

Report of the
CONSTITUTIONAL COMMISSION
of Minnesota



Saint Paul, Minnesota
October 1, 1948

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TABLE OF CONTENTS

	Page
Members of the Commission and Its Staff.....	5
Letter of Transmittal.....	7
Introduction	9
Amendments Proposed by the Commission.....	15
A Revised Constitution for Minnesota.....	73
Membership of committees and subcommittees.....	101
Bibliography	105
Financial statement	120

MEMBERS OF THE CONSTITUTIONAL COMMISSION
OF MINNESOTA

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 Senator Milton C. Lightner
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Judge 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)
Dr. Lloyd M. Short, *Chairman*

MEMBERS OF THE STAFF

Mr. Thomas L. Culhane.....	Director of Research
Mr. Jon H. Bjornson.....	Research and Editorial Assistant April 6 to July 1, 1948
Mr. Robert Hohman.....	Research and Editorial Assistant July 12 to September 30, 1948
Mrs. Edith V. Lewis.....	Office Secretary
Miss Bernadette Pinzka.....	Clerk-Typist May 10 to June 10, 1948
Miss Lorraine Nelson.....	Clerk-Typist June 14 to September 30, 1948

Senators and Representatives of the Legislature
Governor Luther W. Youngdahl
Justices of the Supreme Court

We take pleasure in transmitting herewith a copy of the report of the Constitutional Commission of Minnesota which was created by chapter 614, Laws of Minnesota, 1947, and directed to "study and consider the constitution in relation to political, economic and social changes and developments which have occurred and which may occur," and to "recommend in a report to the next general session of the legislature amendments, if any, determined to be in the public interest necessary or proper to meet present and probable future governmental requirements."

The report of the Commission has been filed with the Secretary of State as required by law.

Respectfully submitted,

LLOYD M. SHORT, *Chairman*

EARL L. BERG, *Secretary*

Saint Paul, Minnesota
October 1, 1948

INTRODUCTION

Establishment

The Constitutional Commission of Minnesota was created by act of the 1947 Legislature (Ch. 614, Laws of Minnesota, 1947, pp. 1111-13). Its membership of 21 included eight members of the House of Representatives appointed by the Speaker, eight members of the Senate appointed by the Senate Committee on Committees, one member from the Supreme Court appointed by the Chief Justice, one member from the executive branch of the government appointed by the Governor, and three citizen members appointed by the Governor. The law provided that the Commission "shall study and consider the constitution in relation to political, economic, and social changes and developments which have occurred and which may occur, and shall recommend in a report to the next general session of the legislature amendments, if any, determined to be in the public interest necessary or proper to meet present and probable future governmental requirements." The Commission was directed to file its report with the Secretary of State and to mail a copy to each member of the legislature, to the Governor, and to the Clerk of the Supreme Court not later than October 1, 1948.

Organization

The commission met for the first time on July 1, 1947, at the call of Governor Luther W. Youngdahl. Dr. Lloyd M. Short, Professor of Political Science and Director of the Public Administration Center of the University of Minnesota, was chosen by the Commission as its chairman and Mr. Earl L. Berg, Commissioner of Administration, as secretary. At a later meeting Senator Gordon Rosenmeier of Little Falls was chosen as vice chairman. At the first meeting, the chairman was authorized to appoint a Steering Committee of seven members to prepare plans for the work of the Commission and to act in the interim between meetings of the full Commission. He also was authorized to appoint committees to study the several articles and sections of the constitution. Members of the Commission were invited to submit their preferences for service on these study committees.

At subsequent meetings of the Steering Committee and of the Commission eight study committees of from five to eight members each were appointed, namely, Legislative, Executive, Judiciary, Taxation and Finance, Education, Local Government,

Banks and Corporations, and Highways and Airports. The chairman and at least two members of each of these committees were chosen from among the members of the Commission. The other members of each committee were legislators or citizens chosen because of their interest in and familiarity with the particular fields of study assigned to the respective committees. Each committee designated one of its members to serve as clerk with responsibility for keeping minutes of meetings. The assignment of articles or parts of articles of the constitution to the several committees for study and recommendation was worked out by the Steering Committee, subject to the approval of the Commission. Rules of procedure to govern the deliberations and actions of the Commission and its committees were drafted by the vice chairman with the assistance of the Steering Committee and were subsequently adopted by the Commission. The appointment of an office secretary and a director of research was authorized by the Commission, and office space was arranged by the Commission secretary in Room 236 of the Capitol.

Recognizing the importance and obligation of keeping the people of Minnesota adequately informed concerning the progress of its work, the Commission authorized the appointment of a Committee on Public Information consisting of some 30 newspaper editors and publishers, radio commentators, and representatives of civic groups. A research and editorial assistant was added to the staff on a temporary and later part-time basis to assist in carrying on the work of this committee and to furnish material about meetings and reports to representatives of the press. A speakers' bureau was formed to aid civic groups in arranging meetings devoted to the subject of the constitution. Through the courtesy of Radio Stations WCCO and KSTP transcriptions were made of panel discussions by members of the several committees which later were broadcast over the facilities of these and other stations as a public service. A series of six articles on particular aspects of the problem of constitutional revision were contributed by prominent Minnesotans at the request of the committee for publication in representative newspapers of the state.

Materials for Study

One of the first tasks confronting the Commission and its committees was the gathering together of materials essential to an adequate study of the Constitution of Minnesota and of other states. The State Law Library provided a shelf of books and documents on state constitutions and constitutional revision. Copies of "A History of the Constitution of Minnesota" by

William Anderson and Albert J. Lobb (1921) were loaned by the University of Minnesota Library. The Minnesota Law Review Foundation loaned copies of the February, 1927, issue of the Minnesota Law Review containing an article on "The Need for Constitutional Revision in Minnesota" by Professor William Anderson of the University of Minnesota and subsequently gave permission to reprint this article in quantity. Copies of the Model State Constitution published by the National Municipal League were procured for each member of the Commission and its committees. The West Publishing Company, through the courtesy and thoughtfulness of its treasurer, Mr. Charles Lesley Ames, provided each member of the Commission with copies of a two-volume work on the Minnesota Constitution Annotated, and very generously prepared and printed especially for the use of the Commission a substantial number of copies of a Working Notebook on the Constitution of the State of Minnesota. Prior to the publication of this Working Notebook, pamphlet copies of the Constitution were furnished by the Secretary of State.

The chairman and vice chairman of the Commission were authorized to attend the annual Conference on Government of the National Municipal League held in Nashville, Tennessee, November 12 to 14, 1947, which was devoted largely to the subject of State Constitutional Revision. The recent experiences of other states in studying and revising their constitutions through constitutional commissions and conventions, as reported at this conference, proved helpful in furthering the work of the Minnesota Commission. Likewise, the reports and materials prepared for similar groups currently at work on problems of constitutional revision in Louisiana and California, and the proceedings and manuals of recent constitutional conventions in New York, Missouri, and New Jersey were exceedingly valuable.

Finally, the University of Minnesota contributed a portion of the time of the chairman of the Commission, and the services of three half-time graduate research assistants in the Public Administration Center, who, under his direction and using the facilities of the library of the Center and of the Law School, prepared some 30 research reports and memoranda for the use of the study committees on a wide variety of subjects dealt with in the constitutions of Minnesota and other states.

Procedure

Beginning in November, 1947, the eight study committees engaged in a thorough examination of the articles and sections assigned to them. Each committee held from six to twelve meetings, some of them continuing for two days. Elective officials,

department heads, presidents of educational institutions, and other state administrative officers were invited to submit recommendations and were called upon for information and assistance in drafting proposals. In one instance a committee consultant was appointed. Another committee appointed several subcommittees with responsibility for the study of designated portions of their assignment. Still another committee assigned particular subjects to individual members for study and report.

Information about particular subjects dealt with in the constitution was requested from members of the University faculty, from members of the bar, and from other informed persons. Research reports and memoranda for the use of the committees were prepared by the director of research and by the research assistants at the University. Draft proposals also were prepared at the direction of the committees and often with the assistance of the Office of Revisor of Statutes. Hearings were conducted at which interested persons were invited to submit oral as well as written statements setting forth their views as to the need for constitutional change and commenting upon tentative proposals before the committees. The Judiciary Committee issued a preliminary report which was widely distributed among the members of the bench and bar in Minnesota and discussed at district bar association meetings. Whenever time permitted, tentative reports of the committees were distributed to members of the legislature and to the press with an invitation to interested persons to submit comments in writing or to appear for oral statements prior to final action on the reports.

The full Commission began the consideration of committee reports in June, 1948. Five meetings, each of two-days duration and including several evening sessions, were devoted to this important task. After presentation of a report by the committee chairman, each section thereof was considered and acted upon tentatively. In some instances, portions of the report were referred back to the committee for further study. In a few cases individuals or representatives of interested groups requested and were granted a hearing upon committee proposals before the Commission. At a later meeting of the Commission final action was taken upon the committee report as revised or amended.

Prior to the final meeting of the Commission in September, 1948, a Committee on Style was appointed by the chairman to be responsible for the final draft of the Commission's report. The Office of Revisor of Statutes undertook to review all of the committee reports as amended and adopted by the Commission

and to prepare drafts for the consideration of this committee. It was deemed best to present the Commission's recommendations by following the outline of the present Constitution, although in some instances it is proposed to alter materially the content and arrangement of the present Articles.

The Commission's Approach to the Problem of Constitutional Revision

From the outset, the Commission and its several committees have striven earnestly and diligently to carry out the mandate of the legislature to propose such changes in our state constitution as are "determined to be in the public interest necessary or proper to meet present and probable future governmental requirements." We have sought to preserve and strengthen the basic foundations upon which our state governmental system has been built and at the same time to provide a state government so organized and so empowered that it may meet adequately the increasing responsibilities which a modern democratic society imposes upon it. We have approached our task with sincere respect for the past and for the splendid growth and development which the state of Minnesota has made under her present constitution. We also have been mindful, however, that haste, factionalism, and political compromise characterized the drafting of our present constitution in 1857, that it has been amended seventy-four times in the intervening years, and that the political, economic, social, and industrial conditions of today are markedly different from those which prevailed ninety years ago. We have proposed the elimination of many obsolete and conflicting provisions, and we have proposed the amendment of other articles and sections with a view to brevity and simplicity and to give to Minnesota the benefits of the best in current state constitutional practice in the United States.

It is obvious that some of the constitutional problems dealt with in this report are controversial in character. We have sought in such instances to propose provisions which will appeal to reasonable citizens as acceptable and practicable. To some, it will seem we have not gone far enough in recommending changes in our state government. To others, this report may appear to go beyond the limits of necessary constitutional revision. We fully recognize that, as one of our members put it, in considering constitutional change we are "dealing with the traditions of our people." We take confidence, however, in the fact that, after months of careful study and deliberation, we have arrived at final decisions with virtual unanimity, and we submit our report in the sincere hope that it will serve the people of

Minnesota and their elected representatives as a basis for effective constitutional revision, whether by the process of amendment or by the calling of a constitutional convention.

In conclusion, we wish to thank the many officials and citizens of Minnesota who have so generously aided us in our work. Their names are too numerous to mention here. We also want to express sincere appreciation to our small but exceedingly efficient and hardworking staff, without whose diligent efforts our task could not have been accomplished.

Respectfully submitted,

SENATOR WILLIAM E. DAHLQUIST
SENATOR A. R. JOHANSON
SENATOR MILTON C. LIGHTNER
SENATOR GERALD T. MULLIN
SENATOR ELMER PETERSON
SENATOR GORDON ROSENMEIER, *Vice Chairman*
SENATOR HARRY L. WAHLSTRAND
REP. THOMAS N. CHRISTIE
REP. E. B. HERSETH
REP. STANLEY W. HOLMQUIST
REP. FRANK B. JOHNSON
REP. O. L. JOHNSON
REP. HAROLD R. LUNDEEN
REP. HOWARD W. RUNDQUIST
REP. ROBERT J. SHERAN
JUDGE LEROY E. MATSON
MR. EARL L. BERG, *Secretary*
MR. GEORGE W. LAWSON
MISS HELEN HERR
DR. LLOYD M. SHORT, *Chairman*

AMENDMENTS TO THE CONSTITUTION OF THE STATE OF MINNESOTA

Recommended by the Constitutional Commission
October 1, 1948

Explanatory Note: Matter in italics is new. Matter in capitals when in () is old constitutional law to be omitted.

The commission recommends *no change* in the following articles and sections:

Article I, Sections 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17 and 18; Article II, Section 2; Article III, Section 1; Article IV, Sections 6, 8, 14, 16, 18, 19 and 31; Article VII, Sections 4, 5 and 7; Article VIII, Section 4; Article IX, Section 1A; Article XI, Section 5; Article XII, Section 1; Article XIII, Sections 2, 3, 4 and 5; Article XVII, Section 1; Article XIX, Sections 1, 2, 3 and 4.

Changes in the above section titles, style, or phraseology suggested by the Revisor of Statutes are included for the information and guidance of the legislature.

The commission recommends only *minor* changes, consolidations, or deletions of obsolete material in 78 other sections of the present constitution. *Major* changes are recommended in only 34 sections, in addition to 6 wholly new sections.

For the purpose of clarity and to facilitate comparison with the present constitution, all of the sections of each article of the present constitution are indicated, but are not reproduced if it is proposed to delete the entire section, or if no amendments are recommended by the commission or no changes in style are recommended by the Revisor of Statutes.

PREAMBLE

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

Comment: The commission recommends no amendment.

the testimony of two witnesses to the same overt act(,) or on confession in open court.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 10. Searches and Seizures. The right of the people to be secure in their persons, houses, papers, and effects(,) against unreasonable searches and seizures(,) shall not be violated(; AND). No warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized. *Evidence obtained as a result of any improper search and seizure shall not be admissible as evidence in any criminal proceeding involving a person whose rights have been invaded by reason thereof.*

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

Sec. 11. Attainder; Ex Post Facto; Contracts. No bill of attainder, ex post facto law, (NOR ANY) *or* law impairing the obligation of contracts shall ever be passed(, AND). No conviction shall work corruption of blood or forfeiture of estate.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 12. Imprisonment for Debt; Property Exemption. No person shall be imprisoned for debt in this state, but (THIS SHALL NOT PREVENT) the Legislature (FROM PROVIDING) *may provide* for imprisonment(,) or holding to bail(, PERSONS) *any person* charged with fraud in contracting (SAID) *the* debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. (THE) *This* amount (OF SUCH EXEMPTION) shall be determined by law. (PROVIDED, HOWEVER, THAT) All property so exempted shall be liable to seizure and sale for any (DEBTS) *debt* incurred (TO ANY PERSON) for work done or materials furnished in the construction, repair, or improvement of the (SAME) *property*, and (PROVIDED FURTHER, THAT) *this* liability to seizure and sale shall (ALSO) extend to all real property for any debt incurred to any laborer or servant for labor or service performed.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 13. Private Property for Public Use. Private property shall not be taken, destroyed, or damaged for public use without just compensation therefor(,) first paid or secured.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 14. Military Subordinate. The military shall be subordinate to the civil power(, AND). No standing army shall be kept in this state in time of peace.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 15. (LANDS DECLARED ALLODIAL; LEASES; WHEN VOID.)

Comment: Entire section deleted.

This section serves no useful purpose and can be eliminated without adverse effect.

Sec. 16. Freedom of Worship; Liberty of Conscience; State Religion; Public Funds. The enumeration of rights in this Constitution (SHALL NOT BE CONSTRUED TO) *does not* deny or impair (OTHERS) *other rights* 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). *No* control of or interference with the rights of conscience *shall ever* be permitted(, OR ANY). *No* preference *shall ever* 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) *nor* justify practices inconsistent with the peace or safety of the State(, NOR SHALL ANY). *No* money *shall ever* be drawn from the treasury of the State for the benefit of any religious (SOCIETIES,) *society* or *any* religious or theological (SEMINARIES) *seminary*.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 17. Religious Tests Prohibited. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State(; NOR SHALL ANY). *No* person *shall ever* be rendered incompetent to give evidence in any court (OF LAW OR EQUITY) in consequence of his opinion upon the subject of religion.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 18. Sale of Farm Products. Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.

Comment: The commission recommends no amendment.

ARTICLE II

BOUNDARIES

Section 1. Geographical Boundaries. (THIS) *The* State shall be (CALLED AND KNOWN BY THE NAME OF) the State of Minnesota (,) and shall consist of and have jurisdiction over the territory embraced (IN) *within* the following boundaries (, TO WIT) : Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and (BRITISH POSSESSIONS) *the Dominion of Canada* crosses the same; thence up the main channel of (SAID) *the Red River of the North* to (THAT) *the main channel* of the Bois des Sioux River; thence up the main channel of (SAID) *the Bois des Sioux* River to Lake Traverse, thence up the center of (SAID) *Lake Traverse* to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence (THROUGH ITS) *up the center of Big Stone Lake* to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of (SAID) *the State of Iowa* to the main channel of the Mississippi River; thence up the main channel of (SAID) *the Mississippi* River and following the boundary line of the State of Wisconsin until (THE SAME) *it* intersects the St. Louis River; thence down the (SAID RIVER) *St. Louis* to and through Lake Superior (,) on the boundary line of Wisconsin and Michigan (,) until it intersects the dividing line between the United States and (BRITISH POSSESSIONS) *the Dominion of Canada*; thence up Pigeon River and following (SAID) *this* dividing line to the place of beginning.

Comment: The commission believes that the term "Dominion of Canada" better describes our neighbor nation than the term "British Possessions." Changes in style or phraseology are suggested by the Revisor of Statutes.

Sec. 2. Concurrent Jurisdiction. The State of Minnesota shall have concurrent jurisdiction on (THE MISSISSIPPI AND ON) all (OTHER) rivers and waters bordering on the (SAID) State of Minnesota (, SO FAR AS THE SAME SHALL FORM) *forming* a common boundary (TO SAID) *for the State (,) of Minnesota* and any other state (OR STATES NOW OR HEREAFTER TO BE FORMED BY THE SAME; AND SAID). *These* rivers and waters (,) and navigable waters leading into

(THE SAME) *them* shall be common highways and *shall be* forever free(, AS WELL) to the inhabitants of (SAID STATE AS TO OTHER) *the State of Minnesota and to* citizens of the United States(,) without *payment of* any tax, duty, impost, or toll therefor.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 3. Acceptance of Enabling Act. The propositions contained in the act of Congress entitled(,) “An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states(,)” are hereby accepted, ratified, and confirmed(,) and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same(,) by the United States, or with any regulations Congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States *without the consent of the Congress of the United States*, and in no case shall non-resident proprietors be taxed higher than residents.

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

ARTICLE III

POWERS OF GOVERNMENT

Section 1. Division of Powers. The powers of government (SHALL BE) *are hereby* divided into three distinct departments—legislative, executive, and judicial(; AND). No person (OR PERSONS) belonging to or constituting one (OF THESE DEPARTMENTS) *department* shall exercise any (OF THE POWERS) *power* properly belonging to (EITHER OF THE OTHERS) *any other department*, except (IN THE INSTANCES) *as* expressly provided in this Constitution.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

ARTICLE IV

LEGISLATIVE DEPARTMENT

Section 1. The Legislature. The Legislature shall consist of the Senate and House of Representatives. (WHICH SHALL MEET BIENNIALY AT THE SEAT OF GOVERNMENT

OF THE STATE, AT SUCH TIME AS SHALL BE PRESCRIBED BY LAW, BUT NO SESSION SHALL EXCEED THE TERM OF NINETY (90) LEGISLATIVE DAYS; AND NO NEW BILL SHALL BE INTRODUCED IN EITHER BRANCH, EXCEPT ON THE WRITTEN REQUEST OF THE GOVERNOR, DURING THE LAST TWENTY (20) DAYS OF SUCH SESSIONS, EXCEPT THE ATTENTION OF THE LEGISLATURE SHALL BE CALLED TO SOME IMPORTANT MATTER OF GENERAL INTEREST BY A SPECIAL MESSAGE FROM THE GOVERNOR). *The Senate shall be composed of members elected for a term of four years and the House of Representatives shall be composed of members elected for a term of two years by the qualified voters at the general election. Their terms shall begin on the first Monday in January next following their election.*

The governor shall issue writs of election to fill vacancies in the Legislature.

The Legislature shall be a continuous body during the term for which the House of Representatives is elected. It shall meet at the seat of government at regular sessions on the first Tuesday after the first Monday of each odd numbered year and at other times as prescribed by law. No regular session shall exceed 90 legislative days unless, by concurrent resolution adopted within the first 75 legislative days, the session be extended to a definite time at or before which the legislature shall adjourn. No bill shall be introduced at a regular session in either branch after the seventieth legislative day unless consent is given by concurrent resolution upon an important matter of general interest.

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

Comment: Section 1 is retained in amended form. Present Section 17 of this article is made a part of this proposed Section 1.

This redraft of Article IV, Section 1, includes the following changes and for the reasons stated:

1. It retains only the first eleven words of present Section 1.
2. It eliminates the provision for a biennial session at such time as it be prescribed by law and for that provision substitutes a regular session to convene on the first Tuesday after the first Monday of each odd-numbered year and at such other times as may be prescribed by law. This fixes by constitution what is

now provided by statute only—the time for the regular session.

3. It modifies the present ninety day limit on sessions by permitting the legislature to extend the ninety day term by concurrent resolution adopted within seventy-five days.
4. It changes the present time limit for the introduction of bills by eliminating the provision for the introduction of bills during the last twenty days upon written request of the governor and substituting a provision that no bill shall be introduced at a regular session after the seventieth legislative day unless consent is given upon an important matter of general interest by concurrent resolution. In practice the present limitation on introduction of bills has become meaningless because for many years the governor has made a practice of requesting the introduction of bills of the most trivial nature.
5. It provides that special sessions of the legislature may be called as otherwise provided in the constitution and in such manner as may be provided by law or by joint rule of the senate and house. The constitution now provides that special sessions may be called only by the governor. This change would permit the legislature also to provide for calling special sessions.
6. The provision for the governor issuing writs of election to fill vacancies is taken verbatim from present Section 17 as it appears more appropriate that it be included in this section.

Sec. 2. Members Apportioned. The number of members (WHO COMPOSE) of the Senate and House of Representatives shall be (PRESCRIBED) *as provided* by law, but the (REPRESENTATION) *number of members* in the Senate shall never exceed one (MEMBER) for every (5,000) *40,000* inhabitants and *the number of members* in the House of Representatives shall never exceed one (MEMBER) for every (2,000) *20,000* inhabitants. The representation in both houses shall be apportioned (EQUALLY) *as nearly equal as practicable* throughout the different sections of the state, in proportion to the population thereof, (EXCLUSIVE OF INDIANS NOT TAXABLE UNDER THE PROVISIONS OF LAW) *but no county shall be entitled to more than one-eighth of all the senators. 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.*

At its first regular session after the adoption of this Constitution the Legislature shall prescribe the bounds of congressional, senatorial, and representative districts which shall consist of convenient contiguous territory. This shall also be done by the

Legislature at its first regular session convening after the population of the State as determined by each decennial census of the United States is reported to the President. The Senate districts shall be numbered consecutively. No Representative district shall be divided in the formation of a Senate district. Each reapportionment shall become effective at the time the terms of the then existing members of the Senate expire.

If reapportionment is not completed by the Legislature within the time provided herein, the state committee of each of the two political parties casting the highest and next highest vote for governor in the last preceding election within 30 days after adjournment of such session of the Legislature, shall submit to the Governor the names of ten qualified voters. Within 60 days after such adjournment the Governor shall appoint a Commission of ten members, five members being appointed from each list. This Commission shall reapportion the Senators and Representatives as provided in this section. If any party committee fails to so submit such list, the Governor shall appoint the five members of the Commission from that party. Commission members shall receive actual expenses and the compensation provided by law. Within 90 days after appointment the Commission shall reapportion the Senators and Representatives for the Senate and House of Representatives and shall file with the Governor its statement showing the boundaries and numbers of the districts and the number of members to be elected therein. Such statement shall not be valid unless approved by a majority of the Commission. Such reapportionment shall be effective at the next election at which senators are to be elected and thereafter until the Legislature reapportions and Senators and Representatives shall be elected in accordance therewith. If such statement is not so filed the Commission shall stand discharged. If reapportionment is not thereafter made by the Legislature prior to the time provided by law for filing at the next election at which Senators are to be elected, five Senators shall be elected at large from each Congressional district and Representatives shall be elected on the basis of one from each county until such time as reapportionment is thereafter completed as provided in this section.

The validity of any reapportionment hereafter made is a judicial question of which the Supreme Court shall have original jurisdiction upon complaint filed by any qualified voter within 30 days after a legislative reapportionment or within 30 days after the filing of a Commission statement. If the Supreme Court determines that a reapportionment is invalid and if the

Legislature fails to reapportion, according to the plan of this section, within 90 days after such determination, the Governor shall appoint a Commission to make reapportionment in the manner provided in this section.

Comment: Section 2 incorporates amended portions of present Sections 2, 23, and 24.

The first paragraph of proposed Section 2 is taken from present Section 2 with the following changes:

1. Present Section 2 provides that representation in the senate shall never exceed one for every 5000 inhabitants and in the house of representatives one for every 2000 inhabitants. These limits are changed to 40,000 and 20,000 respectively. On the basis of the present population of Minnesota these limits would permit the senate and house with membership of the present size. If it is desired to reduce the membership of each body this may be accomplished by increasing the limits of 40,000 and 20,000, and thereby requiring the legislature to act.
2. It eliminates the provision "exclusive of Indians not taxable under the provisions of law." This is being done upon the assumption that it serves no purpose and is no longer necessary.
3. It provides that representation in both houses shall be apportioned "as nearly equal as practicable" instead of the present language "equally" and qualifies that provision by providing that no county shall be entitled to more than one-eighth of the whole number of senators and 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 whole number of senators. This provision is proposed as a compromise of urban and rural differences of opinion. Under this the representation in the house would be as equal as practicable upon the basis of population alone and would result in an increase in house representation from the large centers of population. In the senate, however, by limiting the number of senators from any county to one-eighth of the total and in any two contiguous counties to one-fourth of the total, it would give the populous centers less representation than mere numbers would otherwise entitle them to. In the senate, area as well as population would be given consideration as a factor in determining representation.

Paragraph 2 is based to a considerable extent upon the present Sections 23 and 24. It eliminates the provision of Section 23 providing for a state census to be taken in 1865 and every tenth year thereafter. No state census has been taken for approximately fifty years and there appears to be no reason for retaining this provision.

It provides for reapportionment to be made at the first regular session after the adoption of this section and

at the first regular session following each decennial census of the United States.

It provides that each reapportionment shall become effective so as to coincide with the expiration of the terms of the existing senate.

Paragraph 3 is entirely new. It is designed to compel the legislature to reapportion at the times provided in this section and aims to bring this about by providing:

1. That in the event of the failure of the legislature to reapportion, reapportionment shall be made by a commission appointed by the governor.
2. In the event of the failure of the commission to reapportion, that senators shall thereafter be elected at large, five from each congressional district, and representatives shall be elected on the basis of one from each county. It would seem that this drastic provision will be sufficient to compel the legislature to reapportion. It is not likely that the legislature would be disposed to leave this task undone, facing reapportionment by the commission or in the event of the failure of the commission to reapportion, to have senators and representatives elected in the manner this paragraph would require.

Paragraph 4 is entirely new. It is designed to require the legislature or a commission in making reapportionment to conform to the requirements of the constitution by making the validity of reapportionment a judicial question of which the Supreme Court shall have original jurisdiction.

Sec. 3. Qualifications; Eligibility; Contests. *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(; A MAJORITY OF EACH SHALL CONSTITUTE A QUORUM TO TRANSACT BUSINESS, BUT A SMALLER NUMBER MAY ADJOURN FROM DAY TO DAY, AND COMPEL THE ATTENDANCE OF ABSENT MEMBERS IN SUCH MANNER AND UNDER SUCH PENALTIES AS IT MAY PROVIDE). The Legislature shall prescribe by law the manner in which evidence shall be taken in case of contested seats in either house.*

Comment: This new section combines parts of Sections 3, 17 and 25 of the present Article IV.

The first sentence of proposed Section 3 is present Section 25. It appears more appropriate that the qualifications for members of the legislature appear in this section.

The second sentence is the first part of present Section 3. The remainder of present Section 3 is eliminated be-

cause it covers matters relating to legislative procedure which will be more appropriate in the next section.

The third sentence is the last sentence of present Section 17. It appears that since this section provides that each house shall be the judge of the eligibility of its members, that the provision relating to the taking of evidence in case of contested seats should appear in this section. Hence in one section we are combining provisions of Sections 3, 17 and 25, all relating to the qualifications and eligibility of members.

Sec. 4. Rules; Quorum. Each house may determine the rules of its proceedings, sit upon its own adjournment, and punish its members for disorderly behavior(, AND, WITH THE CONCURRENCE OF TWO-THIRDS,). *Each house may expel a member, with the concurrence of two-thirds of its members; but no member shall be expelled (THE SECOND TIME) more than once for the same offense. No resolution or rule relating to the conduct of the business or adjournment of the Legislature shall require the approval of the Governor. A majority of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as it may provide.*

Comment: This section combines part of Section 3 and all of Section 4 of Article IV.

The right of the legislature to control its own procedure is assured by the addition of the *third* sentence in this section.

Sec. 5. Officers; Journals. The House of Representatives shall elect *one of its members* its presiding officer and the Senate and House of Representatives shall elect such other officers as (MAY BE PROVIDED BY LAW;) *they may provide.* They shall keep journals of their proceedings(,) and from time to time publish (THE SAME,) *them.* (AND THE YEAS AND NAYS, WHEN TAKEN ON ANY QUESTION, SHALL BE ENTERED ON SUCH JOURNALS)

Comment: Present Section 5, with some rephrasing, except the last clause. Provision for the recording of votes is covered in proposed Section 12.

Sec. 6. Adjournments. (NEITHER HOUSE SHALL,) *During (A) any session of the Legislature(,) neither house shall adjourn for more than three days (Sundays excepted(,)) nor to any place other (PLACE) than that in which the two houses (SHALL BE) are assembled(,) without the consent of the other (HOUSE).*

Comment: Present Section 6 with some rephrasing.

No change was recommended in this section.

Sec. 7. **Compensation.** The compensation of Senators and Representatives shall be (THREE DOLLARS PER DIEM DURING THE FIRST SESSION, BUT MAY AFTERWARDS BE) prescribed by law. (BUT) No increase of compensation (SHALL BE PRESCRIBED WHICH) shall take effect during the (PERIOD) *term* for which (THE) members of the *then* existing House of Representatives (MAY HAVE BEEN) *are* elected.

Comment: Present Section 7 with some rephrasing.

No change is made in this section with the exception of eliminating the obsolete reference to the first legislative session fixing the compensation at three dollars per diem. It appears to the commission that our present constitutional provision on compensation is more appropriate, that is, providing that it be fixed by law but not to take effect during the period for which the existing house members were elected. This appears to be an adequate safeguard.

Sec. 8. **Privileges.** *In all cases, except treason, felony, and breach of peace,* the members of each house shall (IN ALL CASES, EXCEPT TREASON, FELONY, AND BREACH OF THE PEACE,) be privileged from arrest during the session of their respective houses(,) and in going to or returning (FROM THE SAME) *therefrom*. For any speech or debate in either house they shall not be questioned in any other place.

Comment: Rephrasing only.

No change is recommended in this section.

Sec. 9. **Holding Other Office.** *During his continuance in office* no Senator or Representative shall (DURING THE TIME FOR WHICH HE IS ELECTED) hold any office under the authority of the United States or the State of Minnesota, except that of (POSTMASTER) *notary public* (AND). *During the term for which elected* no Senator or Representative shall (HOLD AN) *be appointed to any* office under the State (WHICH HAS BEEN) created or the emoluments of which (HAVE BEEN) *are* increased during the session of the Legislature of which he was a member(, UNTIL ONE YEAR AFTER THE EXPIRATION OF HIS TERM OF OFFICE IN THE LEGISLATURE).

Comment: Present Section 9 amended.

This proposed section amends present Section 9 in the following respects and for the following reasons:

1. Present Section 9 prohibits a member of the legislature from holding any other office during "the time for which he is elected." This provision is such that although a member of the legislature may resign he is still disqualified from holding office during the unexpired portion of his term. It seems that this is

unnecessarily drastic. It is proposed that it be changed by striking out the words "the time for which he is elected" and inserting in lieu thereof "his continuance in office." This would enable a member of the legislature by resigning his legislative position to qualify for another office. This is the same provision contained in the federal constitution. As the constitution now provides, when a man is elected to the senate for a term of four years or to the house for a term of two years he disqualifies himself for that period of time from holding any other office. Examples can be cited in which this provision has kept qualified men from accepting legislative membership or from continuing in it.

2. The present section makes an exception of postmaster. There seems no reason for continuing this exception and this is stricken. In its place an exception is made in favor of notary public. This would permit a member of the legislature to hold the office of notary public. While members of the legislature as such are qualified to administer oaths, they have no seal, and in many states an acknowledgment taken in this state by an officer without a seal will not be accepted. Certainly there is nothing incompatible between the office of legislator and notary public.
3. The constitution now provides that no legislator "shall hold an office under the state which has been created or the emoluments of which have been increased during the session of the legislature of which he was a member, until one year after the expiration of his term of office in the legislature." This applies to both appointive and elective offices. It seems sufficient to limit this prohibition to appointive offices.

Sec. 10. (BILLS OF REVENUE TO ORIGINATE IN HOUSE.)

Comment: Entire section deleted.

The idea of having revenue raising measures originate in the house is an historical relic dating from colonial times when the lower house was the only house popularly elected. By permitting both houses to introduce revenue measures the work of the legislature will be speeded up.

Sec. 11. Enactment of Bills. *No law shall be enacted except by bill. The enacting clause 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 upon its journal, and unless dispensed with by unanimous consent, the call of the roll shall be entered on the journal except as otherwise provided in this section.*

Every bill which (SHALL HAVE PASSED) passes the Senate and House of Representatives(,) in conformity to the rules

of each house and the joint rules of (THE TWO) *both* houses, (SHALL,) before it becomes a law, *shall* be presented to the Governor of the State. If he approves *the bill*, he shall sign *it* and deposit it in (THE OFFICE OF SECRETARY OF STATE) *the place provided by law* for preservation(,) and notify the house where it originated of (THE FACT) *these facts*. (BUT IF NOT,) *If he does not approve the bill*, he shall return it(,) with his objections, to the house in which it (SHALL HAVE) originated(; WHEN SUCH). *These* objections shall be entered (AT LARGE) *in full* on (THE) *its* journal (OF THE SAME), and the house shall (PROCEED TO) reconsider the bill. (IF,) After (SUCH) reconsideration, *if* two-thirds of that house (SHALL) agree to pass the bill, *it and the governor's objections* shall be sent(, TOGETHER WITH THE OBJECTIONS,) to the other house, by which it shall (LIKEWISE) be reconsidered(; AND). If (IT) *the bill* be approved by two-thirds of that house, it shall become a law. (BUT) In all 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) *call of the roll which* shall be entered on the journal of each house(,) respectively.

If any bill (SHALL NOT BE) *is not* returned by the Governor within (THREE) *six* days (Sundays excepted) after (IT SHALL HAVE BEEN) *being* presented to him, (THE SAME) *it* shall be a law (IN LIKE MANNER AS IF HE HAD SIGNED IT,) unless the Legislature by adjournment within that time(,) prevents its return (;), in which case it shall not be a law. The Governor may approve, sign, and file in the (OFFICE OF THE SECRETARY OF STATE,) *place provided by law* within (THREE) 12 days (*Sundays excepted*) after the adjournment of the Legislature(,) any (ACT) *bill* passed during the last (THREE) *four* days of the session(,) and (THE SAME) *it* shall become a law.

(GOVERNOR MAY CUT OUT ITEMS OF APPROPRIATION BILLS AND OTHERWISE APPROVE.) If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, while approving of the other portion of the bill. In such case (HE SHALL APPEND TO THE BILL), at the time of signing (IT) *the bill*, *the Governor shall append to it* a statement of (THE ITEMS) *each item* to which he objects, and the appropriation so objected to shall not take effect. If the Legislature be in session, (HE) *the Governor* shall transmit to the house in which

the bill originated a copy of such statement, and (THE ITEMS) *each item* objected to shall be separately reconsidered. (IF,) On reconsideration, (ONE OR MORE OF SUCH ITEMS) *if any item* be approved by two-thirds of the members elected to each house, (THE SAME) *such item* shall be a part of the law, NOTWITHSTANDING THE OBJECTIONS OF THE GOVERNOR).

All (THE) provisions of this section(,) in relation to bills not approved by the Governor(, SHALL) apply in *those* cases in which he (SHALL WITHHOLD) *withholds* his approval from any item (OR ITEMS) contained in a bill appropriating money.

Comment: Present Sections 11, 12 and 13 are consolidated and amended in this section.

The proposed changes in this section are primarily procedural: the recording of votes and the extension of time in which the governor may have to act upon bills. The inclusion of the first sentence assures that the present process whereby bills become laws will be retained—the governor will be a check on the action of the legislature. A new provision is inserted making possible the elimination from the journal of roll call votes by unanimous consent.

Sec. 12. (MONEY APPROPRIATIONS, HOW MADE.)

Comment: Entire section deleted. Material combined with Sections 11 and 13 of Article IV in proposed Section 11 (see first paragraph of that section; see also Section 9 of Article IX).

Sec. 13. (MAJORITY VOTE OF ALL MEMBERS-ELECT TO PASS A LAW.)

Comment: Entire section deleted. Material combined with Sections 11 and 12 of Article IV in proposed Section 11 (see second paragraph of that section).

Sec. 14. Power of Impeachment. The House of Representatives (SHALL HAVE) *has* the sole power of impeachment, through a concurrence of a majority of (ALL) the members elected to seats therein. All impeachments shall be tried by the Senate(; AND). When sitting for that purpose the 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 members present.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 15. (EXCLUSION FROM CIVIL RIGHTS.)

Comment: Entire section deleted. Material added to Section 2 of Article VII.

Sec. 16. Dissents and Protests. Two or more members of either house (SHALL HAVE LIBERTY TO) *may* dissent and protest against any act or resolution which they (MAY) think *is* injurious to the public or to any individual, and have the reason (OF) *for* their dissent entered on the journal.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 17. (VACANCIES IN LEGISLATURE.)

Comment: Entire section deleted. First sentence found in amended Section 1 and the second sentence in amended Section 3.

Sec. 18. Disorderly Conduct. *During its session*, each house may punish (BY IMPRISONMENT, DURING ITS SESSION,) any person not a member(, WHO SHALL BE) *thereof* guilty of any disorderly or contemptuous behavior in (THEIR) *its* presence(, BUT NO SUCH) *by* imprisonment (SHALL AT ANY TIME) *for not to* exceed (TWENTY-FOUR) 24 hours.

Comment: The commission recommends no amendment. Changes in style and phraseology suggested by Revisor of Statutes.

Sec. 19. Open Sessions. Each house shall be open to the public during the sessions thereof, except in such cases as in (THEIR) *its* opinion may require secrecy.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 20. Reading and Passage of Bills. *The number and title of* every bill shall be read (ON THREE DIFFERENT DAYS IN EACH SEPARATE HOUSE, UNLESS, IN CASE OF URGENCY), *when introduced or when received after passage by the other house and such number and title be published in the journal. No bill shall be passed earlier than the third day after its introduction or reception from the other house unless* two-thirds of the house where (SUCH) *the* bill is pending (SHALL DEEM IT EXPEDIENT TO DISPENSE WITH THIS RULE; AND NO BILL SHALL BE PASSED BY EITHER HOUSE UNTIL IT SHALL HAVE BEEN PREVIOUSLY READ TWICE AT LENGTH) *shall so order.*

Comment: Amended.

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

Sec. 21. Enrollment and Presentment of Bills. Every bill (HAVING PASSED) *which passes* both houses shall be carefully enrolled(;) and shall be signed by the presiding officer of

each house. (ANY PRESIDING OFFICER REFUSING TO SIGN A BILL WHICH SHALL HAVE PREVIOUSLY PASSED BOTH HOUSES SHALL THEREAFTER BE INCAPABLE OF HOLDING A SEAT IN EITHER BRANCH OF THE LEGISLATURE, OR HOLD ANY OTHER OFFICE OF HONOR OR PROFIT IN THE STATE, AND IN CASE OF SUCH REFUSAL, EACH HOUSE SHALL, BY RULE, PROVIDE THE MANNER IN WHICH SUCH BILL SHALL BE PROPERLY CERTIFIED FOR PRESENTATION TO THE GOVERNOR.) *Each house shall by rule provide the manner of certification for presentation to the Governor any such bill which its presiding officer refuses to sign.*

Comment: Amended.

The commission believes that the penalty imposed by the present section is somewhat drastic for the offense, and proposes that it be omitted.

Sec. 22. (PASSAGE OF BILLS ON LAST DAY OF SESSION PROHIBITED.)

Comment: Entire section deleted.

This provision in the constitution apparently serves no purpose. It is not followed and the commission is recommending its deletion.

Sec. 23. (CENSUS ENUMERATION ; APPORTIONMENT.)

Comment: Entire section deleted.

That portion of this section providing for a state census is obsolete because no state census has been taken for almost fifty years. The material on apportionment outlined in the second sentence is adequately covered in proposed Section 2.

Sec. 24. (SENATORIAL DISTRICTS; TERM OF OFFICE OF SENATORS AND REPRESENTATIVES.)

Comment: Entire section deleted. The subject matter of the first three sentences on legislative districts and on terms of members is included in proposed Sections 1 and 2.

The staggering of senate terms has not been followed for many years, so that portion of this section is obsolete.

Sec. 25. (QUALIFICATION OF LEGISLATORS.)

Comment: Entire section deleted. Material incorporated in amended Section 3.

Sec. 26. (SENATORS TO CONGRESS.)

Comment: Entire section deleted. Amendment XVII of the United States Constitution providing for the election of senators by popular vote supersedes this section.

Sec. 27. **Subject of Laws.** No law shall embrace more than one subject. (WHICH) *The subject shall be expressed in (ITS) the title.*

Comment: Amended.

The changes suggested are based upon the poor grammatical construction of the present section.

Sec. 28. (DIVORCES.)

Comment: Entire section deleted. Subject dealt with in amended Section 33 pertaining to special legislation.

Sec. 29. (OATH OF OFFICE.)

Comment: Entire section deleted. A new section providing for a uniform oath for executive and judicial officers as well as members of the Legislature is recommended for inclusion in Article XV.

Sec. 30. **Elections.** In all elections to be made by the legislature, (THE MEMBERS THEREOF SHALL VOTE VIVA VOCE, AND THEIR VOTES) *there shall be a roll call which shall be entered on the journal.*

Comment: Amended.

The change suggested here is procedural.

Sec. 31. **Lotteries.** The legislature shall never authorize any lottery or the sale of lottery tickets.

Comment: The commission recommends no change in this section.

Sec 32 (a). (CHANGE OF FORM OF TAXATION OF RAILROADS TO BE VOTED UPON)

Note: Delete all of the present section and substitute the following amended section:

Sec. 32 (a). **Form of Taxation of Railroads.** *Any gross earnings tax imposed on railroads shall be in lieu of all other taxes and assessments upon their operating property such as the real estate, roads, rolling stock, and other personal property, except special assessments for local improvements.*

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

Sec. 32 (b). (INTERNAL IMPROVEMENT LANDS; INVESTMENT OF PROCEEDS IN BONDS.)

Comment: The commission recommends the deletion of this entire section and the consolidation of its provisions with reference to internal improvement lands with those pertaining to other state lands and the investment of trust funds in Article VIII.

Sec. 33. Special Legislation.

Note: Delete all of present section and substitute the following amended section.

No special law shall be enacted when a general law can be made applicable, except as provided in Article XI, and the question whether a general law could be applicable in any case shall be judicially determined without regard to any legislative assertion on that subject.

The legislature may repeal any existing special laws. The legislature shall pass no private or special laws:

- 1. Remitting fines, penalties, or forfeitures*
- 2. Granting divorces*
- 3. Changing the names of persons*
- 4. Authorizing the adoption or legitimation of children*
- 5. Changing the laws of descent or intestate succession*
- 6. Conferring rights upon minors*
- 7. Declaring any named person of age*
- 8. Giving effect to informal or invalid wills or deeds*
- 9. Affecting the estates of minors or persons under disability*
- 10. Exempting property from taxation*
- 11. Regulating the rate of interest on money*
- 12. Creating private corporations or amending, renewing, extending, or explaining the charters thereof*
- 13. Granting to any private corporation, private association, or individual any special or exclusive privilege, immunity, or franchise*

The inhibitions of special laws in this section shall not be construed to prevent the passage of general laws on any of the subjects enumerated.

Comment: The subject of special legislation applicable to counties, cities, towns, and other units of local government is treated in Article XI of this report. The remaining prohibitions contained in the present Section 33 have been recodified. The restrictions on creating corporations by special law have been limited to private corporations,

the commission believing that the legislature should retain the power to create public corporations (other than local governments) by special law should they desire to do so.

Sec. 34. (GENERAL LAWS UNDER 1881 AMENDMENT.)

Comment: This section is part of an earlier amendment adopted in 1881. In view of the subsequent amendment of Section 33 in 1892 and the change recommended in the draft of Section 33 this section is obsolete, and the commission recommends its elimination.

Sec. 35. (AGAINST COMBINATIONS OR POOLS TO AFFECT MARKETS.)

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

Sec. 36. (CITY OR VILLAGE MAY FRAME ITS CHARTER; CHARTER SUBMITTED TO VOTERS; CITIES CLASSIFIED.)

Comment: The commission recommends that this section be deleted from Article IV and that the subjects of home rule and the classification of cities be dealt with in appropriate sections in Article XI.

ARTICLE V

EXECUTIVE DEPARTMENT

Section 1. Personnel. The executive department shall consist of a governor, *a* lieutenant governor, (SECRETARY OF STATE, AUDITOR, TREASURER) and *an* attorney general, who shall be chosen by the electors of the State, *and the subordinate executive officers provided by law.*

Comment: The commission has sought to approach closely the principle of placing executive responsibility in the hands of a single popularly elected official—the governor. He is the only officer according to our present constitution who is charged with the responsibility of taking “care that the laws be faithfully executed.” The commission proposes to strengthen this constitutional position and responsibility of the governor.

The offices of the secretary of state and treasurer are removed from the constitution. Neither of these offices has

anything to do with policy formulation or control functions. Their powers are ministerial rather than discretionary. Most of their duties are statutory, the same kind of duties performed by the commissioner of taxation, of highways, and of conservation, who are appointive officials. It will be for the legislature to determine whether these offices will be continued, whether they will be elective or appointive, or whether the duties will be assigned in whole or in part to other offices. A change in the status and duties of the auditor is recommended in Article IX, Section 9A of this report.

Sec. 2. State Canvassing Board. The returns of every election for the officers named in (THE FOREGOING) Section 1 shall be made to (THE SECRETARY OF STATE,) *an officer designated by law* who shall call to his assistance two or more of the (JUDGES) *justices* of the Supreme Court, and two disinterested judges of the district courts (OF THE STATE), who shall constitute a board of canvassers, who shall open and canvass (SAID) *these* returns and (DECLARE THE RESULT) within three days (AFTER SUCH CANVASS) *thereafter declare the result.*

Comment: The only amendment proposed in this section is the substitution of "an officer designated by law" for the secretary of state. The latter might be continued as a member of the canvassing board if the office of secretary of state is established by the legislature.

Sec. 3. Term of Office. The term of office for the governor, (AND) lieutenant governor, *and attorney general* (SHALL BE) *is* (TWO) *four* years (,) and until their successors are chosen and qualified. Each shall have attained the age of (TWENTY-FIVE) 25 years (,) and shall have been a (BONA FIDE) resident of the State for one year next preceding his election. (BOTH) *Each* shall be a citizen(S) of the United States. *The duties and salaries of executive officers shall be prescribed by law.*

Comment: The terms of office of the governor, lieutenant governor, and attorney general are set at four years. This length of term is becoming increasingly common in the states that are revising their constitutions. Such a term would provide a more ample opportunity for the governor to establish and carry out an effective program. The biennial election of the House of Representatives would provide a means of expressing disapproval of any measures which are against the popular will.

Sec. 4. Powers and Duties of Governor. The Governor shall communicate by message to each session of the Legislature (SUCH) information (TOUCHING THE STATE AND CONDITION OF THE COUNTRY AS HE MAY DEEM EXPEDIENT) *regarding conditions within the State. Within three weeks*

after the Legislature convenes in a regular session he shall submit to it a financial report including a budget recommending expenditures and an estimate of available revenues of the State for the years prescribed by statute, together with his recommendations for providing revenue therefor. He (SHALL BE) is commander-in-chief of the military and naval forces(,) and may call out such forces to execute the laws, suppress insurrection, and repel invasion. He may require (THE OPINION IN WRITING,) written or verbal opinions of the principal officer in each (OF THE) executive (DEPARTMENTS,) department upon any subject relating to the duties of (THEIR RESPECTIVE OFFICES;) his department. (AND HE SHALL HAVE POWER, IN CONJUNCTION WITH THE BOARD OF PARDONS, OF WHICH THE GOVERNOR SHALL BE EX-OFFICIO A MEMBER, AND THE OTHER MEMBERS OF WHICH SHALL CONSIST OF THE ATTORNEY GENERAL OF THE STATE OF MINNESOTA AND THE CHIEF JUSTICE OF THE SUPREME COURT OF THE STATE OF MINNESOTA, AND WHOSE POWERS AND DUTIES SHALL BE DEFINED AND REGULATED BY LAW, TO GRANT REPRIEVES AND PARDONS AFTER CONVICTION FOR OFFENSES AGAINST THE STATE, EXCEPT IN CASES OF IMPEACHMENT.) A board composed of the governor, attorney general, and one other member to be appointed by the governor, with the advice and consent of the Senate, and who shall serve for a term concurrent with that of the governor, shall have power to grant reprieves and pardons after convictions for offenses against the state except in cases of impeachment. The power of pardon, which shall not include the power to parole, shall be defined and regulated by law. (HE SHALL HAVE POWER, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, TO APPOINT A STATE LIBRARIAN AND NOTARIES PUBLIC, AND SUCH OTHER OFFICERS AS MAY BE PROVIDED BY LAW.) By and with the advice and consent of the Senate, he may appoint such officers as are provided by law. He may appoint notaries public and commissioners to take the acknowledgment of written instruments to be executed in the State. (HE SHALL HAVE POWER TO APPOINT COMMISSIONERS TO TAKE THE ACKNOWLEDGMENT OF DEEDS OR OTHER INSTRUMENTS IN WRITING, TO BE USED IN THE STATE). He shall have a negative upon all (LAWS) bills passed by the Legislature, under (SUCH) the rules and limitations (AS ARE) prescribed in this Constitution (PRESCRIBED). He may on extraordinary occasions convene (BOTH HOUSES OF) the Legislature; and on such occasions he may limit the matters to be considered at any

such session to those specified in the call. He shall take care that the laws be faithfully executed(,) and fill any vacancy (THAT MAY OCCUR) in the office of (SECRETARY OF STATE, TREASURER, AUDITOR) Attorney General(,) and (SUCH OTHER STATE AND DISTRICT OFFICES) any vacancy in any other elective state executive office as may be (HEREAFTER CREATED) provided by law, until the next (ANNUAL) election(, AND UNTIL THEIR SUCCESSORS ARE) at which a successor may be lawfully chosen and until such successor is qualified.

Comment: In providing for an executive budget the state is assured of the continued use of this system of executive responsibility for presenting to each regular session of the legislature a coordinated plan of revenue and expenditure. In giving the governor power to require oral as well as written opinions from the heads of departments the commission is merely recognizing current practice. It was not deemed advisable to force a cabinet upon the governor by constitutional action.

The composition of the board of pardons is changed by the omission of the Chief Justice of the Supreme Court. This change is in accordance with the considered opinion of justices who have served as members of this board. The change also coincides with the constitutional theory that the pardon power should be placed in the executive branch of the government as it is in the federal constitution.

It is proposed to vest the appointment of the state librarian in the Supreme Court rather than in the governor (see Section 2 of Article VI of this report) and to relieve the Senate of the necessity of approving the appointment of hundreds of notaries public.

The commission recommends that the governor have power to limit the matters to be considered at a special session of the Legislature which he calls. We further recommend, however, that the legislature also have power to call itself into special session (See Section 1 of Article IV of this report).

Provision for filling vacancies in judicial offices is made in Section 13 of Article VI of this report.

Sec. 5. (OFFICIAL TERM OF OTHER EXECUTIVE OFFICERS.)

Comment: Entire section deleted.

The proposed elimination from the constitution of two of the offices mentioned in the above section is discussed in the comment following Section 1 of this Article. Reference to the state auditor will be found in Section 9A of Article IX of this report.

Sec. 6. Duties of Lieutenant Governor. The Lieutenant Governor shall be (EX-OFFICIO) President of the Senate. (; AND

IN CASE A VACANCY SHOULD OCCUR, FROM ANY CAUSE WHATEVER, IN THE OFFICE OF GOVERNOR, HE SHALL BE GOVERNOR DURING SUCH VACANCY.) (THE) *His* compensation (OF THE LIEUTENANT GOVERNOR) shall (BE DOUBLE) *not be less than double* the compensation of a state senator. Before the close of each session (OF) the Senate (THEY) shall elect a President Pro Tempore, who shall be (LIEUTENANT GOVERNOR) *its presiding officer* (IN CASE) *whenever* a vacancy (SHOULD OCCUR) *occurs* in (THAT OFFICE) *the office of Lieutenant Governor*.

Comment: It is proposed to leave to legislative determination the salary of the Lieutenant Governor subject to the minimum prescribed in this section. Succession to the governorship is provided for in a new section 6 (a).

Sec. 6 (a). Succession to Governorship. *If the governor elect die before taking office the lieutenant governor-elect shall take the term of the governor-elect. In case of the failure of the Governor to qualify, or of his impeachment, or of his removal from office, death, resignation, or inability to discharge the powers and duties of his office, the powers and duties of his office shall devolve upon the Lieutenant Governor who shall act as Governor for the remainder of the term or until the disability is removed.*

In case a vacancy occurs thereafter in the office of Governor from any of the causes aforesaid and the Lieutenant Governor is unable to serve, the President Pro Tempore of the Senate and the Speaker of the House of Representatives in succession shall act as Governor for the remainder of the term or until the disability is removed. In the event all of the foregoing are either deceased, unavailable, or incapacitated the oldest member in chronological age of the Senate shall call the Senate together to elect a President Pro Tempore.

Comment: A self-executing succession to the governorship is established by this proposed new section. This provision should cover almost all of the exigencies that may occur. Legislators will recall the recent turmoil in Georgia when the governor-elect died, and the Oregon situation in which several of the men who would succeed to the governorship were killed with the governor in one accident.

Sec. 6 (b). Civil Service. *Appointments and promotions in the civil service of the State, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained according to such reasonable standards and methods as the Legislature shall prescribe.*

Comment: The establishment of the merit system in the constitution will strengthen this system for the selection and reten-

tion of qualified employees in the state and its political subdivisions. The section here proposed is based in part upon provisions found in the New York constitution of 1938 and the New Jersey constitution of 1947.

Sec. 7. (OFFICIAL TERM OF FIRST STATE OFFICERS.)

Comment: Entire section deleted as obsolete. It was applicable only to the first state officials elected under the constitution in 1858.

Sec. 8. (OATH OF OFFICE TO BE TAKEN BY STATE OFFICERS.)

Comment: It is proposed to delete this section and to provide for a uniform oath of office for all state officers in Article XV.

Sec. 9. (LAWS TO BE PASSED AT FIRST LEGISLATIVE SESSION.)

Comment: This section is now obsolete and should be removed from the constitution.

ARTICLE VI

JUDICIAL DEPARTMENT

Note: *The commission recommends the amendment of the Judiciary Article by striking the entire article in the present constitution, Sections 1 to 15, and substituting therefor the following new sections:*

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

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

The Justice of the Peace courts are removed from the constitution, leaving to the Legislature the establishment of minor courts and judicial officers and the determination of their respective jurisdictions.

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

Sec. 2. Supreme Court. *The supreme court shall consist of one chief justice and six associate justices. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in said court.*

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

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

Comment: This proposed section eliminates the provision in present section 2 of Article VI relative to the holding of terms of the Supreme Court.

It provides for the temporary assignment of district judges to serve on the Supreme Court.

The clerk of the Supreme Court is made appointive by the court instead of elective as at present, and the appointment of the state librarian is vested in the Supreme Court rather than in the governor as at present (see proposed Section 4, Article V of this report).

Sec. 3. Judicial Districts; District Judges. *The number and boundaries of judicial districts shall be established or changed in the manner provided by law, but the office of a district judge may not be vacated during his term. There shall be one or more judges in each district. A district judge shall, at the time of his selection, be a resident of the district for which he is selected, and shall reside therein during his continuance in office.*

Comment: The provisions of present Section 4 are simplified. The election and terms of district judges are provided for in subsequent sections.

Sec. 4. Rules of Practice. *Rules of practice, procedure, and evidence for all courts shall be made as provided by law.*

Comment: The rule-making power is left to legislative determination as at present.

Sec. 5. District Court Clerks. *There shall be elected in each county one clerk of the district court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be six years.*

Comment: This continues the provisions of present Section 13 except that the term of district court clerks is lengthened to six years.

Sec. 6. Jurisdiction of District Court. *The district court shall have original jurisdiction in all civil and criminal cases, and shall have such appellate jurisdiction as may be prescribed by law.*

Comment: The limitations on the original jurisdiction of the District Court found in present Section 5 are removed.

Sec. 7. Jurisdiction of Probate Court. *The probate court shall have unlimited original jurisdiction in law and equity for*

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

Comment: The jurisdiction of the probate court, as defined in Section 7, Article VI of the present Constitution is extended and clarified. The qualifications and terms of probate judges are fixed in Sections 8 and 9 herein.

Sec. 8. Qualifications; Compensation. *Justices of the supreme court and judges of the district and probate court shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all justices and judges, which shall not be diminished during their term of office, shall be prescribed by law.*

Comment: Judges of the probate court, as provided in present Section 6 for judges of the supreme and district courts, are required to be learned in the law (see schedule).

Sec. 9. Terms of Office; Election; Vacancies; Re-election. *The term of office of all supreme court justices and all judges shall be six years and until their successors are qualified, and they shall be elected by the electors of the state, district, county, municipality, or other territory wherein they are to serve. Where more than one position on the same court is to be filled at an election and an incumbent is eligible to be a candidate to succeed himself, each candidate shall specify and the official ballot shall show, the position for which he is a candidate.*

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

Comment: A uniform term of office of six years is recommended for all judges.

The method of selection provided in the second sentence has been in successful operation in Ohio. Where several

incumbents are running for re-election, each should stand or fall on the basis of his own record. The present system does not permit this since opposing candidates run against the field.

While judges in this state are now elected, the usual practice has been that judges first ascend the bench by appointment by the governor on a vacancy occurring. The voters, with some exceptions, have on succeeding elections returned the judges to the bench. The second paragraph of this proposed section authorizes the legislature to put this practice on a formal legal basis with the provision added that the governor shall make his appointment from recommendations received from a nonpartisan commission. This method of selection has been in operation in Missouri since 1941. The electorate there has twice approved it, once by adopting it as a constitutional amendment and again by refusing to repeal it. It is also in operation in California in modified form. It is the method of selection recommended by the American Bar Association. For a description of the plan and its successful operation in Missouri, see article by Justice Douglas of the Missouri Supreme Court entitled, "Missouri Plan Works Well in Actual Results" in 33 Am. Bar Assn. Jr. 1169 (1947). The plan has been modified here to become operative only when an appointed judge has once been chosen in competition with other candidates at a general election.

Sec. 10. Terms Extended. *When a justice or judge attains the age of 67 years during his term of office for which elected, such term is hereby extended until the date of his compulsory retirement under Section 12.*

Comment: The commission feels that when a judge is within three years of the retirement age, he should be permitted to continue in office without standing for reelection.

Sec. 11. Holding Other Office. *Justices of the supreme court and judges of the district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the United States and shall not hold any other office under this state. The term of office of any such justice or judge shall terminate at the time he files as a candidate for an elective office of the United States or for a non-judicial office of this state.*

Comment: This section is substantially similar to the present Section 11, except that judges are permitted to hold a reserve commission in the military forces of the United States.

Sec. 12. Retirement. *Supreme court justices, district and probate court judges shall be retired upon reaching the age of 70 years. When the administrative council certifies to the governor that it appears that any such justice or judge is so inca-*

pacitated as substantially to prevent him from performing his judicial duties, the governor shall appoint a commission of three persons to inquire into the circumstances. On their recommendation the governor may retire such justice or judge from office. Retirement allowances for a justice or judge retiring hereunder who has held judicial office continually for ten or more years immediately preceding his retirement shall be provided by law.

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

Sec. 13. Appointment. *If the office of a justice or judge becomes vacant, except as otherwise provided by section 9, the governor shall appoint a qualified person to fill the vacancy to hold office until his successor is elected and qualified. This successor shall be elected at the first general election held more than one year after the occurrence of the vacancy and his term of office shall be six years and until his successor is qualified.*

Comment: This section increases the spread between appointment and the appointee's subsequent candidacy for election from 30 days to one year. The 30-day period, as provided in the present Section 10, has proved too short. Complications arise when a vacancy occurs after the primary election but more than 30 days prior to the final election. In addition, the short period does not give sufficient time to enable observation of the competence developed by the appointee prior to the election.

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

Sec. 14. Administrative Council. *The legislature shall establish an administrative council which shall consist of the chief justice of the supreme court as chairman, and one representative from each of the courts in which the judicial power of the state is vested, one from the legal profession, and one from the public. Subject to law it shall formulate policies for the efficient administration of the court system of the state and cause such policies to be executed by its chairman. No action shall be taken hereunder which interferes with the exercise of the judicial functions of a judge in any case or proceeding, and whether there is such interference shall be a judicial question.*

Comment: The Administrative Council proposed in this section is designed to provide an appropriate agency for the better coordination of the various parts of the state judicial system, but with the limitation contained in the last sentence which is designed to preserve the independence of the judge in the performance of his judicial functions.

Sec. 15. Jurisdiction Over Minors. *The legislature may confer jurisdiction over cases and proceedings relating to the care or welfare of minors upon any court inferior to the supreme court.*

Comment: Specific constitutional authorization to the Legislature to make special provision for the adjudication of cases involving minors is the express purpose of this proposed new section.

SCHEDULE

Note: Because of its contribution to a proper understanding of the intent of the commission with reference to important changes in the Judiciary Article which are recommended in this report, a suggested schedule has been prepared.

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

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

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

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

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

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

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

ARTICLE VII

ELECTIVE FRANCHISE

Section 1. Who May Vote. (WHAT PERSONS ARE ENTITLED TO VOTE: RESIDENCE REQUIRED.) Every person of the age of (TWENTY ONE) 21 years or upwards (BELONGING TO EITHER OF THE FOLLOWING CLASSES) *who is a citizen of the United States and who has resided in this*

State six months next preceding any election shall be entitled to vote at such election in the election district of which he (SHALL) at the time (HAVE) *has been a resident* for (THIRTY) 30 days (A RESIDENT,) for all officers (THAT NOW ARE OR HEREAFTER MAY BE,) elective by the people.

(CITIZENS OF THE UNITED STATES. FIRST-CITIZENS OF THE UNITED STATES WHO HAVE BEEN SUCH FOR THE PERIOD OF THREE (3) MONTHS NEXT PRECEDING ANY ELECTION.)

(MIXED INDIANS, SECOND PERSONS OF MIXED WHITE AND INDIAN BLOOD WHO HAVE ADOPTED THE CUSTOMS AND HABITS OF CIVILIZATION.)

(PURE INDIANS HAVING ADOPTED HABITS OF CIVILIZATION. THIRD PERSONS OF INDIAN BLOOD RESIDING IN THIS STATE, WHO HAVE ADOPTED THE LANGUAGE, CUSTOMS AND HABITS OF CIVILIZATION, AFTER AN EXAMINATION BEFORE ANY DISTRICT COURT OF THE STATE, IN SUCH MANNER AS MAY BE PROVIDED BY LAW, AND SHALL HAVE BEEN PRO- NOUNCED BY SAID COURT CAPABLE OF ENJOYING THE RIGHTS OF CITIZENSHIP WITHIN THE STATE.)

Comment: The second, third and fourth paragraphs of the present section are obsolete.

Sec. 2. Loss of Franchise. (NO PERSON NOT BELONG- ING TO ONE OF THE CLASSES SPECIFIED IN THE PRE- CEDING SECTION;) *No person (WHO HAS BEEN) con- victed by any court of this state or of the United States of trea- son or any felony, unless restored to civil rights(;), and no per- son (UNDER GUARDIANSHIP) who (MAY BE NON COM- POS MENTIS OR) is insane, shall (BE ENTITLED OR PER- MITTED TO) vote at any election in this state. The Legislature may exclude from the privilege of voting or being elected to any public office any person convicted of bribery, perjury, or any other infamous crime.*

Comment: The State Supreme Court has ruled that a man can be convicted in Federal Court of a felony and not lose the franchise. The commission believes, however, that the revocation of the right to vote should follow conviction of a felony in Federal Court as well as in a State Court.

Sec. 3. Residence, When Not Lost. For the purpose of vot- ing, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States(;), nor while engaged upon the waters of this State or

of the United States(;), nor while a student in any (SEMINARY) *institution* of learning(;), nor while kept at any almshouse or *other* asylum(;), or *institution wholly or partly supported at public expense or by private charity*, nor while confined in any public prison.

Comment: Residence for the purpose of voting should not be lost by reason of confinement in a hospital.

Sec. 4. Soldiers and Sailors; Restrictions. No soldier, seaman, or marine in the (ARMY OR NAVY) *armed forces* of the United States shall be deemed a resident of this State in consequence of being stationed within the (SAME) *State*.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 5. Civil Process on Election Days. During the day on which any election (SHALL BE) *is* held, no person shall be arrested by virtue of any civil process.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 6. Elections. All elections shall be by ballot(,) *or balloting machines*, except for such town officers as (MAY BE) *are* directed by law to be otherwise chosen.

Comment: Providing for the use of balloting machines as a method of recording votes is recommended in order to avoid questions as to the legality of their use.

Sec. 7. Right to Hold Office. Every person who by the provisions of this article (SHALL BE) *is* entitled to vote at any election (SHALL BE) *is* eligible to any office which (NOW IS, OR HEREAFTER SHALL BE,) elective by the people in the district wherein he (SHALL HAVE) resided (THIRTY) *for 30* days previous to such election, except as otherwise provided in this Constitution(,) or the Constitution and (LAW) *laws* of the United States.

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 8. (WOMEN MAY VOTE.)

Comment: Entire section deleted. Article XIX of the United States Constitution has made this section obsolete.

Sec. 9. Official Year. The official year for the State of Minnesota (SHALL COMMENCE) *commences* on the first Monday in January in each year(, AND). All terms of office (SHALL) terminate at that time(, AND). The general election shall be held on the first Tuesday after the first Monday in November. (THE FIRST GENERAL ELECTION FOR STATE AND COUNTY OFFICERS, EXCEPT JUDICIAL OFFICERS, AFTER THE

ADOPTION OF THIS AMENDMENT, SHALL BE HELD IN THE YEAR A. D. ONE THOUSAND EIGHT HUNDRED AND EIGHTY-FOUR (1884), AND THEREAFTER THE GENERAL ELECTION SHALL BE HELD BIENIALLY. ALL STATE, COUNTY OR OTHER OFFICERS ELECTED AT ANY GENERAL ELECTION, WHOSE TERMS OF OFFICE WOULD OTHERWISE EXPIRE ON THE FIRST MONDAY OF JANUARY, A. D. ONE THOUSAND EIGHT HUNDRED AND EIGHTY-SIX (1886), SHALL HOLD AND CONTINUE IN SUCH OFFICES, RESPECTIVELY, UNTIL THE FIRST MONDAY IN JANUARY, ONE THOUSAND EIGHT HUNDRED AND EIGHTY-SEVEN (1887).)

Comment: The portion of this section recommended to be deleted is obsolete.

ARTICLE VIII EDUCATION

Section 1. **Uniform System.** (THE STABILITY OF A REPUBLICAN FORM OF GOVERNMENT DEPENDING MAINLY UPON THE INTELLIGENCE OF THE PEOPLE, IT SHALL BE THE DUTY OF THE LEGISLATURE TO ESTABLISH A GENERAL AND UNIFORM SYSTEM OF PUBLIC SCHOOLS.)

As a basis for a sound republican form of government, the Legislature shall make provisions for the maintenance and support of a uniform system of public education.

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

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

Sec. 2. (PROCEEDS OF SCHOOL LANDS TO BE A PERPETUAL FUND.)

Note: The commission recommends the consolidation of the material in this section with Section 32 (b) of Article IV and Section 8 of Article VIII in Sections 4 and 5 herein, and the introduction of the following new Section 2.

Sec. 2. Prohibited Aid. *In no case shall any public moneys 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.*

Comment: This new Section 2 continues the provisions of the second paragraph of present Section 3 with slight changes in wording.

Sec. 3. (PUBLIC SCHOOLS IN EACH TOWNSHIP TO BE ESTABLISHED.)

Note: The commission recommends the deletion of this section. The material in the first paragraph has been consolidated with Section 1. The second paragraph has been continued in new Section 2.

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

Comment: The commission recommends no amendment to this section, which is Section 4 in the present constitution. Slight changes in punctuation are suggested by the Revisor of Statutes.

Sec. 5. (PERMANENT SCHOOL FUNDS MAY BE LOANED TO DISTRICTS OR COUNTIES FOR SCHOOL PURPOSES.)

Sec. 6. (INVESTMENT OF PERMANENT SCHOOL AND UNIVERSITY FUNDS; APPROVAL; BONDED INDEBTEDNESS NOT TO EXCEED 15 PER CENT, DRAW NOT LESS THAN TWO PER CENT, RUN NOT LESS THAN ONE YEAR NOR MORE THAN 30 YEARS.)

Note: The commission recommends the deletion of these entire sections and the consolidation of their provisions in the following new Sections 4 and 5.

Sec. 4. State Lands; Trust Reserved. *Swamp lands, lands within the state granted by the United States for the use or benefit of schools, for the University of Minnesota, for internal improvements, or for any other purpose, and other public lands shall be held, or shall be appraised and sold or exchanged, all as provided by law.*

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

With the unanimous approval of a commission established by law, any public lands of the State, including lands held in trust for any purpose, may be exchanged for lands of the United States, tax-forfeited lands, or privately owned lands in such manner as the Legislature may provide. Land so acquired is subject to any trust to which the land exchanged therefor was subject. All mineral and water power rights in state land so exchanged are reserved to the State.

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

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

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

Sec. 5. Trust Funds; Net Proceeds; Investment. *As used in this section, "net proceeds" means income after deducting the reasonable costs to the state of administration, conservation, and development. The net proceeds arising from the use, sale, or other disposition of all lands, including swamp lands, granted to the State for the use or benefit of schools, for the University of Minnesota, or for internal improvements shall remain perpetual trust funds. The net proceeds arising from the use, sale, or other disposition of lands situated beneath waters owned by the State, and beneath navigable lakes and rivers shall remain perpetual trust funds. The principal of the net proceeds of these lands may be invested only in bonds of the United States, the State of Minnesota, and its political subdivisions and bonds of other states as may be provided by law.*

The income arising from the investment of the principal of these funds, after deducting the costs of administration, shall be

appropriated as follows: from the school fund to the public schools; from the University fund to the University of Minnesota; from the swamp land fund, one-half to the public schools and one-half to the charitable and educational institutions of the State; and from the internal improvements fund as provided by law.

Comment: A short, clear statement encompassing the disposition of present constitutionally established trust funds was the aim of the commission in this section. The distribution of the income from the trust funds is not changed except the internal improvement fund.

The second paragraph of present Section 2 of this Article providing for a revolving fund is deleted as obsolete. No use is made of this fund. There is at the present time a deficiency of \$90,000 in it and the commission recommends that some provision be made to replace this amount in the trust fund.

The commission believes that each trust fund should bear its own cost of operation and that only the net proceeds should be deposited in such fund.

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

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

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

Sec. 7. (TIMBER LANDS SET APART AS STATE FORESTS; DISPOSITION OF REVENUE.)

Comment: The commission recommends the deletion of this section. Its purpose may be fully achieved under the provisions of the proposed new Sections 4 and 5 of this article.

Sec. 8. (EXCHANGE OF PUBLIC LAND; RESERVATION OF RIGHTS.)

Comment: The commission recommends the deletion of this entire section. The subject of land exchange has been covered in the proposed new Section 4 of this Article.

ARTICLE IX

TAXATION AND FINANCE

Section 1. Power of Taxation. 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 ALL SEMINARIES OF LEARNING, ALL CHURCHES, CHURCH PROPERTY AND HOUSES OF WORSHIP, INSTITUTIONS OF PURELY PUBLIC CHARITY, PUBLIC PROPERTY USED EXCLUSIVELY FOR ANY PUBLIC PURPOSE, SHALL BE EXEMPT FROM TAXATION, 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, AND PROVIDED FURTHER, THAT NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO AFFECT, MODIFY, OR REPEAL ANY EXISTING LAW PROVIDING FOR THE TAXATION OF THE GROSS EARNINGS OF RAILROADS.) *All taxes shall be levied and collected for public purposes and shall be uniform upon the same class of subjects. Different classes of subjects may be valued by different methods and taxed at different rates. When authorized by charter or by general law local governments may levy and collect assessments for local improvements and services on property specially benefited thereby without regard to the valuation of the property.*

Comment: With some changes in wording the present provisions of Article IX, Section 1, have been continued, except for those pertaining to exemptions from taxation which are covered in the new section 1 (A). The so-called "wide-open" tax section is retained. The wisdom of such broad provisions to meet changing fiscal needs has been amply demonstrated.

Section 1 A. Exemptions From Taxation. *Public property used exclusively for any public purpose as defined by law is exempt from taxation. Private property not held or used for profit and used exclusively for any religious, educational, chari-*

table, or burial purpose as defined by law is exempt from taxation. The Legislature may exempt personal property, either in whole or in part, or any classification thereof, from taxation.

Comment: The present provision on the exemption of property, found in Section 1 of this article, should be strengthened. In 1944 approximately 25% of the assessed value of all taxable real property in Minnesota was exempt from taxation.

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

Section 1 (A) B. Occupation Tax. Every person, co-partnership, company, joint stock company, corporation, or association (HOWEVER OR FOR WHATEVER PURPOSE; ORGANIZED,) engaged in the business of mining or producing (IRON ORE OR OTHER) ores in this State(,) shall pay to the State of Minnesota an occupation tax on the valuation of all ores mined or produced. (WHICH) *This* tax (SHALL BE) *is* in addition to all other taxes provided by law, (SAID TAX TO BE) *and is* due and payable (FROM SUCH PERSON, CO-PARTNERSHIP, COMPANY, JOINT STOCK COMPANY, CORPORATION, OR ASSOCIATION HOWEVER OR FOR WHATEVER PURPOSE ORGANIZED,) on May first of the calendar year next following the mining or producing (THERE-OF) *of such ore*. The valuation of ore for the purpose of determining the amount of tax to be paid shall be ascertained (IN THE MANNER AND METHOD) *as* provided by law. Funds derived from (THE) *such* tax (HEREIN PROVIDED FOR) shall be apportioned: (FIFTY) 50 per cent to the State General Revenue Fund, (FORTY) 40 per cent to the Permanent School Fund, and ten per cent to the Permanent University Fund. The Legislature shall (BY LAW) make (THE) necessary provisions for carrying out the provisions of this section.

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

This section shall apply to the taxation of iron sulphides.

Comment: The occupation tax on iron ore and the apportionment of the funds derived therefrom has been retained. Changes in style or phraseology are those suggested by the Revisor of Statutes.

The tax protection extended to the taconite industry is based upon the following factors:

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

Sec. 5. (STATE DEBT LIMITED; HOW CONTRACTED.)

Note: The commission proposes to delete this entire section and substitute therefor the following section on State Debt and a new section in Article XVI on the gasoline tax and its distribution.

Sec. 5. State Debt. *The credit of the State shall never be given or loaned in aid of any individual, association, or private corporation.*

For the purpose of defraying extraordinary expenditures the State may by law incur indebtedness. Any obligation payable out of appropriations or levies to be made later than two years from the time of its incurrence is an indebtedness. Any law authorizing any such indebtedness shall specify the single object or work for which the indebtedness is to be incurred. No bill for any such purpose shall become a law unless it receives the affirmative vote of two-thirds of the members of each house of the Legislature. Any such law shall provide for the payment of such indebtedness within 20 years after the debt is contracted. The provisions for the payment and discharge of any such indebtedness shall not be repealed, postponed, or diminished until the principal and interest of such debt are fully paid.

The State shall never contract any indebtedness for any work of internal improvement, or be a party in carrying on any such work, except as authorized in this Constitution.

Comment: This section combines and revises the subject matter found in the first part of the present Section 5 with that in Sections 6, 7, 8 and 10 of this Article. The most important change concerns the amount of state indebtedness and the definition of what constitutes an indebtedness.

According to the present Constitution the amount of state debt for general purposes is limited to \$250,000 (Article IX, Section 5); yet on June 30, 1948, the state had an outstanding indebtedness of \$30,710,640, payable from property taxes.

The adoption of this revised section on debt service will serve as a basis for a sound system of future borrowing.

Sec. 6. (ISSUE OF BONDS FOR CREATED DEBT.)

Comment: Entire section deleted. Subject covered in new Section 5 of this Article.

Sec. 7. (LIMITATIONS AS TO WHEN DEBT MAY BE CONTRACTED.)

Comment: Entire section deleted. Subject covered in new Section 5 of this Article.

Sec. 8. (DISPOSITION OF FUNDS RECEIVED FOR BONDS.)

Comment: Entire section deleted. Subject covered in new Section 5 of this Article.

Sec. 9. **Money Paid Out of Treasury.** (NO) Money shall (EVER) be paid out of the treasury (OF THIS STATE EXCEPT IN PURSUANCE OF) *only pursuant to an appropriation by law except the Legislature by joint concurrent resolution or joint rule may appropriate money for the conduct of its business.*

Comment: The legislature's power to appropriate money for the conduct of its own business is assured. This becomes a necessity, concomitant with the legislature's power to call itself into special session.

Sec. 9 A. **State Auditor.** *The Legislature shall select a state auditor. His term shall be six years and until his successor is selected and qualified. He may be removed for cause. He shall conduct a post audit of the accounts and transactions of each department, office and agency of the state. He shall report his findings to the Legislature, or to any committee thereof, and perform such other duties as are required by law.*

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

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

Sec. 10. (CREDIT OF THE STATE LIMITED.)

Comment: Entire section deleted. Subject is covered in new Section 5 of this Article.

Sec. 11. (PUBLICATION OF RECEIPTS AND EXPENDITURES BY TREASURER.)

Comment: This section is obsolete to all intents and purposes, and should be deleted. It would cost over \$90,000 a year to publish such a report and the report would serve no useful purpose.

Sec. 12. (STATE SCHOOL FUND; INVESTMENT; SAFEKEEPING; ALL STATE FUNDS TO BE DEPOSITED IN NAME OF STATE.)

Comment: Entire section deleted. Provision for the investment of trust funds will be found in Section 5 of Article VIII. The commission believes that the other subjects dealt with in this section are better left to statute.

Sec. 13. Banking Laws. The Legislature may (BY A TWO-THIRDS VOTE) pass general banking laws.

Note: The Commission proposes that all of the remainder of this section be deleted.

Comment: This section is merely declaratory of inherent power already vested in the legislature. The commission feels there is no present need of requiring an extraordinary majority to pass laws on banking. Much of this section of the constitution as it now stands became obsolete at the time of the Civil War with the establishment of national banks and the enactment of a Federal tax of ten per cent on all state bank notes. The second paragraph of the present section on the suspension of specie payments is no longer effective. The government has suspended all gold payments. The third, fourth and fifth paragraphs apply to the issuance of state bank notes, notes that went out of circulation over 80 years ago. The sixth paragraph requiring the recording of names of all stockholders of bank stock could well be left to statute. Since the other sections of Article IX deal with matters of taxation and public finance it is recommended that this section be transferred to an appropriate place in Article IV.

Sec 14. A (SPECIAL PROVISION FOR A LOAN FOR HOSPITAL BUILDING FOR INSANE.)

Comment: This section is obsolete and should be deleted.

Sec 14. B (COUNTY, CITY OR TOWNSHIP AID TO RAILROADS LIMITED.)

Comment: The restrictions on local government loans to railroads are now obsolete, and this section should be deleted.

Sec. 15. (COUNTY, CITY OR TOWNSHIP AID TO RAILROADS LIMITED.)

Comment: This section is almost identical with Section 14 (B) and should be deleted for the same reason.

Sec. 16. (STATE ROAD AND BRIDGE FUND.)

Comment: The commission recommends the deletion of this entire section. Provision has been made in Section 5 of Article VIII giving the legislature authority to appropriate the income arising from the internal improvement fund. The legislature is not now levying a tax on property in order to add to this fund, and has not done so since 1941. A single Highway Fund is created in the proposed Sections 1 and 2 of Article XVI.

ARTICLE X

CORPORATIONS

Section 1. (CORPORATIONS FOR GENERAL PURPOSES.)

Comment: The commission recommends the deletion of this section. It is not appropriate to extend the length of the constitution by the inclusion of such a well-accepted legal concept as "corporation."

Sec. 2. (NOT TO BE CREATED BY SPECIAL ACT.)

Comment: This prohibition is a duplication that is thoroughly covered in Article IV, Section 33, and the section should be deleted.

Sec. 3. (LIABILITY OF STOCKHOLDERS.)

Comment: The commission recommends the deletion of this section. The first sentence is superfluous. The power which appears to be granted by this section is actually vested in the legislature unless limited or qualified by constitutional provisions.

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

Sec. 4. (LANDS MAY BE TAKEN FOR PUBLIC USE.)

Comment: The elimination of this entire section is recommended by the commission.

The protection to the individual property owner set forth in this section is adequately covered in Section 13 of Article 1, of the present constitution. Its inclusion here is a duplication.

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

ARTICLE XI

LOCAL GOVERNMENT

Note: The commission recommends the deletion of the entire present Article XI on Counties and Townships and the substitution of a new Article dealing with local governments of all types. This Article also is intended to replace Section 36 of Article IV of the present Constitution.

Section 1. Definitions. *A local government is a county, city, village, town, school district, or other political subdivision for which provision has been made by law for self government and for the holding of elections.*

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

A charter adopted under the provisions of sections 5, 7, or 8 is a home rule charter.

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

Sec. 2. General Laws for Local Governments. *The Legislature may provide by general law for the creation, organization, administration, consolidation, and division of local governments and their functions, for the change of boundaries thereof, and for the transfer of county seats. No county boundary shall be changed or county seat transferred until approved by a majority of the voters of each county affected voting thereon.*

A general law hereafter enacted shall prevail over the provisions of a home rule charter only if such law so states.

Comment: This section is intended as a limitation upon special acts of the legislature in establishing or consolidating local governments. Similar restrictions affecting counties are found in the present constitution (Article XI, Sec. 1). By providing that a general law prevails over a home rule charter only if the law so states, a source of frequent litigation may be avoided.

Sec. 3. Classification. *For the purposes of legislation the Legislature may classify any type of local government, but the maximum number of such classes shall be: counties, six; cities, four; villages, three; towns, three; school districts, six. At the time of the passage of any such law there shall be at least three*

local governments of any type in a class. The Legislature may provide by general law for the transition of local governments from one classification to another.

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

Sec. 4. Special Laws; Local Acceptance. *The Legislature may enact special laws for any local government and may amend or extend any such law. Any such law may name the local government to which it applies. Before any such law or any amendment or extension thereof becomes effective it must be approved by a majority of the voters of the local government voting thereon. Any special law may be repealed without local approval.*

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

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

Comment: This and the following section are recommended to replace the home rule provisions now found in Section 36 of Article IV.

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

Sec. 6. Charter Commissions. *The Legislature shall provide by law for charter commissions. Such law may require that commission members shall be freeholders and may permit any member to hold any other elective or appointive office other than judicial. Such law shall specify the manner of presenting a home rule charter or an amendment thereof to the governing body and of submitting it to the voters, and shall fix the majority vote*

required for adoption. Such law shall provide that amendments may be submitted by a charter commission on its own initiative, and shall be submitted upon petition of five per cent of the voters of the city or county as defined by law. The power to submit a home rule charter or amendment is a continuing one and is not exhausted by the original submission. A county or city may repeal its home rule charter and adopt a statutory form of local government upon the same majority vote as fixed by law for the adoption of a home rule charter.

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

Sec. 7. County-City Consolidation. *The Legislature may provide by law for the consolidation of a county and a city under a home rule charter. The county charter commission shall present such charter to the county governing board for submission to the voters, and it shall become effective when approved by a majority of the voters in the city voting thereon and a majority of the voters in the remainder of the county voting thereon.*

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

Sec. 8. City-County. *The Legislature may provide by law for the organization of any city of more than 50,000 inhabitants as a city-county under a home rule charter. Such law shall provide for the division of county property, debts and records between the city-county and the remainder of the county, and shall provide for the government of the remainder of the county either as a separate county or as a part of an adjacent county. A city-county charter shall be presented and submitted as a city home rule charter is required to be presented and submitted. Such a charter shall become effective when approved by a majority of the voters of the county voting thereon. A city-county shall have the powers and duties of a city and of a county.*

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

Sec. 9. Local Taxation. *Local governments shall have such powers of local taxation as may be prescribed by law.*

Comment: This section continues Section 5 of the present Article XI, but makes it applicable to all local governments. It is intended to clearly establish that the power of taxation exercised by local governments is subject to the control of the legislature.

ARTICLE XII

THE MILITIA

Section 1. Organization. It shall be the duty of the Legislature to pass such laws for the organization, discipline and service of the militia of the State as may be deemed necessary.

Comment: The commission recommends no change in this section.

ARTICLE XIII

IMPEACHMENTS; REMOVALS

Section 1. Impeachment. The Governor, *the Lieutenant Governor*, (SECRETARY OF STATE, TREASURER, AUDITOR) *the Attorney General, the Justices of the Supreme Court*, and the Judges of the (SUPREME AND) District Court(,) may be impeached for corrupt conduct in office(,) or for crimes and misdemeanors; but *a judgment of impeachment* in such case 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) *Any party so convicted* (THEREOF) shall (NEVERTHELESS) be (LIABLE AND) subject to indictment, trial, judgment, and punishment, according to law.

Comment: The changes suggested are based on the proposed elimination of certain offices from those to be elected. The inclusion of the lieutenant governor remedies an apparent oversight in the original constitution.

Sec. 2. Removal. The Legislature (OF THIS STATE) may provide for the removal of inferior officers from office(,) for malfeasance or nonfeasance in the performance of their duties.

Comment: The only changes are those suggested by the Revisor of Statutes.

Sec. 3. Impeachment Terminates Official Duties. No officer shall exercise the duties of his office after (HE SHALL HAVE BEEN IMPEACHED) *impeachment* and before (HIS) acquittal.

Comment: The only changes are those suggested by the Revisor of Statutes.

Sec. 4. Trial of Governor; Lieutenant Governor Not Member of Court. On trial of an impeachment against the Governor, the Lieutenant Governor shall not act as a member of the court.

Comment: No change is recommended in this section.

Sec. 5. Notice of Charges. (NO) *Any* person (SHALL) *who is to* be tried on impeachment (BEFORE HE) shall (HAVE BEEN) *be* served with a copy of the charges thereof at least (TWENTY) 20 days previous to the day set for trial.

Comment: The only changes are those suggested by the Revisor of Statutes.

ARTICLE XIV

AMENDMENTS

Section 1. Proposals. Whenever (A MAJORITY) *two-thirds* of (BOTH HOUSES) *each house* of the Legislature (SHALL DEEM) *deems* it necessary to alter or amend this Constitution(,) they may propose (SUCH) *by concurrent resolution* alterations or amendments(, WHICH PROPOSED AMENDMENTS). *These proposals* 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) *a general or special* election(, AND). *No special election for the purpose of voting on a constitutional amendment shall be called at the same time or within 30 days of a general election.* If it (SHALL APPEAR) *appears*, in a manner to be provided by law, that a majority of (ALL) the electors voting (AT SAID ELECTION) *thereon* (SHALL HAVE) voted for (AND RATIFIED SUCH) *the proposed* alterations or amendments, (THE SAME) *they* 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.)

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

Comment: More than a bare majority of the Legislature should be required to propose amendments to the Constitution, and the Legislature should be authorized to submit amendments to the people at either a general or a special election. The popular vote requirement on proposed amendments has been changed from a majority of those voting at the election to a majority of those voting on the ques-

tion. This latter change would restore a provision of the original constitution, and it takes account of the fact that, on the average, one-third of the voters at a general election fail to vote on constitutional amendments, thus in effect defeating such amendments by inaction.

An amendment proposed by the 1947 Legislature strikes the last sentence of the present Section 1. The commission favors this change in modified form by specifying in a new sentence that amendments shall not embrace more than one general subject.

Sec. 2. Convention for Revision.

Note: The commission recommends the deletion of this entire section and the adoption of the following new section:

The question of calling a convention to revise this Constitution shall be submitted to the electors at a general election to be held not later than the year 1960 and in each twentieth year thereafter and at any other time which may be provided by two-thirds of each house of the Legislature. If a majority of the electors voting upon the question decide in favor of calling such convention, at its next session the Legislature shall provide for calling the convention. The number of members of the convention shall be equal to the number of the members of the House of Representatives. The members of the convention shall be chosen as are Representatives. The convention shall meet within three months after the election at which its members were chosen.

Any proposed Constitution or proposed amendment to this Constitution adopted by a Constitutional Convention shall be submitted to the electors at an election to be held not less than 60 days nor more than six months after the adjournment of the convention. The convention shall state the proposition to be voted upon, provide the form of ballot therefor, and the manner of voting, and fix the date of the election. If the proposed Constitution or proposed amendment to this Constitution, be approved by a majority of the voters voting thereon, the proposals shall become effective immediately. The result of the election shall be proclaimed by the Governor.

Comment: The Commission suggests that Minnesota, like such other states as Iowa, Michigan, Missouri, and New York, require her legislature to submit to the people at periodic intervals the question of calling a constitutional convention. The experience in these other states indicates that such provisions do not result in frequent conventions, but the power of the people is there if they wish to exercise it.

Our present Constitution makes no provision for submitting the work of a convention to the people, though Section 8 of the Schedule directed that the original constitution be so submitted.

A new constitution or constitutional amendments proposed by a convention should be adopted by a majority of those voting on the question, as was the present Minnesota constitution.

ARTICLE XV

MISCELLANEOUS SUBJECTS

Section 1. **Seat of Government.** The seat of government (OF THE STATE) shall be at the city of St. Paul, but the Legislature(, AT THEIR FIRST OR ANY FUTURE SESSION,) may provide by law for a change of the seat of government by a vote of the people(, OR MAY LOCATE THE SAME UPON THE LAND GRANTED BY CONGRESS FOR A SEAT OF GOVERNMENT TO THE STATE; AND IN THE EVENT OF THE SEAT OF GOVERNMENT BEING REMOVED FROM THE CITY OF ST. PAUL TO ANY OTHER PLACE IN THE STATE, THE CAPITOL BUILDING AND GROUNDS SHALL BE DEDICATED TO AN INSTITUTION FOR THE PROMOTION OF SCIENCE, LITERATURE AND THE ARTS, TO BE ORGANIZED BY THE LEGISLATURE OF THE STATE, AND OF WHICH INSTITUTION THE MINNESOTA HISTORICAL SOCIETY SHALL ALWAYS BE A DEPARTMENT).

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

Sec. 2. (RESIDENCE ON INDIAN LANDS.)

Comment: This section is obsolete and the commission recommends its deletion.

Sec. 3. (UNIFORM OATH AT ELECTIONS.)

Comment: This section serves no useful purpose in that such oath is properly a matter for statutory action. The commission, therefore, recommends its deletion.

Sec. 4. **State Seal.** There shall be a *State* seal (OF THE STATE), *called the Great Seal of the State of Minnesota*, which shall be kept by the (SECRETARY OF STATE) *officer designated by law*, and (BE) used by him officially(; AND SHALL BE CALLED THE GREAT SEAL OF THE STATE OF MINNESOTA, AND SHALL BE ATTACHED TO). *The Legislature shall provide an appropriate device and motto therefor.* All (THE) official (ACTS) *signatures* of the Governor (HIS SIGNATURE) *other than those affixed to acts and (RESOLVES) resolutions* of the legislature (EXCEPTED) requiring authen-

tion, *shall be authenticated by this seal.* (THE LEGISLATURE SHALL PROVIDE FOR AN APPROPRIATE DEVICE AND MOTTO FOR SAID SEAL.)

Comment: The principal change recommended in this section is based upon the proposed elimination from the Constitution of the office of secretary of state. Other changes are suggested by the Revisor of Statutes.

Sec. 5. (STATE PRISON LOCATION.)

Comment: This section is obsolete. The territorial prison, later the state prison, was moved many years ago from Stillwater to Bayport. The commission recommends its deletion.

Sec. 6. Oath of Office. *Before entering upon his duties each member and officer of the Legislature and each executive and judicial officer of the State shall take an oath or affirmation that he will support the Constitution of the United States, and the Constitution of the State of Minnesota, and faithfully discharge the duties of his office to the best of his judgment and ability.*

Comment: This new section is intended to replace Section 29 of Article IV and Section 8 of Article V. A uniform oath for executive and judicial officers as well as members of the Legislature is provided by this change.

ARTICLE XVI

HIGHWAYS

Note: In order to consolidate in one article all constitutional provisions relating to highways, and to provide a more logical arrangement of those provisions, the commission has renumbered the sections in Article XVI and has transferred to this article that portion of present Section 5 of Article IX relating to an excise tax on motor fuels.

Section 1. Motor Vehicle Tax.

Note: The commission proposes to delete present Section 3 of Article XVI in its entirety and to substitute therefore the following revised section:

The Legislature may tax motor vehicles using the public highways, including the motor vehicles of taxpayers paying taxes under a gross earnings system of taxation although earnings from these vehicles may be included in the earnings upon which such gross earnings taxes are computed, on a more onerous basis than other personal property. Any such tax shall be in lieu of all other taxes thereon, except wheelage taxes imposed by local governments. The Legislature may exempt from taxation any motor vehicle owned by a nonresident of the state temporarily using the public highways.

The net proceeds of any such tax shall be placed in the highway fund as provided by law and shall be used to pay the principal and interest of any bonds issued under authority of this article. Any moneys remaining after such payment shall be appropriated by the Legislature solely in aid of the construction, maintenance, and administration of the trunk highway system.

Comment: This section is an attempt to draw up a more concise section on motor vehicle taxes and their use without making fundamental changes in the present Section 3.

Sec. 2. Excise Tax on Motor Fuels. *The state may levy an excise tax upon any product, or upon the business of dealing in, selling, or producing, any product, used or useful in producing or generating power for propelling motor or other vehicles used on the public highways. The net proceeds of any such tax shall be placed in the highway fund as provided by law. (Two-thirds) (one-half) of these net proceeds shall be appropriated solely in aid of the construction, maintenance, and administration of the state trunk highway system, and (one-third) (one-half) thereof shall be appropriated to the counties for roads as provided by law. The legislature may exempt from such tax motor vehicles owned or operated by the state or any of its political subdivisions. All highway construction involving expenditures of state collected taxes shall be approved in a manner provided by law.*

Comment: As the question of a change in the method of dividing the income from the gasoline tax between the counties and the state will be presented to the people at the November election this year, and it has been made the subject of special study by the legislative interim committee on highways, this commission is making no recommendation for change.

A single highway fund is proposed to replace the present trunk highway fund, trunk highway sinking fund, and state road and bridge fund.

The commission believes that in order to provide for a unified system of roads in the state, the state should have supervision of all highway construction for which the state furnishes money.

Sec. 3. Trunk Highway System. *The highways extending along the routes described in the constitutional amendment adopted November 2, 1920, as routes numbered 1 through 70 are continued as a part of the state trunk highway system and shall be located, constructed, reconstructed and maintained as public highways by the State. These highways shall extend along such routes, the more specific and definite location of which shall be fixed and determined in such manner as is prescribed by law, but in fixing and determining such specific and definite routes*

there shall not be any deviation from the various villages and cities named therein through which such routes pass.

Comment: The retention of routes 1 through 70 as constitutionally established state trunk highways by reference rather than by detailed enumeration as at present will reduce the length of the constitution by approximately 25 per cent.

Sec. 4. Additional Trunk Highways. *Each highway extending along an additional route established by the Legislature as a part of the trunk highway system other than the routes specified in section 3 is a part of the trunk highway system and shall continue to be such until otherwise provided by law and shall be located, constructed, improved, and maintained as a public highway of the State.*

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

Sec. 5. Highway Commission. *The Legislature shall establish a Commission whose sole duty shall be to study the trunk highway system and recommend to the Legislature changes therein.*

Comment: An impartial Commission whose duty it would be to study and recommend to the Legislature changes in the trunk highway system will provide for a more scientific and objective selection or elimination of roads from the trunk highway system.

Sec. 6. Changes in Trunk Highway System. *The Legislature may alter, change the location of, add to or delete from the trunk highway system any route other than those specified in Section 3. A bill providing for an addition to the trunk highway system shall be limited to one unbroken extension. Whenever any highway is altered, is relocated, or is deleted from the trunk highway system by the Legislature, any easement or portion thereof acquired for trunk highway purposes no longer necessary therefor, may be abandoned and the right of way disposed of as prescribed by law.*

Comment: The Legislature under this proposed section would have authority to alter, change the location of, add to or delete from the trunk highway system any route not fixed by the Constitution. This would eliminate the inflexibility of the present system whereby a highway once added to the trunk highway system by the Legislature cannot be deleted by the Legislature.

Sec. 7. Highway Bonds. *The issuance and sale of bonds of the state in amounts as may be necessary to carry out the pro-*

visions of this article shall be provided by law in accordance with Article IX, Section 5.

Comment: The present limitation in the Constitution as to the amount of bonds to finance highway construction that may be sold in any one year or in total amount should be eliminated, but the incurring of indebtedness for highway purposes should be subject to the limitations contained in the proposed new section 5 of Article IX.

ARTICLE XVII

FOREST FIRE PREVENTION

Section 1. Forest Fires. (THE STATE AND (OR) ANY OF ITS POLITICAL SUBDIVISIONS,) *If (AND WHEN-EVER) so authorized by the Legislature, the State or any political subdivision thereof* may contract debts and pledge the public credit for and engage in any work reasonably tending to prevent or abate forest fires(, INCLUDING). *This may include the compulsory clearing and improvement of public or privately-owned wild lands (WHETHER BELONGING TO THE PUBLIC OR PRIVATELY OWNED) and the assessment against such lands of the value of (ALL) the benefits so conferred and the payment of damages so sustained in excess of such benefits.*

Comment: The commission recommends no amendment. Changes in style or phraseology suggested by Revisor of Statutes.

Sec. 2. (REPEAL OF INCONSISTENT PROVISIONS.)

Comment: The commission believes this section serves no useful purpose and should be eliminated.

ARTICLE XVIII

FORESTATION

Section 1. Forestry Taxation.

Note: The commission recommends the deletion of the present section and the substitution of the following amended section:

The Legislature may provide for a limited annual tax on lands used or intended for forest purposes and a yield tax on timber and other forest products grown thereon. This section does not affect the taxation of mineral deposits.

Comment: The commission recommends no substantial change in the severance tax on timber. The present section has been reworded and shortened.

Sec. 2. (REPEAL OF INCONSISTENT PROVISIONS.)

Comment: The commission believes this section serves no useful purpose and should be eliminated.

ARTICLE XIX

AERONAUTICS

Section 1. Airport Building and Assistance. The State may construct, improve, maintain, and operate *airports and other air navigation facilities* and may assist counties, cities, towns, villages, boroughs, and public corporations in constructing, improving, maintaining, and operating airports and other air navigation facilities.

Comment: Due to the relatively recent adoption of this Article (1944) and the limited amount of experience in its operation, the commission recommends no amendment other than the deletion of Section 5.

Changes in style or phraseology in this and subsequent sections are suggested by the Revisor of Statutes.

Sec. 2. Credit of State Used. For (THE PURPOSE OF CARRYING ON OR ASSISTING IN CARRYING ON SUCH WORK IT) *these public purposes the state* may expend monies, (INCLUDING SUCH MONIES AS THE LEGISLATURE MAY SEE FIT TO APPROPRIATE, MAY) incur debts, and (MAY) issue and negotiate bonds (TO PROVIDE MONEY THEREFOR). (THE PROVISIONS OF) *Article 9, Section 5, (OF ARTICLE 9 OF THE CONSTITUTION SHALL)* *does not* apply (TO THE PROVISIONS OF) *to this section(, AND THE PURPOSES FOR WHICH THE CREDIT OF THE STATE MAY BE GIVEN OR LOANED AS HEREIN PROVIDED ARE DECLARED TO BE PUBLIC PURPOSES.)*

Sec. 3. State Excise Tax. The State may levy (A STATE) *an* excise tax upon any (FLUID OR OTHER MEANS OR INSTRUMENTALITIES) *product,* or the business of dealing in, selling, or producing any (OR ALL THEREOF) *such product,* used *or useful* in producing or generating power for propelling aircraft (OF ANY KIND NOW KNOWN OR HEREAFTER INVENTED) or for propelling or operating (MOTOR OR OTHER) vehicles(,) or other equipment used or useful for airport purposes and not used on the public highways (OF THIS STATE).

Sec. 4. Taxation of Aircraft. The Legislature (IS HEREBY AUTHORIZED TO) *may* provide(,) by law(,) for the taxation of aircraft (USING THE AIR SPACE OVERLYING THE STATE OF MINNESOTA AND THE AIRPORTS THEREOF, INCLUDING ANY CONTRIVANCE, NOW KNOWN OR HEREAFTER INVENTED, USED OR DESIGNED FOR NAVIGATION OF OR FLIGHT IN THE AIR,) on a more onerous basis than other personal property(; PROVIDED,

HOWEVER, THAT). Any such tax (ON AIRCRAFT) shall be in lieu of all other taxation thereon(, AND EXCEPT THAT). The Legislature may impose such tax upon aircraft of (COMPANIES) *taxpayers* paying taxes under any gross earnings system of taxation(, AND UPON THE RIGHT TO USE SUCH AIRCRAFT IN THE AIR SPACE OVERLYING THE STATE OF MINNESOTA AND UPON THE AIRPORTS THEREOF, NOTWITHSTANDING THE FACT THAT) *although* earnings from such aircraft may be included in the earnings (OF SUCH COMPANIES) upon which such gross earnings taxes are computed. (ANY SUCH LAW MAY, IN THE DISCRETION OF) The Legislature(, PROVIDE FOR THE EXEMPTION) *may exempt* from taxation (OF) any aircraft owned by a nonresident of the State (AND TRANSIENTLY OR) temporarily using the air space (OVERLYING) *over* the State (OF MINNESOTA) or the airports thereof.

Sec. 5. (REPEAL OF INCONSISTENT PROVISIONS.)

Comment: The commission believes this section serves no useful purpose and should be eliminated.

SCHEDULE

Note: The sections of the present schedule were intended to provide for the transition of Minnesota from territorial status to statehood, to provide for a popular vote upon the proposed constitution of 1857, and to place it in operation when adopted. Consequently they are now largely of historical interest and significance.

The Constitutional Commission has not undertaken to prepare a schedule or schedules to accompany the amendments it is proposing except for Article VI on the Judiciary. The latter will serve to suggest other schedule provisions which will need to be made if the commission's proposed amendments are adopted.

A REVISED CONSTITUTION FOR THE STATE OF MINNESOTA

Explanatory Note: The Constitutional Commission presents in the following portion of its report the Constitution of the State of Minnesota as it would appear if all of the amendments proposed by the Commission, and the changes in style and phraseology suggested by the Revisor of Statutes, were adopted.

In order to provide a more logical arrangement of the contents of the Constitution, the following transfers of articles and sections have been made:

Section 13 of Article IX, as amended, becomes Section 22 of Article IV.

Articles XVII and XVIII become sections 7 and 8 of Article IX, since they relate to matters of indebtedness and taxation.

The present Article X is omitted entirely.

Articles XVI and XIX are renumbered X and XI, respectively, in order to follow Article IX to which they are related.

Articles XI, XII and XIII are renumbered to accommodate the above transfers.

Article XIV becomes Article XVI, since it is appropriate that the article on amendments be the final article of the Constitution.

The sections in the several articles have had to be renumbered because the commission has proposed the deletion of many obsolete sections, has combined others, and has recommended some new sections. There are gaps also in the present numbering of sections in some articles.

It may be of interest to observe that this revised constitution, as prepared by the commission, contains 9,729 words exclusive of article and section titles. The present constitution contains 19,493 words.

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

Section 1. Object of Government. Government is instituted for the security, benefit, and protection of the people, in whom all political power is inherent, with the right in the people to alter, modify, or reform it whenever required by the public good.

Sec. 2. Rights and Privileges. No member of this state may be disfranchised or deprived of any right or privilege 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 otherwise than for the punishment of crime, whereof the party shall have been duly convicted. The legislature shall not abridge the right of the people peaceably to assemble and to petition the government for redress of grievances.

Sec. 3. Freedom of Speech. 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 these rights.

Sec. 4. Right to Trial by Jury. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases in the manner prescribed by law; and the Legislature may provide that the agreement of five-sixths of any jury in any civil action or proceeding, after not less than six hours' deliberation, shall be a sufficient verdict therein.

Sec. 5. Excessive Bail; Fines; Cruel Punishments. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel or unusual punishments shall not be inflicted.

Sec. 6. Rights of Accused in Criminal Prosecutions. In any criminal prosecution the accused shall have the right to a speedy and public trial by an impartial jury of the county or district wherein the crime is committed, the county or district having been previously ascertained by law, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense.

Sec. 7. Prosecutions; Second Jeopardy; Self-Incrimination; Bail; Habeas Corpus. No person shall be held to answer for a criminal offense without due process of law. No person shall be

put twice in jeopardy of punishment for the same offense. No person shall be compelled to be a witness against himself in any criminal case. No person shall be deprived of life, liberty, or property without due process of law. Any person before conviction shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great. The privilege of the writ of habeas corpus shall not be suspended unless required by the public safety in case of rebellion or invasion.

Sec. 8. Remedy for Wrongs. Every person is entitled to a certain remedy in the laws for any injury or wrong he may receive in his person, property or character. He ought to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to law.

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

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

Sec. 11. Attainder; Ex Post Facto; Contracts. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed. No conviction shall work corruption of blood or forfeiture of estate.

Sec. 12. Imprisonment for Debt; Property Exemption. No person shall be imprisoned for debt in this state, but the Legislature may provide for imprisonment or holding to bail any person charged with fraud in contracting the debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of any debt or liability. This amount shall be determined by law. All property so exempted shall be liable to seizure and sale for any debt incurred for work done or materials furnished in the construction, repair, or improvement of the property, and this liability to seizure and sale shall extend to all real

property for any debt incurred to any laborer or servant for labor or service performed.

Sec. 13. Private Property for Public Use. Private property shall not be taken, destroyed, or damaged for public use without just compensation therefor first paid or secured.

Sec. 14. Military Subordinate. The military shall be subordinate to the civil power. No standing army shall be kept in this state in time of peace.

Sec. 15. Freedom of Worship; Liberty of Conscience; State Religion; Public Funds. The enumeration of rights in this Constitution does not deny or impair other rights 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. No control of or interference with the rights of conscience shall ever be permitted. No preference shall ever be given by law to any religious establishment or mode of worship. The liberty of conscience hereby secured shall not excuse acts of licentiousness, nor justify practices inconsistent with the peace of safety of the State. No money shall ever be drawn from the treasury of the State for the benefit of any religious society or any religious or theological seminary.

Sec. 16. Religious Tests Prohibited. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State. No person shall ever be rendered incompetent to give evidence in any court in consequence of his opinion upon the subject of religion.

Sec. 17. Sale of Farm Products. Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.

ARTICLE II

BOUNDARIES

Section 1. Geographical Boundaries. The State shall be the State of Minnesota and shall consist of and have jurisdiction over the territory embraced within the following boundaries: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the

United States and the Dominion of Canada crosses the same; thence up the main channel of the Red River of the North to the main channel of the Bois des Sioux River; thence up the main channel of the Bois des Sioux River to Lake Traverse, thence up the center of Lake Traverse to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence up the center of Big Stone Lake to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of the State of Iowa to the main channel of the Mississippi River; thence up the main channel of the Mississippi River and following the boundary line of the State of Wisconsin until it intersects the St. Louis River; thence down the St. Louis River to and through Lake Superior on the boundary line of Wisconsin and Michigan until it intersects the dividing line between the United States and the Dominion of Canada; thence up Pigeon River and following this dividing line to the place of beginning.

Sec. 2. Concurrent Jurisdiction. The State of Minnesota shall have concurrent jurisdiction on all rivers and waters bordering on the State of Minnesota forming a common boundary for the State of Minnesota and any other state. These rivers and waters and navigable waters leading into them shall be common highways and shall be forever free to the inhabitants of the State of Minnesota and to citizens of the United States without payment of any tax, duty, impost, or toll therefor.

Sec. 3. Acceptance of Enabling Act. The propositions contained in the act of Congress entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on equal footing with the original states" are hereby accepted, ratified, and confirmed and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States without the consent of the Congress of the United States, and in no case shall non-resident proprietors be taxed higher than residents.

ARTICLE III

POWERS OF GOVERNMENT

Section 1. Division of Powers. The powers of government are hereby divided into three distinct departments—legislative, executive, and judicial. No person belonging to or constituting

one department shall exercise any power properly belonging to any other department, except as expressly provided in this Constitution.

ARTICLE IV

LEGISLATIVE DEPARTMENT

Section 1. **The Legislature.** The Legislature 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. Their terms shall begin on the first Monday in January next following their election.

The governor shall issue writs of election to fill vacancies in the Legislature.

The Legislature shall be a continuous body during the term for which the House of Representatives is elected. It shall meet at the seat of government at regular sessions on the first Tuesday after the first Monday of each odd-numbered year and at other times as prescribed by law. No regular session shall exceed 90 legislative days unless, by concurrent resolution adopted within the first 75 legislative days, the session be extended to a definite time at or before which the legislature shall adjourn. No bill shall be introduced at a regular session in either branch after the seventieth legislative day unless consent is given by concurrent resolution upon an important matter of general interest.

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

Sec. 2. **Members Apportioned.** The number of members of the Senate and House of Representatives shall be as provided by law, but the number of members in the Senate shall never exceed one for every 40,000 inhabitants and the number of members in the House of Representatives shall never exceed one for every 20,000 inhabitants. The representation in both houses shall be apportioned as nearly equal as practicable throughout the different sections of the state, in proportion to the population thereof, but no county shall be entitled to more than one-eighth of all the senators. 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.

At its first regular session after the adoption of this Constitution the Legislature shall prescribe the bounds of congressional, senatorial, and representative districts which shall consist of convenient contiguous territory. This shall also be done by the Legislature at its first regular session convening after the population of the State as determined by each decennial census of the United States is reported to the President. The Senate districts shall be numbered consecutively. No Representative district shall be divided in the formation of a Senate district. Each reapportionment shall become effective at the time the terms of the then existing members of the Senate expire.

If reapportionment is not completed by the Legislature within the time provided herein, the state committee of each of the two political parties casting the highest and next highest vote for governor in the last preceding election within 30 days after adjournment of such session of the Legislature, shall submit to the Governor the names of ten qualified voters. Within 60 days after such adjournment the Governor shall appoint a Commission of ten members, five members being appointed from each list. This commission shall reapportion the Senators and Representatives as provided in this section. If any party committee fails to so submit such list, the Governor shall appoint the five members of the commission from that party. Commission members shall receive actual expenses and the compensation provided by law. Within 90 days after appointment the commission shall reapportion the Senators and Representatives for the Senate and House of Representatives and shall file with the Governor its statement showing the boundaries and numbers of the districts and the number of members to be elected therein. Such statement shall not be valid unless approved by a majority of the Commission. Such reapportionment shall be effective at the next election at which senators are to be elected and thereafter until the Legislature reapportions and Senators and Representatives shall be elected in accordance therewith. If such statement is not so filed the Commission shall stand discharged. If reapportionment is not thereafter made by the Legislature prior to the time provided by law for filing at the next election at which Senators are to be elected, five Senators shall be elected at large from each Congressional district and Representatives shall be elected on the basis of one from each county until such time as reapportionment is thereafter completed as provided in this section.

The validity of any reapportionment hereafter made is a judicial question of which the Supreme Court shall have original jurisdiction upon complaint filed by any qualified voter within 30

days after a legislative reapportionment or within 30 days after the filing of a Commission statement. If the Supreme Court determines that a reapportionment is invalid and if the Legislature fails to reapportion, according to the plan of this section, within 90 days after such determination, the Governor shall appoint a Commission to make reapportionment in the manner provided in this section.

Sec. 3. Qualifications; Eligibility; Contests. 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 and eligibility of its members. The Legislature shall prescribe by law the manner in which evidence shall be taken in case of contested seats in either house.

Sec. 4. Rules; Quorum. Each house may determine the rules of its proceedings, sit upon its own adjournment, and punish its members for disorderly behavior. Each house may expel a member, with the concurrence of two-thirds of its members; but no member shall be expelled more than once for the same offense. No resolution or rule relating to the conduct of the business or adjournment of the Legislature shall require the approval of the Governor. A majority of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as it may provide.

Sec. 5. Officers; Journals. The House of Representatives shall elect one of its members its presiding officer and the Senate and House of Representatives shall elect such other officers as they may provide. They shall keep journals of their proceedings and from time to time publish them.

Sec. 6. Adjournments. During any session of the Legislature neither house shall adjourn for more than three days (Sundays excepted) nor to any place other than that in which the two houses are assembled without the consent of the other house.

Sec. 7. Compensation. The compensation of Senators and Representatives shall be prescribed by law. No increase of compensation shall take effect during the term for which members of the then existing House of Representatives are elected.

Sec. 8. Privileges. In all cases, except treason, felony, and breach of peace, the members of each house shall be privileged from arrest during the session of their respective houses

and in going to or returning therefrom. For any speech or debate in either house they shall not be questioned in any other place.

Sec. 9. Holding Other Office. During his continuance in office no Senator or Representative shall hold any office under the authority of the United States or the State of Minnesota, except that of notary public. During the term for which elected no Senator or Representative shall be appointed to any office under the State created or the emoluments of which are increased during the session of the Legislature of which he was a member.

Sec. 10. Enactment of Bills. No law shall be enacted except by bill. The enacting clause 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 upon its journal, and unless dispensed with by unanimous consent, the call of the roll shall be entered on the journal except as otherwise provided in this section.

Every bill which passes the Senate and House of Representatives, in conformity to the rules of each house and the joint rules of both houses, before it becomes a law, shall be presented to the Governor of the State. If he approves the bill, he shall sign it and deposit it in the place provided by law for preservation and notify the house where it originated of these facts. If he does not approve the bill, he shall return it with his objections, to the house in which it originated. These objections shall be entered in full on its journal, and the house shall reconsider the bill. After reconsideration, if two-thirds of that house agree to pass the bill, it and the governor's objections shall be sent to the other house, by which it shall be reconsidered. If the bill be approved by two-thirds of that house, it shall become a law. In all such cases the votes of both houses shall be determined by call of the roll which shall be entered on the journal of each house respectively.

If any bill is not returned by the Governor within six days (Sundays excepted) after being presented to him, it shall be a law unless the Legislature by adjournment within that time prevents its return, in which case it shall not be a law. The Governor may approve, sign, and file in the place provided by law within 12 days (Sundays excepted) after the adjournment of the Legislature any bill passed during the last four days of the session and it shall become a law.

If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such

items, while approving of the other portion of the bill. In such case at the time of signing the bill, the Governor shall append to it a statement of each item to which he objects, and the appropriation so objected to shall not take effect. If the Legislature be in session, the Governor shall transmit to the house in which the bill originated a copy of such statement, and each item objected to shall be separately reconsidered. On reconsideration if any item be approved by two-thirds of the members elected to each house, such item shall be a part of the law.

All provisions of this section in relation to bills not approved by the Governor apply in those cases in which he withholds his approval from any item contained in a bill appropriating money.

Sec. 11. Power of Impeachment. The House of Representatives has the sole power of impeachment, through a concurrence of a majority of the members elected to seats therein. All impeachments shall be tried by the Senate. When sitting for that purpose the 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 members present.

Sec. 12. Dissents and Protests. Two or more members of either house may dissent and protest against any act or resolution which they think is injurious to the public or to any individual, and have the reason for their dissent entered on the journal.

Sec. 13. Disorderly Conduct. During its session, each house may punish any person not a member thereof guilty of any disorderly or contemptuous behavior in its presence by imprisonment for not to exceed 24 hours.

Sec. 14. Open Sessions. Each house shall be open to the public during the sessions thereof, except in such cases as in its opinion may require secrecy.

Sec. 15. Reading and Passage of Bills. The number and title of every bill shall be read when introduced or when received after passage by the other house and such number and title be published in the journal. No bill shall be passed earlier than the third day after its introduction or reception from the other house unless two-thirds of the house where the bill is pending shall so order.

Sec. 16. Enrollment and Presentment of Bills. Every bill which passes both houses shall be carefully enrolled and shall be signed by the presiding officer of each house. Each house shall

by rule provide the manner of certification for presentation to the Governor any such bill which its presiding officer refuses to sign.

Sec. 17. Subject of Laws. No law shall embrace more than one subject. The subject shall be expressed in the title.

Sec. 18. Elections. In all elections to be made by the legislature, there shall be a roll call which shall be entered on the journal.

Sec. 19. Lotteries. The legislature shall never authorize any lottery or the sale of lottery tickets.

Sec. 20. Form of Taxation of Railroads. Any gross earnings tax imposed on railroads shall be in lieu of all other taxes and assessments upon their operating property such as the real estate, roads, rolling stock, and other personal property, except special assessments for local improvements.

Sec. 21. Special Legislation. No special law shall be enacted when a general law can be made applicable, except as provided in Article XII, and the question whether a general law could be applicable in any case shall be judicially determined without regard to any legislative assertion on that subject.

The legislature may repeal any existing special laws. The legislature shall pass no private or special laws:

1. Remitting fines, penalties, or forfeitures
2. Granting divorces
3. Changing the names of persons
4. Authorizing the adoption or legitimation of children
5. Changing the laws of descent or intestate succession
6. Conferring rights upon minors
7. Declaring any named person of age
8. Giving effect to informal or invalid wills or deeds
9. Affecting the estates of minors or persons under disability
10. Exempting property from taxation
11. Regulating the rate of interest on money
12. Creating private corporations or amending, renewing, extending, or explaining the charters thereof
13. Granting to any private corporation, private association, or individual any special or exclusive privilege, immunity, or franchise.

The inhibitions of special laws in this section shall not be construed to prevent the passage of general laws on any of the subjects enumerated.

Sec. 22. **Banking Laws.** The Legislature may pass general banking laws.

ARTICLE V

EXECUTIVE DEPARTMENT

Section 1. **Personnel.** The executive department shall consist of a governor, a lieutenant governor, and an attorney general, who shall be chosen by the electors of the State, and the subordinate executive officers provided by law.

Sec. 2. **State Canvassing Board.** The returns of every election for the officers named in Section 1 shall be made to an officer designated by law who shall call to his assistance two or more of the justices of the Supreme Court, and two disinterested judges of the district court, who shall constitute a board of canvassers, who shall open and canvass these returns and within three days thereafter declare the result.

Sec. 3. **Term of Office.** The term of office for the governor, lieutenant governor, and attorney general is four years and until their successors are chosen and qualified. Each shall have attained the age of 25 years and shall have been a resident of the State for one year next preceding his election. Each shall be a citizen of the United States. The duties and salaries of executive officers shall be prescribed by law.

Sec. 4. **Powers and Duties of Governor.** The Governor shall communicate by message to each session of the Legislature information regarding conditions within the State. Within three weeks after the Legislature convenes in a regular session he shall submit to it a financial report including a budget recommending expenditures and an estimate of available revenues of the State for the years prescribed by statute, together with his recommendations for providing revenue therefor. He is commander-in-chief of the military and naval forces and may call out such forces to execute the laws, suppress insurrection, and repel invasion. He may require written or verbal opinions of the principal officer in each executive department upon any subject relating to the duties of his department. A board composed of the governor, attorney general, and one other member to be appointed by the governor, with the advice and consent of the Senate, and who shall serve for a term concurrent with that of

the governor, shall have power to grant reprieves and pardons after convictions for offenses against the state except in cases of impeachment. The power of pardon, which shall not include the power to parole, shall be defined and regulated by law. By and with the advice and consent of the Senate, he may appoint such officers as are provided by law. He may appoint notaries public and commissioners to take the acknowledgment of written instruments to be executed in the State. He shall have a negative upon all bills passed by the Legislature, under the rules and limitations prescribed in this Constitution. He may on extraordinary occasions convene the Legislature, and on such occasions he may limit the matters to be considered at any such session to those specified in the call. He shall take care that the laws be faithfully executed and fill any vacancy in the office of Attorney General and any vacancy in any other elective state executive office as may be provided by law, until the next election at which a successor may be lawfully chosen and until such successor is qualified.

Sec. 5. Duties of Lieutenant Governor. The Lieutenant Governor shall be President of the Senate. His compensation shall not be less than double the compensation of a state senator. Before the close of each session the Senate shall elect a President Pro Tempore, who shall be its presiding officer whenever a vacancy occurs in the office of Lieutenant Governor.

Sec 6. Succession to the Governorship. If the governor-elect die before taking office the lieutenant governor-elect shall take the term of the governor-elect. In case of the failure of the Governor to qualify, or of his impeachment, or of his removal from office, death, resignation, or inability to discharge the powers and duties of his office, the powers and duties of his office shall devolve upon the Lieutenant Governor who shall act as Governor for the remainder of the term or until the disability is removed.

In case a vacancy occurs thereafter in the office of Governor from any of the causes aforesaid and the Lieutenant Governor is unable to serve, the President Pro Tempore of the Senate and the Speaker of the House of Representatives in succession shall act as Governor for the remainder of the term or until the disability is removed. In the event all of the foregoing are either deceased, unavailable, or incapacitated the oldest member in chronological age of the Senate shall call the Senate together to elect a President Pro Tempore.

Sec. 7. Civil Service. Appointments and promotions in the civil service of the State, and of such political subdivisions as

may be provided by law shall be made according to merit and fitness to be ascertained according to such reasonable standards and methods as the Legislature shall prescribe.

ARTICLE VI

JUDICIAL DEPARTMENT

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

Sec. 2. Supreme Court. The supreme court shall consist of one chief justice and six associate justices. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in said court.

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

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

Sec. 3. Judicial Districts; District Judges. The number and boundaries of judicial districts shall be established or changed in the manner provided by law, but the office of a district judge may not be vacated during his term. There shall be one or more judges in each district. A district judge shall, at the time of his selection, be a resident of the district for which he is selected, and shall reside therein during his continuance in office.

Sec. 4. Rules of Practice. Rules of practice, procedure, and evidence for all courts shall be made as provided by law.

Sec. 5. District Court Clerks. There shall be elected in each county one clerk of the district court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be six years.

Sec. 6. Jurisdiction of District Court. The district court shall have original jurisdiction in all civil and criminal cases, and shall have such appellate jurisdiction as may be prescribed by law.

Sec. 7. Jurisdiction of Probate Court. The probate court shall have unlimited original jurisdiction in law and equity for

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

Sec. 8. Qualifications; Compensation. Justices of the supreme court and judges of the district and probate courts shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all justices and judges, which shall not be diminished during their term of office, shall be prescribed by law.

Sec. 9. Terms of Office; Election; Vacancies; Re-election. The term of office of all supreme court justices and all judges shall be six years and until their successors are qualified, and they shall be elected by the electors of the state, district, county, municipality, or other territory wherein they are to serve. Where more than one position on the same court is to be filled at an election, and an incumbent is eligible to be a candidate to succeed himself, each candidate shall specify and the official ballot shall show, the position for which he is candidate.

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

Sec. 10. Terms Extended. When a justice or judge attains the age of 67 years during his term of office for which elected, such term is hereby extended until the date of his compulsory retirement under Section 12.

Sec. 11. Holding Other Office. Justices of the supreme court and judges of the district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the United States and shall not hold any other office under this state. The term of office of any

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

Sec. 12. Retirement. Supreme court justices, district and probate court judges shall be retired upon reaching the age of 70 years. When the administrative council certifies to the governor that it appears that any such justice or judge is so incapacitated as substantially to prevent him from performing his judicial duties, the governor shall appoint a commission of three persons to inquire into the circumstances. On their recommendation the governor may retire such justice or judge from office. Retirement allowances for a justice or judge retiring hereunder who has held judicial office continually for ten or more years immediately preceding his retirement shall be provided by law.

Sec. 13. Appointment. If the office of a justice or judge becomes vacant, except as otherwise provided by section 9, the governor shall appoint a qualified person to fill the vacancy to hold office until his successor is elected and qualified. This successor shall be elected at the first general election held more than one year after the occurrence of the vacancy and his term of office shall be six years and until his successor is qualified.

Sec. 14. Administrative Council. The legislature shall establish an administrative council which shall consist of the chief justice of the supreme court as chairman, and one representative from each of the courts in which the judicial power of the state is vested, one from the legal profession, and one from the public. Subject to law it shall formulate policies for the efficient administration of the court system of the state and cause such policies to be executed by its chairman. No action shall be taken hereunder which interferes with the exercise of the judicial functions of a judge in any case or proceeding, and whether there is such interference shall be a judicial question.

Sec. 15. Jurisdiction Over Minors. The legislature may confer jurisdiction over cases and proceedings relating to the care or welfare of minors upon any court inferior to the supreme court.

ARTICLE VII

ELECTIVE FRANCHISE

Section 1. Who May Vote. Every person of the age of 21 years or upwards who is a citizen of the United States and who has resided in this State six months next preceding any election shall be entitled to vote at such election in the election district

of which he at the time has been a resident for 30 days for all officers elective by the people.

Sec. 2. Loss of Franchise. No person convicted by any court of this state or of the United States of treason or any felony, unless restored to civil rights, and no person who is insane, shall vote at any election in this state. The Legislature may exclude from the privilege of voting or being elected to any public office any person convicted of bribery, perjury, or any other infamous crime.

Sec. 3. Residence; When Not Lost. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States, nor while engaged upon the waters of this State or of the United States, nor while a student in any institution of learning, nor while kept at any almshouse or other asylum or institution wholly or partly supported at public expense or by private charity, nor while confined in any public prison.

Sec. 4. Soldiers and Sailors; Restrictions. No soldier, seaman, or marine in the armed forces of the United States shall be deemed a resident of this State in consequence of being stationed within the State.

Sec. 5. Civil Process on Election Days. During the day on which any election is held, no person shall be arrested by virtue of any civil process.

Sec. 6. Elections. All elections shall be by ballot or balloting machines, except for such town officers as are directed by law to be otherwise chosen.

Sec. 7. Right to Hold Office. Every person who by the provisions of this article is entitled to vote at any election is eligible to any office which is elective by the people in the district wherein he resided for 30 days previous to such election, except as otherwise provided in this Constitution or the Constitution and laws of the United States.

Sec. 8. Official Year. The official year for the State of Minnesota commences on the first Monday in January in each year. All terms of office terminate at that time. The general election shall be held on the first Tuesday after the first Monday in November.

ARTICLE VIII

EDUCATION

Section 1. **Uniform System.** As a basis for a sound republican form of government, the Legislature shall make provisions for the maintenance and support of a uniform system of public education.

Sec. 2. **Prohibited Aid.** In no case shall any public moneys 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.

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

Sec. 4. **State Lands; Trust Reserved.** Swamp lands, lands within the state granted by the United States for the use or benefit of schools, for the University of Minnesota, for internal improvements, or for any other purpose, and other public lands shall be held, or shall be appraised and sold or exchanged, all as provided by law.

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

With the unanimous approval of a commission established by law, any public lands of the State, including lands held in trust for any purpose, may be exchanged for lands of the United States, tax forfeited lands, or privately owned lands in such manner as the Legislature may provide. Land so acquired is subject to any trust to which the land exchanged therefor was subject. All mineral and water power rights in state land so exchanged are reserved to the State.

Sec. 5. Trust Funds; Net Proceeds; Investment. As used in this section, "net proceeds" means income after deducting the reasonable costs to the state of administration, conservation, and development. The net proceeds arising from the use, sale, or other disposition of all lands, including swamp lands, granted to the State for the use or benefit of schools, for the University of Minnesota, or for internal improvements shall remain perpetual trust funds. The net proceeds arising from the use, sale, or other disposition of lands situated beneath waters owned by the State, and beneath navigable lakes and rivers shall remain perpetual trust funds. The principal of the net proceeds of these lands may be invested only in bonds of the United States, the State of Minnesota, and its political subdivisions and bonds of other states as may be provided by law.

The income arising from the investment of the principal of these funds after deducting the costs of administration, shall be appropriated as follows: from the school fund to the public schools; from the University fund to the University of Minnesota; from the swamp land fund, one-half to the public schools and one-half to the charitable and educational institutions of the State; and from the internal improvements fund as provided by law.

ARTICLE IX

TAXATION AND FINANCE

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

Sec. 2. Exemptions from Taxation. Public property used exclusively for any public purpose as defined by law is exempt from taxation. Private property not held or used for profit and used exclusively for any religious, educational, charitable, or burial purpose as defined by law is exempt from taxation. The Legislature may exempt personal property, either in whole or in part, or any classification thereof, from taxation.

Sec. 3. Occupation Tax. Every person, co-partnership, company, joint stock company, corporation, or association en-

gaged in the business of mining or producing ores in this State shall pay to the State of Minnesota an occupation tax on the valuation of all ores mined or produced. This tax is in addition to all other taxes provided by law and is due and payable on May first of the calendar year next following the mining or producing of such ore. The valuation of ore for the purpose of determining the amount of tax to be paid shall be ascertained as provided by law. Funds derived from such tax shall be apportioned: 50 per cent to the State General Revenue Fund, 40 per cent to the Permanent School Fund, and ten per cent to the Permanent University Fund. The Legislature shall make necessary provisions for carrying out the provisions of this section.

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

This section shall apply to the taxation of iron sulphides.

Sec. 4. State Debt. The credit of the State shall never be given or loaned in aid of any individual, association, or private corporation.

For the purpose of defraying extraordinary expenditures the State may by law incur indebtedness. Any obligation payable out of appropriations or levies to be made later than two years from the time of its incurrence is an indebtedness. Any law authorizing any such indebtedness shall specify the single object or work for which the indebtedness is to be incurred. No bill for any such purpose shall become a law unless it receives the affirmative vote of two-thirds of the members of each house of the Legislature. Any such law shall provide for the payment of such indebtedness within 20 years after the debt is contracted. The provisions for the payment and discharge of any such indebtedness shall not be repealed, postponed, or diminished until the principal and interest of such debt are fully paid.

The State shall never contract any indebtedness for any work of internal improvement, or be a party in carrying on any such work, except as authorized in this Constitution.

Sec. 5. Money Paid Out of Treasury. Money shall be paid out of the treasury only pursuant to an appropriation by law except the Legislature by joint concurrent resolution or joint rule may appropriate money for the conduct of its business.

Section 6. State Auditor. The Legislature shall select a state auditor. His term shall be six years and until his successor is selected and qualified. He may be removed for cause. He shall conduct a post audit of the accounts and transactions of each department, office and agency of the state. He shall report his findings to the Legislature, or to any committee thereof, and perform such other duties as are required by law.

Sec. 7. Forest Fires. If so authorized by the Legislature, the State or any political subdivision thereof may contract debts and pledge the public credit for and engage in any work reasonably tending to prevent or abate forest fires. This may include the compulsory clearing and improvement of public or privately-owned wild lands and the assessment against such lands of the value of the benefits so conferred and the payment of damages so sustained in excess of such benefits.

Sec. 8. Forestry Taxation. The Legislature may provide for a limited annual tax on lands used or intended for forest purposes and a yield tax on timber and other forest products grown thereon. This section does not affect the taxation of mineral deposits.

ARTICLE X

HIGHWAYS

Section 1. Motor Vehicle Tax. The Legislature may tax motor vehicles using the public highways, including the motor vehicles of taxpayers paying taxes under a gross earnings system of taxation although earnings from these vehicles may be included in the earnings upon which such gross earnings taxes are computed, on a more onerous basis than other personal property. Any such tax shall be in lieu of all other taxes thereon, except wheelage taxes imposed by local governments. The Legislature may exempt from taxation any motor vehicle owned by a nonresident of the state temporarily using the public highways.

The net proceeds of any such tax shall be placed in the highway fund as provided by law and shall be used to pay the principal and interest of any bonds issued under authority of this article. Any moneys remaining after such payment shall be appropriated by the Legislature solely in aid of the construction, maintenance, and administration of the trunk highway system.

Sec. 2. Excise Tax on Motor Fuels. The state may levy an excise tax upon any product, or upon the business of dealing in, selling, or producing, any product, used or useful in producing or generating power for propelling motor or other vehicles used on

the public highways. The net proceeds of any such tax shall be placed in the highway fund as provided by law. (Two-thirds) (one-half) of these net proceeds shall be appropriated solely in aid of the construction, maintenance, and administration of the state trunk highway system, and (one-third) (one-half) thereof shall be appropriated to the counties for roads as provided by law. The Legislature may exempt from such tax motor vehicles owned or operated by the state or any of its political subdivisions. All highway construction involving expenditures of state collected taxes shall be approved in a manner provided by law.

Sec. 3. Trunk Highway System. The highways extending along the routes described in the constitutional amendment adopted November 2, 1920, as routes numbered 1 through 70 are continued as a part of the state trunk highway system and shall be located, constructed, reconstructed and maintained as public highways by the State. These highways shall extend along such routes, the more specific and definite location of which shall be fixed and determined in such manner as is prescribed by law, but in fixing and determining such specific and definite routes there shall not be any deviation from the various villages and cities named therein through which such routes pass.

Sec. 4. Additional Trunk Highways. Each highway extending along an additional route established by the Legislature as a part of the trunk highway system other than the routes specified in section 3 is a part of the trunk highway system and shall continue to be such until otherwise provided by law and shall be located, constructed, improved, and maintained as a public highway of the State.

Sec. 5. Highway Commission. The Legislature shall establish a Commission whose sole duty shall be to study the trunk highway system and recommend to the Legislature changes therein.

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

Sec. 7. **Highway Bonds.** The issuance and sale of bonds of the state in amounts as may be necessary to carry out the provisions of this article shall be provided by law in accordance with Article IX, Section 4.

ARTICLE XI

AERONAUTICS

Section 1. **Airport Building and Assistance.** The State may construct, improve, maintain, and operate airports and other air navigation facilities and may assist counties, cities, towns, villages, boroughs, and public corporations in constructing, improving, maintaining, and operating airports and other air navigation facilities.

Sec. 2. **Credit of State Used.** For these public purposes the state may expend monies, incur debts, and issue and negotiate bonds. Article IX, Section 4, does not apply to this section.

Sec. 3. **State Excise Tax.** The State may levy an excise tax upon any product, or the business of dealing in, selling, or producing any such product, used or useful in producing or generating power for propelling aircraft or for propelling or operating vehicles or other equipment used or useful for airport purposes and not used on the public highways.

Sec. 4. **Taxation of Aircraft.** The Legislature may provide by law for the taxation of aircraft on a more onerous basis than other personal property. Any such tax shall be in lieu of all other taxation thereon. The Legislature may impose such tax upon aircraft of taxpayers paying taxes under any gross earnings system of taxation although earnings from such aircraft may be included in the earnings upon which such gross earnings taxes are computed. The Legislature may exempt from taxation any aircraft owned by a non-resident of the State temporarily using the air space over the State or the airports thereof.

ARTICLE XII

LOCAL GOVERNMENT

Section 1. **Definitions.** A local government is a county, city, village, town, school district, or other political subdivision for which provision has been made by law for self government and for the holding of elections.

A law that applies to less than all members of any class of any type of local government, or a law providing for a variation in any right, power, privilege, immunity, duty, obligation, or

form of organization between members of any class of any type of local government, is a special law.

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

Sec. 2. General Laws for Local Governments. The Legislature may provide by general law for the creation, organization, administration, consolidation, and division of local governments and their functions, for the change of boundaries thereof, and for the transfer of county seats. No county boundary shall be changed or county seat transferred until approved by a majority of the voters of each county affected voting thereon.

A general law hereafter enacted shall prevail over the provisions of a home rule charter only if such law so states.

Sec. 3. Classification. For the purpose of legislation the Legislature may classify any type of local government, but the maximum number of such classes shall be: counties, six; cities, four; villages, three; towns, three; school districts, six. At the time of the passage of any such law there shall be at least three local governments of any type in a class. The Legislature may provide by general law for the transition of local governments from one classification to another.

Sec. 4. Special Laws; Local Acceptance. The Legislature may enact special laws for any local government and may amend or extend any such law. Any such law may name the local government to which it applies. Before any such law or any amendment or extension thereof becomes effective it must be approved by a majority of the voters of the local government voting thereon. Any special law may be repealed without local approval.

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

Sec. 6. Charter Commissions. The Legislature shall provide by law for charter commissions. Such law may require that commission members shall be free-holders and may permit any member to hold any other elective or appointive office other than judicial. Such law shall specify the manner of presenting a home rule charter or an amendment thereof to the governing body and

of submitting it to the voters, and shall fix the majority vote required for adoption. Such law shall provide that amendments may be submitted by a charter commission on its own initiative, and shall be submitted upon petition of five per cent of the voters of the city or county as defined by law. The power to submit a home rule charter or amendment is a continuing one and is not exhausted by the original submission. A county or city may repeal its home rule charter and adopt a statutory form of local government upon the same majority vote as fixed by law for the adoption of a home rule charter.

Sec. 7. County-City Consolidation. The Legislature may provide by law for the consolidation of a county and city under a home rule charter. The county charter commission shall present such charter to the county governing board for submission to the voters, and it shall become effective when approved by a majority of the voters in the city voting thereon and a majority of the voters in the remainder of the county voting thereon.

Sec. 8. City-County. The Legislature may provide by law for the organization of any city of more than 50,000 inhabitants as a city-county under a home rule charter. Such law shall provide for the division of county property, debts and records between the city-county and the remainder of the county, and shall provide for the government of the remainder of the county either as a separate county or as a part of an adjacent county. A city-county charter shall be presented and submitted as a city home rule charter is required to be presented and submitted. Such a charter shall become effective when approved by a majority of the voters of the county voting thereon. A city-county shall have the powers and duties of a city and of a county.

Sec. 9. Local Taxation. Local governments shall have such powers of local taxation as may be prescribed by law.

ARTICLE XIII

THE MILITIA

Section 1. Organization. It shall be the duty of the Legislature to pass such laws for the organization, discipline and service of the militia of the State as may be deemed necessary.

ARTICLE XIV

IMPEACHMENTS; REMOVALS

Section 1. Impeachment. The Governor, the Lieutenant Governor, the Attorney General, the Justices of the Supreme Court, and the Judges of the District Court, may be impeached

for corrupt conduct in office or for crimes and misdemeanors; but a judgment of impeachment in such case 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. Any party so convicted shall be subject to indictment, trial, judgment, and punishment, according to law.

Sec. 2. Removal. The Legislature may provide for the removal of inferior officers from office for malfeasance or nonfeasance in the performance of their duties.

Sec. 3. Impeachment Terminates Official Duties. No officer shall exercise the duties of his office after impeachment and before acquittal.

Sec. 4. Trial of Governor; Lieutenant Governor Not Member of Court. On trial of an impeachment against the Governor, the Lieutenant Governor shall not act as a member of the court.

Sec. 5. Notice of Charges. Any person who is to be tried on impeachment shall be served with a copy of the charges thereof at least 20 days previous to the day set for trial.

ARTICLE XV

MISCELLANEOUS SUBJECTS

Section 1. **Seat of Government.** The seat of government shall be at the city of St. Paul, but the Legislature may provide by law for a change of the seat of government by a vote of the people.

Sec. 2. **State Seal.** There shall be a State seal, called the Great Seal of the State of Minnesota, which shall be kept by the officer designated by law, and used by him officially. The Legislature shall provide an appropriate device and motto therefor. All official signatures of the Governor other than those affixed to acts and resolutions of the legislature requiring authentication, shall be authenticated by this seal.

Sec. 3. **Oath of Office.** Before entering upon his duties each member and officer of the Legislature and each executive and judicial officer of the State shall take an oath or affirmation that he will support the Constitution of the United States, and the Constitution of the State of Minnesota, and faithfully discharge the duties of his office to the best of his judgment and ability.

ARTICLE XVI

AMENDMENTS

Section 1. **Proposals.** Whenever two-thirds of each house of the Legislature deems it necessary to alter or amend this Constitution they may propose by concurrent resolution alterations or amendments. These proposals shall be published with the laws passed at the same session and shall be submitted to the people for approval or rejection at a general or special election. No special election for the purpose of voting on a constitutional amendment shall be called at the same time or within 30 days of a general election. If it appears, in a manner to be provided by law, that a majority of the electors voting thereon voted for the proposed alterations or amendments, they shall be a part of this Constitution.

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

Sec. 2. Convention for Revision. The question of calling a convention to revise this Constitution shall be submitted to the electors at a general election to be held not later than the year 1960, and in each twentieth year thereafter and at any other time which may be provided by two-thirds of each house of the Legislature. If a majority of the electors voting upon the question decide in favor of calling such convention, at its next session the Legislature shall provide for calling the convention. The number of members of the convention shall be equal to the number of the members of the House of Representatives. The members of the convention shall be chosen as are Representatives. The convention shall meet within three months after the election at which its members were chosen.

Any proposed Constitution or proposed amendment to this Constitution adopted by a Constitutional Convention shall be submitted to the electors at an election to be held not less than 60 days nor more than six months after the adjournment of the convention. The convention shall state the proposition to be voted upon, provide the form of ballot therefor, and the manner of voting, and fix the date of the election. If the proposed Constitution or proposed amendment to this Constitution, be approved by a majority of the voters voting thereon, the proposals shall become effective immediately. The result of the election shall be proclaimed by the Governor.

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- No. 7. Judiciary
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- No. 16. The Judiciary: Selection of Judges
- No. 17. Bill of Rights and Suffrage and Elections
- No. 24. The Judiciary — Rule-Making Power in the Courts
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- No. 6. *Estimated Assessed Value of Personal Property and Taxes Payable thereon in Minnesota—1948*. April 2, 1948
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- Letter from Julius Schmah, State Treasurer, commenting on the obsolete sections of the constitution relating to taxation and finance. January 29, 1948
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- Letter from C. C. Ludwig, Executive Secretary of the League of Minnesota Municipalities, commenting on proposal on dedicated revenues. June 21, 1948
- Letter from G. W. Price, Manager, Good Roads Association, commenting on proposal on dedicated revenues. June 21, 1948
- Letter from Louis B. Brechet, Special Assistant Attorney General, Highway Department, commenting on proposal on dedicated revenues. June 23, 1948
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- Letter from Chester S. Wilson, Commissioner of Conservation, commenting on lands beneath public and navigable waters. June 30, 1948
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- a. *Minnesota Road Funds—Fiscal Year Ending June 30, 1946*, prepared by Good Roads Association, Minneapolis, Minnesota
- b. *Condition of state aid, county aid, and other county roads from County Reports, September, 1946*, prepared by Good Roads Association, Minneapolis, Minnesota.
- c. *A study of Minnesota County Road Finances, 1946*, Good Roads Association, Minneapolis, Minnesota

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FINANCIAL STATEMENT

July 1, 1947 to October 1, 1948

Appropriation	\$12,000.00	
L. A. C. Grant.....	5,000.00	\$17,000.00

Disbursements

Salaries	\$ 7,021.05	
Rents	46.00	
Communication	678.67	
Travel	3,937.25	
Freight85	
Printing and Duplicating.....	1,474.70	
Stationery and Office Supplies.....	136.50	
Scientific and Educational Supplies...	41.84	
Miscellaneous Materials and Supplies.	8.85	
Furniture	12.50	13,358.21

Balance pending expenditure.....	\$ 3,641.79
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