much work remains to be done, if a 102-year old constitution is to provide this state with a basic charter adequate to the needs of an increasingly complex society and to the requirements of a state policy existing within the context of a dynamic federalism. Those who favor reform via constitutional convention may see little in the record of the last ten years to challenge their preference for the convention method as against the piecemeal amendment process. To their way of thinking, complicated and fundamental problems, such as dedicated funds, taxation, mandatory reapportionment, periodic constitutional conventions, further streamlining of the governorship and legislature, and possible provisions for referendum and popular initiative, do not lend themselves readily to the fragmentary treatment afforded by the mere amending of existing documents.

92. In criticizing the Loring Committee's Report, Professor Anderson, for example, wrote: "The aim seems to be to establish a judicial branch of the government that is almost entirely insulated from politics and from the other two branches of state government." Anderson, *Reorganizing Minnesota's Judiciary*, 27 MINN. L. REV. 383, 387 (1943). It was further his position that the proponents of this position envisage a guild system that would be difficult to reconcile with democratic political theory. *Ibid.* A similar position is taken by Forrest Talbott, author of *INTERGOVERNMENTAL RELATIONS AND THE COURTS* (1950). Memorandum from Forrest Talbott to G. Theodore Mitau, Oct. 22, 1959.

Minimalists, on the other hand, may regard Minnesota's ten-year record of constitutional reform as an ample warrant for continued confidence in the amendment process, especially if this process were to be revitalized by the recommendations of a second constitutional commission. Such a commission, approaching its task with the professional competence and civic dedication of its distinguished predecessor, might review present needs; intensify the scrutiny of obsolete constitutional language,⁹³ as for example that pertaining to a restricted women's suffrage or to the election of United States Senators; and suggest broad measures, as did the 1948 Commission, which when embodied in amendments, would enable this state to continue and perhaps accelerate its slow and patient program of limited ad hoc constitutional reform.

93. Whether removal of obsolete constitutional provisions could be achieved by a single amendment or whether this would necessitate multifarious amendments is essentially a judicial question. See *Winget v. Holm*, 187 Minn. 78, 244 N.W. 331 (1932), where the court held that to qualify as separate amendments, "the changes proposed must be independent and unrelated so as not to fit in with the one general aim or purpose of the amendment framed." *Id.* at 86, 244 N.W. at 334. See also *Visina v. Freeman*, 252 Minn. 177, 89 N.W.2d 635 (1958).

PROPOSED AMENDMENTS TO THE MINNESOTA CONSTITUTION
1948-1958

| No. of Amendment | Election Year (on ballot) | Provision of Minn. Const. to be Amended | Purpose of Amendment | Adopted or Rejected | Yes Vote | No Vote | Total Vote at General Election | Yes Vote Percent of Total |
|------------------|---------------------------|---|--|---------------------|----------|---------|--------------------------------|---------------------------|
| 1 | 1948 | Art. IX, § 5 | To provide for 50-50 apportionment of excise tax on petroleum products. | R | 534,538 | 539,224 | 1,257,804 | 42.49 |
| 2 | 1948 | Art. XIV, § 1 | To authorize submission of two or more amendments without requiring voters to vote separately on each. | R | 319,667 | 621,523 | " | 25.41 |
| 3 | 1948 | Art. XIV, § 2 | To authorize two-thirds of the legislature to call for a constitutional convention without submitting the question to the voters. | R | 294,842 | 641,013 | " | 23.44 |
| 4 | 1948 | Add a new Article | To authorize the state to pay a veterans' bonus. | A | 664,703 | 490,518 | " | 52.84 |
| 5 | 1950 | Art. IX, § 1 | To authorize diversion of 1% of the proceeds of the occupation mining tax to the veterans' compensation fund. | A | 594,092 | 290,870 | 1,067,967 | 55.62 |
| 6 | 1950 | Art. IV, § 32 (b) be repealed and Art. VIII, § 2 be amended | To authorize forestry management funds by diverting certain proceeds (25%) from the public land trust fund. | R | 367,013 | 465,239 | " | 34.37 |
| 7 | 1950 | Art. IX, § 5 | To provide for a 50%-44%-6% apportionment of the excise tax on petroleum products proceeds. | R | 420,530 | 456,346 | " | 39.37 |
| 8 | 1952 | Art. VIII, § 6 | To authorize a change in the investment and loan requirements governing permanent school and university funds. | R | 604,384 | 500,490 | 1,460,326 | 41.38 |
| 9 | 1952 | Art. XIV, adding a new § 3 | To provide for a 60% popular majority of voters voting on the question before a new state constitution can be considered legally ratified by the electorate. | R | 656,618 | 424,492 | " | 44.96 |
| 10 | 1952 | Art. VII, § 1 | To clarify the meaning of who shall be entitled to vote. | R | 716,670 | 371,508 | " | 49.07 |
| 11 | 1952 | Art. VI, § 7 | To permit the legislature to extend probate court jurisdiction by two-thirds vote. | R | 646,608 | 443,005 | " | 44.27 |

| | | | | | | | | |
|----|------|---|--|---|-----------|---------|-----------|-------|
| 12 | 1952 | Art. XVI, § 3 | To provide for a 65%-10%-25% apportionment of the excise tax on motor vehicles proceeds. | R | 530,316 | 704,336 | " | 39.73 |
| 13 | 1954 | Art. VI, § 7 | To permit the legislature to define qualifications and to extend jurisdiction of probate judges by two-thirds vote. | A | 610,138 | 308,838 | 1,168,101 | 52.23 |
| 14 | 1954 | Art. X, § 3 | To empower the legislature to limit the liability of stockholders of state banks. | A | 624,611 | 290,039 | " | 53.47 |
| 15 | 1954 | Art. XIV, § 3 (new), Art. IX, § 4 not to apply | To provide for a 60% popular vote before a new state constitution can be held ratified and to remove constitutional bar precluding members of the legislature from serving in a constitutional convention. | A | 638,818 | 266,434 | " | 54.69 |
| 16 | 1954 | Art. V, § 4 | To permit gubernatorial appointments in case of vacancy in certain offices to run until end of term or Jan. 1 and so eliminate need for election to short terms (Nov. to Jan.). | A | 636,237 | 282,212 | " | 54.46 |
| 17 | 1956 | Art. VI | To permit the legislature to recognize the judicial power of the state. | A | 939,957 | 307,178 | 1,443,856 | 65.10 |
| 18 | 1956 | New Art. XVI in place of Arts. XVI and IX, § 16 | To authorize the consolidation of present trunk highway articles and sections, to increase state aid and supervision of public highways, to permit tax of motor vehicles and fuel, and to apportion monies for highway purposes on the basis of a 62%-29%-9% to state and local government highways. | A | 1,060,063 | 230,707 | " | 73.41 |
| 19 | 1956 | Art. IX, § 1A | To authorize the legislature to divert 50% of the occupation mining tax proceeds earmarked for education from permanent trust funds to current educational needs. | A | 1,084,627 | 209,311 | " | 75.12 |
| 20 | 1958 | Art. XI and Art. IV, § 33 and repealing Art. IV, § 36 | To authorize the legislature to revise and consolidate provisions relating to local government, home rule and special laws. | A | 712,552 | 309,848 | 1,178,173 | 60.47 |
| 21 | 1958 | Art. V, §§ 3 and 5 | To provide for four-year terms for state constitution officers to take effect for terms beginning in 1963. | A | 641,887 | 382,505 | " | 54.48 |
| 22 | 1958 | Art. IV, § 9 | To permit members of the legislature to hold certain elective and nonelective state offices. | R | 576,300 | 430,112 | " | 48.91 |

