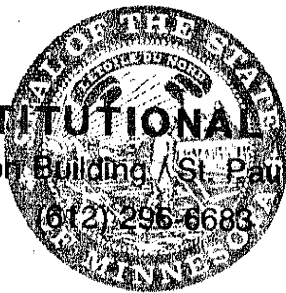


MINNESOTA CONSTITUTIONAL STUDY COMMISSION *Executive*

G-19E Administration Building, St. Paul, Minnesota 55155 *Branch Committee.*



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REPORT OF THE
EXECUTIVE BRANCH COMMITTEE
TO THE
CONSTITUTIONAL STUDY COMMISSION

ON
SEPTEMBER 7, 1972

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SENATOR CARL A. JENSEN
SENATOR KENNETH WOLFE
HON. KARL F. ROLVAAG

Chairman: Elmer L. Andersen; *Senators:* Robert J. Brown, Jack Davies, Carl A. Jensen, Robert J. Tennesen, Stanley N. Thorup, Kenneth Wolfe; *Representatives:* Aubrey W. Dirlam, Richard W. Fitzsimons, O. J. Heintz, L. J. Lee, Ernest A. Lindstrom, Joseph Prifrel; *Supreme Court Justice:* James C. Otis; *Citizen Members:* Carl A. Auerbach, Orville J. Evenson, Mrs. Betty Kane, Mrs. Diana Murphy, Karl F. Rolvaag, Duane C. Scribner, Mrs. Joyce Hughes Smith.

I. INTRODUCTION

A. BACKGROUND

The Executive Branch Committee was assigned the task of examining the provisions of the Minnesota Constitution relating to the Executive Branch of state government (Article V) and making recommendations on any possible revision. The committee was also assigned the duty of reviewing constitutional provisions dealing with impeachment of officers found in Article XIII.

The committee consisted of Senator Carl A. Jensen, Governor Karl Rolvaag and Senator Kenneth Wolfe. Senator Jensen served as committee chairman. Stan Ulrich of the University of Minnesota Law School provided research assistance to the Committee.

The committee was particularly fortunate in being able to have access to the recommendations of several past studies of the executive branch of state government in Minnesota. The studies included the Minnesota Efficiency in Government Commission of 1968. The committee has also found helpful the proposals of the Minnesota Constitutional Commission of 1948.

In addition to its private study, the committee conducted a public hearing on June 1 in St. Paul. At that time the committee was pleased to hear from several present and past holders of executive offices, as well as interested citizens. In addition, a good deal of written correspondence has been directed to the committee during the course of its study. A complete listing of all those persons testifying and submitting letters or written statements is attached to the body of this report.

B. GENERAL APPROACH TO THE STUDY

The committee has been concerned with the need to create constitutional language which will be adequate for the needs of modern Minnesota. The government of this state must be responsive to the needs of its people. Accordingly, the committee has attempted to design an executive branch of state government which would be both visible and responsive to Minnesotans in both present and future generations.

The constitutional structure of the executive branch of state government in Minnesota has remained basically the same since the original constitution was written in 1957. Although there have been other minor amendments, the only major change in the executive branch has been the extension of the terms of the executive officers from two to four years, by an amendment adopted in 1958, effective in 1962.

The present system of a divided executive authority which we have in Minnesota and which is common to nearly all of our states grew out of our early experience with the English colonial system. When the states were established after the Revolutionary War, there was a strong desire to have as weak an executive system in each of the states as possible in order to prevent the same arbitrary and capricious use of power which the colonists had experienced under the British regime. The general theory of government at that time was to provide that each executive function be performed by a person who was elected by all of the people of the state.

Whatever had been the merits of this system in the past, it seems to the committee that in our modern world we cannot operate state government with a divided executive system. The separate

election of the lieutenant governor, secretary of state, state auditor, state treasurer, and attorney general tends to weaken the governor's control over the executive department and yet the governor is held accountable by the people of the state for functions in the executive department over which he really has no control or authority.

C. PENDING CONSTITUTIONAL AMENDMENT

In making its recommendations, the committee has considered the possible impact of a proposed constitutional amendment which will be voted on by the people of Minnesota this November. That amendment would require that the governor and lieutenant governor be elected on a joint ballot, rather than separately as is presently the case. The amendment would also provide that the lieutenant governor would no longer preside over the Senate and allow his salary to be set by law. (The lieutenant governor's salary is presently double that of the members of the Legislature.) If the proposed amendment were to be adopted, the lieutenant governor would become a purely executive officer without legislative functions. His duties would presumably be set by statute or by executive order.

II. OFFICE OF LIEUTENANT GOVERNOR

A. ISSUE

Should the office of lieutenant governor be retained and given additional responsibilities or should the office be abolished and the constitutional and statutory duties of the office be otherwise provided for?

B. PRESENT CONSTITUTIONAL LANGUAGE

Article V, Sec.1 calls for the election of a lieutenant governor. He serves a four year term (Sec.3). His principal duties are to preside over the State Senate and to succeed to the office of governor, if that office should become vacant (Sec.6). If the proposed amendment on this year's ballot passes, the duty of the lieutenant governor to preside over the Senate will be eliminated. With passage of the amendment and the allowed increase in salary, the lieutenant governor would presumably be assigned other duties by law or by the governor with whom he would have run for election on a joint ballot.

C. BACKGROUND

The principal duty of the lieutenant governor is to succeed to the office of governor, should that office become vacant by death, resignation, or removal. Under the present Constitution he also has the duty of presiding over the Senate, analogous to that of the vice president of the United States.

Unlike the vice president, however, the Minnesota State Supreme Court has ruled that the lieutenant governor has no tie-breaking vote. (Palmer v. Perpich, 289 Minn.149 (1971)). Hence, his power as a presiding officer is limited to procedural rulings over a body of which he is not a member. It is no wonder, then, that until recent years when Minnesota has been fortunate in the quality of men attracted to this office, that the lieutenant governor was considered a part-time position, low in pay and short on substantive responsibilities.

The constitutions of 41 states, including Minnesota, call for the election of a lieutenant governor. One other state has a statute providing for the same officer. The eight other states make different provisions for succession to the office of governor and for a presiding officer for their state senate. Some, like Utah and Wyoming, provide for the secretary of state to succeed to the office of governor. Others, like Oregon, Maine and West Virginia, provide for succession by the presiding officer of the state senate.

D. COMMITTEE CONSIDERATION

The key question which the committee faced in considering this office was whether or not the lieutenant governor can be given sufficient duties and responsibilities which would make the office appealing enough to attract the quality of leadership required to succeed to the office of governor should that office become vacant.

The committee believes that implementation of the proposed amendment on this November's ballot could go a long way toward achieving that goal. Under the proposal, the lieutenant governor's salary, which is presently frozen at twice that of a state senator (\$9600 per year), may be set by the legislature. The lieutenant governor would then be in a position to be a full-time member of the executive branch of state government.

The proposal would also relieve the lieutenant governor of the time consuming responsibility of presiding over the State Senate and encourage the assignment of additional responsibilities to the office. The lieutenant governor would then have full time to devote to such responsibilities and the duties of the office could be substantially increased by the legislature or by the governor through executive order.

Finally, the proposed amendment would require that the governor and lieutenant governor be elected as a team on a joint ballot, not unlike the manner in which we presently elect the president and vice president of the United States. This portion of the proposal involves two major improvements. First, we are assured that the governor and lieutenant governor will be of the same political party guaranteeing that the mandate of the people who elected the governor will be continued in the event that the office should become vacant. Second, the legislature could then enact legislation which would insure, through joint filings in the primary election, that the governor and lieutenant governor are in fact a compatible "team". Under such an arrangement, the governor would have full confidence in delegating major responsibility to the lieutenant governor and, in effect, the lieutenant governor could serve as the governor's "right hand man" or "trouble shooter" in implementing the visible and responsive executive branch which this report proposes.

Allowing succession to remain in the executive branch, within one political party, and to an officer elected by all the people of the state are important reasons for the committee's recommendation on retaining the office of lieutenant governor. The committee is firm in its belief, however, that continuation of the office of lieutenant governor cannot be justified solely on the basis of succession. It is for this reason that the committee urges adoption of the proposed amendment on this November's ballot and the strengthening of the office of lieutenant governor which may then take place.

In making such a suggestion, the committee is not in a position to recommend the specific delegation of powers which should be made to a strengthened office of lieutenant governor. The committee does

refer the legislature to the suggestion of Secretary of State Arlen I. Erdahl, made to this committee in testimony on June 1, 1972. In his statement, Secretary of State Erdahl urged that the offices of secretary of state and lieutenant governor be combined under the title of lieutenant governor and that the new office encompass the present power of succession and several of the more important powers of the secretary of state plus other powers and responsibilities which might be delegated by the legislature. The committee feels the Erdahl proposal merits serious consideration.

Other proposals which have been made by past studies of the executive branch of government in Minnesota include the designation of the lieutenant governor as the governor's "chief of staff" or liaison with local government. The trend in state government at this time seems to be toward strengthening the office of lieutenant governor in just such a manner. For example, in Florida and Indiana the lieutenant governor serves as secretary of commerce; in California and Massachusetts the lieutenant governors are head of the office of intergovernmental management; the lieutenant governors in Alaska and Hawaii also perform the duties of the secretary of state; and in Missouri and Nebraska the governor is authorized to assign duties to the lieutenant governor.

E. COMMITTEE RECOMMENDATION

The committee recommends adoption of Constitutional Amendment#2 appearing on the November 7th election ballot which would require the governor and lieutenant governor to run on a joint election ballot; would allow the legislature to define the compensation of

the lieutenant governor; and would remove the lieutenant governor as the presiding officer of the state senate. The committee further urges the prompt implementation of the spirit of the amendment by the legislature through reasonable adjustment of the compensation of the lieutenant governor and a reasonable alteration in the duties and responsibilities of the office.

Although the committee makes no specific recommendation on the responsibilities which should be delegated to the lieutenant governor, the committee does refer to the legislature the recommendations of Secretary of State Arlen I. Erdahl for the consolidation of the offices of secretary of state and lieutenant governor as well as past studies of the executive branch of Minnesota government and the experiences and precedents established by other states which have a strong and effective office of lieutenant governor.

III. OFFICE OF ATTORNEY GENERAL

A. ISSUE

Should the elective constitutional office of attorney general be retained or should the office be abolished, or be made appointive? In case of changes how should the constitutional and statutory duties of the office be provided for?

B. PRESENT CONSTITUTIONAL LANGUAGE

The constitutional office of attorney general is created in Article V, Section 1. Under Section 5, the attorney general serves a four-year term. He has no constitutional responsibilities other than to serve on the pardon board (Article V, Sec.4); the State Board of Investment (Article VIII, Sec.4); and the State Land Exchange Commission (Article VIII, Sec.7). The governor has the

power to fill vacancies in the office under Article V, Sec.4 and the attorney general may be impeached under Article XIII, Sec.1.

C. BACKGROUND

In addition to the above-mentioned constitutional duties, the attorney general has a number of important statutory responsibilities which make him, next to the governor, one of the most powerful officers in state government.

The most important of the attorney general's responsibilities is to act as chief legal officer of the state. By statute, the attorneys in major state departments are appointed by the attorney general and serve as special assistant attorneys general. In this manner, the attorney general has potential input into nearly every important decision of a legal nature made in state government.

In addition, the attorney general, as chief legal officer of the state, performs civil and criminal litigation on behalf of the state and is often called upon to issue advisory opinions to the governor, legislature, city and county attorneys, attorneys for local school districts, etc. These opinions often contain vital interpretations of important constitutional and statutory provisions and, of course, have the force of law until overturned in court.

In addition to the three constitutional boards of which the attorney general is a member and the broad powers outlined above, the attorney general is a member and the broad powers outlined above, the attorney general has a number of widely ranging statutory responsibilities, e.g., chairmanship of the Minnesota Voting Machine Commission and approval of regulations of the State Board of Health.

Thirty-eight states, including Minnesota, provide for a constitutional-elective attorney general. An additional four states

elect a statutory attorney general; one state's attorney general is elected by the legislature; and the remaining seven states provide for an appointed chief legal officer of the state.

The Model State Constitution makes no mention of an attorney general and it is assumed that the office would be created by the legislature and appointed by the governor.

The 1948 Constitutional Commission of Minnesota recommended retention of a constitutional-elective attorney general. The Minnesota Efficiency in Government Commission of 1949-51 recommended retention of the attorney general as an appointed official heading a Department of Law. The Minnesota Self-Survey of 1955-58 recommended retention of the attorney general as an appointed head of a Department of Law and Public Safety. Finally, the report of the Governor's Council on Executive Reorganization of 1968 recommended the appointment of an attorney general within the executive office.

D. COMMITTEE CONSIDERATION

In making its recommendations, the committee is not unaware of the large amount of authority vested in the attorney general and the desirability of insuring the wise and responsive use of that authority.

Rather, it is with a wary eye on this authority that the committee offers its recommendations. At the present time, the office of attorney general is analogous to an octopus with a number of arms reaching out in all directions and into major department of state government via the deputy assistant attorneys general. On one hand, we have department heads, appointed by the governor, serving co-terminously with him, and supposedly responsible to the governor and thus

to the people who have elected him. On the other hand, political incompatibility between the governor and attorney general transmitted to the departments by officials appointed by each has the potential of disrupting the efficiency and responsiveness of major state departments. The chief legal officer of a major department is an integral part of the workings of that department. In order to maximize efficiency and responsiveness, he must be working as a team with the department head and, thus, the governor.

It is the feeling of the committee that other important responsibilities of the attorney general could also be handled responsibly by a legal officer appointed by the governor. When the voters of the state elect a visible, responsible governor, they expect his already numerous and important appointees to carry out the mandate under which he was elected. Under the strong executive system which this committee is proposing, great responsibility is extended to, and expected from, the chief executive of the state. The committee has confidence in the ability of the voters of the state to elect the kind of governor who can and will accept and use this great responsibility in a wise and responsive manner. Under such a system, attention will quickly focus on a governor who fails to assume such responsibility and the voters of the state will not hesitate to shorten the political career of such a chief executive.

E. COMMITTEE RECOMMENDATIONS

After careful consideration of the present authority vested in the office, the committee recommends the removal of the elective attorney general from the Constitution. The committee recommends that the constitutional responsibilities now held by the attorney general be redesignated by legislative statute to (an) official(s)

appointed by the governor. We offer no specific recommendations for statutory changes in this regard but direct the Legislature's attention to the excellent studies of executive organization in Minnesota mentioned above.

IV. OFFICE OF SECRETARY OF STATE

A. ISSUE

Should the elective-constitutional office of secretary of state be retained, or should the office be abolished, or be made appointive? In case of change, should the constitutional and statutory duties of the office be assigned to other constitutional or statutory offices?

B. PRESENT CONSTITUTIONAL LANGUAGE

The constitutional office of secretary of state is created in Article V, Sec. 1. Section 5 provides that the secretary of state serve a four-year term. The constitutional responsibilities of the office include chairmanship of the state canvassing board and depository of election returns for constitutional officers (Article V, Sec.2); depository of all laws passed by the Legislature and signed by the governor (Article IV, Sec.11); the keeper of the great seal of the State of Minnesota (Article XV, Sec.4); and membership on the State Board of Investment (Article VIII, Sec.4). The governor has the power to fill vacancies in the office under Article V, Sec.4 and the secretary of state may be impeached under Article XIII, Sec.1

C. BACKGROUND

The secretary of state is the chief elections officer of the State of Minnesota. In this capacity, he is the filing officer for all statewide and certain legislative and judicial offices. He

also has responsibility for printing state and constitutional amendment ballots, publishing the election laws and the legislative manual and issuing certificates of election to candidates declared elected by the state canvassing board. Under state and federal campaign financing laws, the secretary of state is also the depository for expenditure and receipt statements filed by candidates for state and federal offices.

As the keeper of the great seal of the State of Minnesota, the secretary of state certified the authenticity of all official records, documents, proclamations, and executive orders of the governor and the acts of the legislature and is the depository for all original engrossed and enrolled acts of the Legislature.

Also filed with the secretary of state are incorporation papers of all corporations, certain financial statements on debts, annual reports of all corporations engaged in agriculture in Minnesota, extradition papers, oaths of office, and certain village and municipal documents.

Until 1970 a major responsibility of the secretary of state was the registration and licensing of motor vehicles by more than three hundred deputy registrars of motor vehicles located throughout the state. This responsibility, along with the former task of issuing licenses for chauffeurs and school-bus drivers, is now handled by the Department of Public Safety.

Thirty-eight states, including Minnesota, have a constitutional-elective office of secretary of state. Four states have a constitutional secretary of state or no such office.

The Model State Constitution makes no mention of a secretary of state and it is assumed that the responsibilities of the office

are provided for by law.

The Constitutional Commission of 1948, the Minnesota Efficiency in Government Commission, the Minnesota Self-Survey, and the Governor's Council on Executive Reorganization all recommended removal of the secretary of state from the Constitution. Opinions differed on whether the position should be retained and made appointive, or whether the responsibilities of the office should be dispersed among other appointed officials.

D. COMMITTEE CONSIDERATION

Many of the factors considered in arriving at other recommendations in this report have entered into our recommendations on the future constitutional status of the secretary of state.

Generally, the committee feels that the executive branch of state government should have one, clearly identifiable head. In order that the governor may be truly responsible to the people for the actions of the executive branch, he must have the power to appoint all officials for whom he is responsible. Good management, efficiency and responsiveness can allow no exceptions to this general rule.

Presently, the responsibilities of the secretary of state are primarily of a bookkeeping and record-filing nature. Voter judgment is all too often based on name identification or return to office of a long-time incumbent. The committee would venture to guess that the average voter does not really know what responsibilities are carried out by the secretary of state. The committee is confident that the present responsibilities of the office could be adequately handled without electing an officer to such a position.

E. COMMITTEE RECOMMENDATION

The committee recommends the removal of the office of secretary of state from the Constitution and the reassignment by the Legislature of the present responsibilities of the office. The committee offers no recommendation on the status or distribution of the present statutory responsibilities of the office, but refers the Legislature to the excellent past studies of executive organization in Minnesota outlined above.

V. OFFICE OF STATE AUDITOR

A. ISSUE

Should the elective-constitutional office of state auditor be retained, or should the office be abolished or be made appointive? If changed, how should the constitutional and statutory duties of the office be provided for?

B. PRESENT CONSTITUTIONAL LANGUAGE

The constitutional office of state auditor is created in Article V, Sec. 1. Section 5 provides that the auditor serve a four-year term. Under Article VIII, Sec.7, the auditor serves as a member of the State Land Exchange Commission and under Article VIII, Sec.4, is a member of the State Investment Board. Under Article IX, Sec.6, subd. 3 and 4, he is responsible for levying a state property tax to pay back faulted bonds and certificates of indebtedness. The governor has the power to fill a vacancy in the office under Article V, Sec. 4, and the auditor may be impeached under Article XIII, Sec.1.

C. BACKGROUND

The state auditor is the state's chief accounting officer

and acts with the commissioner of administration and the public examiner to formulate and prescribe the accounting system used by all departments and agencies of the state.

The auditor is the pre-auditor of receipts and disbursements of the state's funds, issuing warrants to allow payment from the treasury of the state.

In addition to these duties, the auditor serves as a member of the executive council and several other boards and commissions. He administers salary and expense payments to district court judges, the retirement program for legislators, constitutional officers, and commissioners and district court judges. He also apportions various state aids, is charged with the sale and issuance of certificates of indebtedness and general obligation bonds and manages the state bond fund.

Contrary to the beliefs of many people, the state's post-auditing function is not carried out by the state auditor but is a responsibility of the public examiner, who is appointed by the governor with the advice and consent of the State Senate.

Twenty-seven states, including Minnesota have a constitutional-elective auditor. Six states have a constitutional or statutory auditor elected by the legislature and seventeen states provide for the appointment of the auditor or do not have such an officer.

The Model State Constitution makes no mention of an auditor and it is assumed that the officer would be created by the legislature and appointed by the governor.

The Constitutional Commission of 1948, the Minnesota Efficiency in Government Commission, the Minnesota Self-Survey, and the Governor's Council on Executive Reorganization all recommended removal of the auditor from the State Constitution. Opinions differed on

whether the position should be retained as appointive, or whether the responsibilities of the office should be dispersed among other appointed officials.

D. COMMITTEE CONSIDERATION

The recommendations of the committee on the constitutional status of the auditor are based on two major fundamentals of accounting outlined by Auditor Rolland Hatfield in his testimony before the committee on June 1.

The first fundamental is that pre-auditing and post-auditing functions should be performed entirely separately. The present overlap and duplication of such responsibilities is, of course, contrary to this fundamental.

Secondly, sound accounting principles dictate that the post-auditor should not be appointed by the person or office he is to audit. The fact that the present post-audit function is carried out by the public examiner, who is appointed by the governor, is in clear violation of these sound accounting principles.

Auditor Hatfield also points out the importance of having an auditor (either pre- or post-) who is qualified as an accountant, qualifications which would be better established and enforced through civil service or a screening committee of certified public accountants than through election.

E. COMMITTEE RECOMMENDATIONS

The committee recommends the removal of the office of state auditor from the Constitution and the reassignment of the responsibilities of the office by statute. Although the committee is not prepared to outline specifically this reassignment, it does commend

to the Legislature the following recommendations of Auditor Hatfield;

- 1) The transfer of the entire pre-auditing function to the Department of Administration, to be incorporated with the budget and central accounting functions already being performed by that department.
- 2) The creation of a new state auditing department responsible for post-auditing all state government agencies. The head of such a department would be appointed by the Legislature. The department would be responsible for both annual financial audits and periodic performance or operational audits.
- 3) The assignment of the post-auditing function of local governments to the public examiner. The public examiner would also be appointed by the Legislature.
- 4) The requirement that the public examiner and auditor be certified public accountants and that the Legislature make the appointment from a list of eligible CPA's submitted by the Minnesota Society of Certified Public Accountants.
- 5) Both the auditor and public examiner would be appointed for a term of six to ten years and subject to removal only for cause.

VI. OFFICE OF STATE TREASURER

A. ISSUE

Should the elective-constitutional office of state treasurer be retained, or should the office be abolished, or be made appointive? If changed, how should the constitutional and statutory duties of the office be provided for?

B. PRESENT CONSTITUTIONAL LANGUAGE

The constitutional office of state treasurer is created in Article V, Sec. 1. Section 5 provides that the treasurer serve a

four-year term. In Article IV, Sec. 32b, he is charged with responsibility for holding the internal improvement land fund and he must maintain a state bond fund under Article IX, Sec. 6, subd.4. He is a member of the State Board of Investment under Article VIII, Sec.4. He is required to publish an annual report of the receipts and expenditures of the state by Article IX, Sec.11. The governor has the power to fill a vacancy in the office under Article V, Sec. 4 and the auditor may be impeached under Article XIII, Sec. 1.

C. BACKGROUND

The state treasurer is responsible for holding all state funds including investments. The investments include securities held for permanent trust funds, the retirement associations, short-term cash investments, and securities pledged as collateral.

The treasurer is the paymaster for the state and keeps records of all receipts and disbursements of state government. He receives tax receipts from various sources as well as other income items from state departments and institutions.

The bonded indebtedness unit of the treasurer's office keeps records of the indebtedness of the state, redeems bonds at maturity, and pays interest as it falls due on outstanding issues.

The treasurer's liquor stamp division sells liquor tax stamps and distributes receipts to various funds as prescribed by statute.

In addition to these duties, the treasurer serves on a number of state boards and commissions, including the executive council and the state and public employees retirement association boards.

Forty states, including Minnesota, have a constitutional-elective state treasurer. Four state treasurers are constitutional and elected

by the legislature and the remaining six states either do not have a state treasurer or provide for his appointment by statute.

The Model State Constitution makes no mention of a state treasurer and it is assumed that the officer would be created by the Legislature and appointed by the governor.

The Constitutional Commission of 1948, the Minnesota Efficiency in Government Commission, the Minnesota Self-Survey, and the Governor's Council on Executive Reorganization all recommended removal of the state treasurer from the state Constitution. Opinions differed on whether the position should be retained as appointive or whether the responsibilities of the office should be dispersed among other appointed officials.

D. COMMITTEE CONSIDERATION

The committee's concern for efficiency and responsiveness in state government expressed in earlier discussion holds true in its recommendations on the future of the constitutional office of state treasurer.

Again, the kind of qualifications required for the occupant of such a position might be better established and assured by civil service or a screening committee of financial experts.

The committee has every confidence in the ability of a governor, who is the true executive head of state government, to select a person to fulfill the responsibilities of the state treasurer in collecting and disbursing state funds.

E. COMMITTEE RECOMMENDATIONS

The committee recommends the removal of the office of state treasurer from the Constitution and the reassignment of the

responsibilities of the office by statute. The committee offers no recommendation on the status or distribution of the statutory responsibilities of the office but refers the Legislature to the excellent studies of executive organization in Minnesota outlined above.

VII. OTHER CONSTITUTIONAL BOARDS AND COMMISSIONS

Since adoption of the committee's recommendations as reported above would largely eliminate the members of four constitutionally created boards and commissions and since the committee is not in a position to recommend abolishment of the boards and commissions themselves, the following recommendations are made:

A. Pardon Board (Article V, Sec.4)

When the original state constitution was adopted in 1857, the governor had the sole power to "grant reprieves and pardons after conviction for offenses against the state." The present pardon board consisting of the governor, attorney general, and chief justice was created by a constitutional amendment approved in 1896.

As a member of the present pardon board, Chief Justice Oscar R. Knutson states in a letter to the committee:

"If the attorney general is to be eliminated from the pardon board, it probably would be best to go back to the original constitutional provision and have the pardoning power rest in the governor alone. As a matter of fact, historically, the pardoning power has been considered mainly an executive function. I suppose if anyone is to be eliminated, it should be the chief justice of the supreme court, as pardoning is really not a judicial function. It is the court's responsibility to determine whether a person has had a fair trial, but after a case has been affirmed by the supreme court it becomes somewhat difficult for the chief justice to pass on an application for a pardon or a reprieve."

The committee is included to agree with the chief justice and recommends that the board of pardons be deleted from the Constitution

and that the governor be given the sole power of pardon, subject to procedures established by the Legislature.

B. State Board of Investment (Article VIII, Sec.4)

The committee recommends that the state board of investment be retained in the Constitution but that its membership be established by law. The state board of investment presently consists of the governor, auditor, secretary of state, treasurer, and attorney general.

C. State Land Exchange Commission (Article VIII, Sec.7)

The committee recommends that the state land exchange commission be retained in the constitution but that its membership be established by law. The state land exchange commission presently consists of the governor, auditor, and attorney general.

D. State Canvassing Board (Article V, Sec.2)

The committee recommends the deletion of reference to the state canvassing board in the Constitution. The committee also recommends to the Commission's Bill of Rights Committee the addition of a new section to Article VII authorizing the Legislature to provide for the administration of elections and the canvassing of election returns.

VIII POWERS OF THE GOVERNOR

Generally speaking, the committee has no objection to the grant of powers to the governor provided in Article V, Sec. 4. Those powers are presently spelled out as follows:

Powers and duties of governor. Sec.4. 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. He shall be 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, of the principal officer in each of the executive departments upon any

subject relating to the duties of their respective offices; 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. He shall have power, by and with the advice, and consent of the Senate, to appoint notaries public, and such other officers as may be provided by law. 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 passed by the legislature, under such rules and limitations as are in this Constitution prescribed. He may on extraordinary occasions convene both houses of the legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of secretary of state, treasurer, auditor, attorney general, and such other state and district offices as may be hereafter created by law, until the end of the term for which the person who had vacated the office was elected, or the first Monday in January following the next general election whichever is sooner, and until their successors are chosen and qualified.

With the deletion of the attorney general, lieutenant governor, auditor, secretary of state, and treasurer as outlined in prior sections and with the governor authorized to appoint the officers to whom the responsibilities of the deleted offices are given, it is the hope of the committee that Minnesota will have an efficient, responsive and visible state government equipped to handle properly the problems of an increasingly complex society.

Under such a system the continuing vitality of state government depends on two important factors. One, of course, is the ability of the voters to choose a chief executive who is worthy of the responsibilities delegated to him under such a system. We have every confidence in the ability of the voters of our state to make such a choice.

The second factor is that the structure of state government be flexible enough to adapt to changing demands for delivery of services

to the state's citizens. To that end, the Model State Constitution and several of the newer state constitutions, including that of Illinois, have provided specific constitutional language to authorize the governor to undertake major executive reorganization without the action of the Legislature. Conditions for such reorganization are set out in the Model State Constitution as follows:

Section 5.06. Administrative Departments... but the governor may make such changes in the allocation of offices, agencies and instrumentalities, and in the allocation of such functions, powers and duties, as he considers necessary for efficient administration. If such changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the legislature while it is in session, and shall become effective, and shall have the force of law, sixty days after submission, or at the close of the session, whichever is sooner, unless specifically modified or disapproved by a resolution concurred in by a majority of all the members of each house.

A similar statutory recommendation was made to the 1969 session of the Minnesota Legislature by then Governor Harold LeVander in a special message. The Legislature acted on the recommendation and even went beyond it to provide in MS 16.125 and 16.13 that the governor may transfer any function, person, or appropriation deemed advisable for purposes of effecting economy and efficiency in state government. The provisions appear to give the governor the right to implement executive reorganization without waiting for the legislative session and without legislative approval, a reform recommended in the above-quoted section from the Model State Constitution. (Section 16.125 does require that transfers of functions or appropriations be reported to the Senate Finance and House Appropriations Committees.)

To date, there has been no constitutional challenge to the delegation of such authority to the governor and the committee sees nothing in the present Constitution to prevent such a delegation.

Until and unless such a successful challenge is made to the governor's reorganization powers as outlined above, the committee recommends no specific constitutional authorization of that authority. Rather, the committee recommends the further use of present executive reorganization powers to continually evaluate and update the delivery of state government services to Minnesotans.

IX IMPEACHMENT AND REMOVAL PROVISIONS

A. ISSUE

Should present provisions in the Constitution spelling out the practice and procedures for impeachment and removal be altered? If so, in what manner?

B. PRESENT CONSTITUTIONAL LANGUAGE

1) Impeachment:

Article XIII of the Constitution contains most provisions regarding impeachment. Section 1 of the article states that the governor, secretary of state, treasurer, auditor, attorney general, and judges of the state supreme court and district courts may be impeached for corruption in office and crimes and misdemeanors. Conviction results in removal from office and a ban on future office-holding in the state. Impeachment does not preclude normal criminal actions for crimes. Under Section 3, an officer may not exercise his duties during an impeachment trial. Section 5 provides that there must be 20 days notice to the accused official before an impeachment trial may begin. The only reference to the lieutenant governor in Article XIII is in Section 4, where it is provided that the lieutenant governor may not act as a member of the court of impeachment against the governor.

Section 14 of Article IV provides that the House of Representatives has the sole power to impeach by a majority vote of all elected members. As is the case with the Congress, the State Senate tries the impeachment, a two-thirds vote being necessary for conviction.

2) Removal:

Under Section 2 of Article XIII, the Legislature may provide for the removal of inferior officers for malfeasance or nonfeasance in performance of their duties. The Legislature has provided for the removal of officials appointed by the governor whose term of service is not prescribed by law in MS 4.04. Probate judges, court clerks, various county officials and others may be removed for malfeasance or nonfeasance after notice and hearing under MS 351.03.

C. BACKGROUND

1) Impeachment:

Impeachments are understandably rare, in states as well as on a national level. As William Anderson relates in his History of the Constitution of Minnesota (1927), the state treasurer, William Seeger, was impeached and convicted in 1873 for mishandling state funds. The experience apparently started a movement to strengthen the Constitution as regards handling of state funds; the result was adoption in 1873 of the present language of Article IX, Sec. 12.

In 1878, a district judge, Sherman Page, was impeached by the House of Representatives upon a petition by citizens of Mower County. The proceedings took an incredible amount of the Legislature's time, from February through June of that year. Judge Page was charged by the house with eight counts of malicious ill-treatment of individuals, one of insult to the county grand jury, and one of "offensive demeanor"

toward officers of the county and the court. Apparently, the motivation for the impeachment rose out of some vigorous prosecutions Page had instigated while a county prosecutor. As it turned out, none of the ten charges were sustained in the Senate trial, although several of them did get a majority vote. Judge Page attempted to gain reelection in 1879, but failed and eventually moved to California.

Finally, there was the impeachment of Judge Eugene St. Julien Cox in 1881-82. Judge Cox was impeached for drunkenness and immoral behavior. After trials and hearings lasting five months, Judge Cox was convicted on seven of the twenty charges, by a bare two-thirds vote (25 to 12). The evidence covered nearly 1,700 pages; 60 witnesses appeared for the House managers and over 100 for the defense. The cost of the impeachment and trial was reported to be ten times as much as the salary of the chief justice of the state supreme court and proposals were made to change the procedure. Judge Cox's friends obtained an expungement resolution in 1891, but, like Judge Page, he found it desirable to emigrate to California.

2) Removal:

Removal, as provided by the Legislature, has been used more frequently than impeachment. Since the courts participate in removal, there has been more interpretation of removal provisions than of impeachment provisions over which the Senate presides. (For a detailed discussion of removal in Minnesota through 1936, see E. Jennings, "Removal from Public Office in Minnesota, 20 Minn. Law Review 721, (1936).)

D. COMMITTEE CONSIDERATION

Generally, the committee believes that the impeachment power should be retained in its present form. Impeachment is an extraordinary

and rare remedy for punishing political revivals and is rarely used to remove any officer who has committed a crime. In Minnesota's history, only one of the three officers impeached (Seeger) seemed to deserve it and his case would now not be handled primarily under Article XIII, but rather under provisions of Article IX, Sec. 12. The other two cases of impeachment, one ending in conviction and one not, seem to have been politically motivated.

The committee does, however, believe that the lieutenant governor should be subject to impeachment on the same basis as the governor.

Stylistic changes might be in order to unify the impeachment provisions within one article. In line with other recommendations of this committee, reference to certain constitutional officers should be deleted. To provide for the possible addition of a constitutional or statutory intermediate court of appeals, specific reference to "judges of the supreme and district courts" might be replaced by a more general reference to "judges" in Sec. 1. (Under a proposed constitutional amendment appearing on the ballot this November, the Legislature may provide for the discipline and removal of all judges. In light of the cost of impeachment proceedings, such a legislatively established procedure for removal of judges would be a desirable alternative to impeachment.)

E. COMMITTEE RECOMMENDATIONS

The committee recommends no change in the general power of the Legislature to impeach constitutional officers and judges, except that the committee recommends the addition of the lieutenant governor to those officers who may be impeached.

The committee recommends to the Commission's Structure and Form Committee the transfer of Article IX, Sec. 14 to Article XIII and an appropriate renumbering of present sections in Article XIII.

The committee recommends deletion of reference to the attorney general, secretary of state, treasurer, and auditor and specific reference to supreme and district court judges in present section 1. Under the new language, only the governor and judges could be impeached.

The committee recommends deletion of Article XIII, Sec.4, which provides that the lieutenant governor shall not participate in the impeachment trial of the governor. (Under another constitutional amendment on this November's ballot, the lieutenant governor would not be the presiding officer of the Senate, making this present section somewhat confusing and contradictory.)

X. SUMMARY OF RECOMMENDATIONS

The committee recommends adoption of Constitutional Amendment #2 appearing on the November 7 election ballot which would require the governor and lieutenant governor to run on a joint election ballot; would allow the Legislature to define the compensation of the lieutenant governor; and would remove the lieutenant governor as the presiding officer of the State Senate. The committee further urges the prompt implementation of the spirit of the amendment by the Legislature through reasonable adjustment of the compensation of the lieutenant governor and a reasonable alteration in the duties and responsibilities of the office.

The committee recommends the removal of the elective attorney general from the Constitution. The committee recommends that the

constitutional responsibilities now held by the attorney general be redesignated by the Legislature to (an) official(s) appointed by the governor. The committee offers no specific recommendations for statutory changes in this regard but directs the Commission's attention to the excellent work done by past studies of executive organization in Minnesota.

The committee recommends removal of the offices of secretary of state, auditor, and treasurer from the Constitution and the reassignment by the Legislature of the constitutional responsibilities of these offices. The committee offers no recommendation on the status or distribution of the statutory responsibilities of the offices, but refers the Legislature to the excellent studies of executive organization in Minnesota.

The committee recommends that the board of pardons be deleted from the Constitution and that the governor be given the sole power of pardon subject to procedures established by the Legislature.

The committee recommends that the State Land Exchange Commission and State Board of Investment be retained in the Constitution but that their memberships be established by law.

The committee recommends deletion of reference to the state canvassing board in the Constitution. The committee also recommends to the Commission's Bill of Rights Committee the addition of a new section to Article VII authorizing the Legislature to provide for the administration of elections and the canvassing of election returns.

The committee recommends no change in the general power of the Legislature to impeach constitutional officers and judges except that the lieutenant governor be added to the list of those officers who may be impeached.

The committee recommends to the Structure and Form Committee

several stylistic changes and recommends deletion of reference to specific constitutional officers.

XI. DRAFT CONSTITUTIONAL AMENDMENT

A bill for an act

proposing an amendment to the Minnesota Constitution, Article IV, Sections 5, 11, and 32(b). Article V, Article VIII, Sections 4 and 7, Article IX, Section 6, Subdivisions 3 and 4 and Section 11, Article XV, Section 4; and repealing Article XIII, Section 4; removing certain offices from the constitution.

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

Section 1. The following amendment to the Minnesota Constitution, changing Article IV, Sections 5, 11 and 32(b), Article VIII, Sections 4 and 7, Article IX, Section 6, Subdivisions 3 and 4, and Section 11, Article XIII, Sections 1 and 4, and Article XV, Section 4; repealing the present Article V; and creating a new Article V is proposed to the people. If the amendment is adopted Article IV, Section 5, will read as follows:

Sec. 5. ~~The House of Representatives~~ Each house shall elect its presiding officer and ~~the Senate and House of Representatives~~ ~~shall elect~~ such other officers as may be provided by law; they shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such journals.

Article IV, Section 11, will read as follows:

Sec. 11. Every bill which shall have passed the Senate and the House of Representatives, in conformity to the rules of each house and the joint rules of the two houses, shall, before it becomes a law, be presented to the governor of the state. If he approves, he shall sign and deposit it ~~in the office of secretary of state for preservation~~ as provided by law, and notify the house where it originated of the fact. But if not, he shall return it, with his

objections, to the house in which it shall have originated; when such objections shall be entered at large on the journal of the same, and the house shall proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if it 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 shall be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature, by adjournment within that time, prevents its return. Bills may be presented to the governor during the three days following the day of the final adjournment of the Legislature and the Legislature may prescribe the method of performing the acts necessary to present bills to the governor after adjournment. The governor may approve, sign and file ~~in-the-office-of-the-secretary~~ ~~of-state~~ as provided by law, within 14 days after the adjournment of the legislature, any act passed during the last three days of the session, and the same shall become a law. If any bill passed during the last three days of the session is not signed and filed within 14 days after the adjournment, it shall not become a law.

If any bill presented to the governor contain 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, a statement of the items to which he objects, and the appropriation

so objected to shall not take effect. If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same 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 cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

Article IV, Section 32(b) will read as follows:

Sec. 32.(b) All lands donated to the State of Minnesota for the purpose of internal improvement, under the eighth section of the act of Congress, approved September fourth, eighteen hundred and forty-one, being "An act to appropriate the proceeds of the sale of the public lands, and to grant pre-emption rights," shall be appraised and sold, in the same manner and by the same officers, and the minimum price shall be the same as is provided by law for the appraisement and sale of the school lands, under the provisions of title one (1), chapter thirty-eight, of the General Statutes, except the modifications hereinafter mentioned. All moneys derived from the sales of said lands shall be invested in the bonds of the United States, or of the State of Minnesota issued since 1860; and the moneys so invested shall constitute the Internal Improvement Land Fund of the State. All moneys received by the county treasurer under the provisions of title one (1), chapter thirty-eight (38), aforesaid, derived from the sale of internal improvement lands, shall be held at all times subject to the order and direction ~~of the state~~

~~treasurer~~ in accordance with law, for the benefit of the fund to which it belongs; and on the fifteenth day of June in each year, and at such other times as he may be requested ~~se-te-de-by-the-state~~ treasurer in accordance with law, he shall pay over to the ~~said state~~ treasurer all moneys received on account of such fund.

The bonds purchased in accordance with this amendment shall be transferable only upon the order of the governor, and on each bond shall be written "Minnesota Internal Improvement Land Fund of the State, transferable only on the order of the governor."

The principal sum from all sales of internal improvement lands shall not be reduced by any charges or costs of officers, by fees, or by any other means whatever; and section fifty (50), of title one (1), chapter thirty-eight (38), of the General Statutes, shall not be applicable to the provisions of this amendment, and wherever the words "school lands" are used in said title, it shall read as applicable to this amendment, "Internal Improvement Lands."

The force of this amendment shall be to authorize the sale of the internal improvement lands, without further legislative enactment.

The new Article V will read as follows:

ARTICLE V

Section 1. The executive power of the state is vested in a governor and a lieutenant governor who shall be chosen by a single vote applying to both offices, in a manner prescribed by law.

Sec. 2. The term of office for the governor and lieutenant governor shall be four years, and until their successors are chosen and qualified. They shall have attained the age of 25 years and shall have been bona fide residents of the state for one year next preceding their election. They shall be citizens of the United States.

Sec. 3. 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. He shall be 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, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices; and he shall have power, subject to the procedures prescribed by law, to grant reprieves and pardons after conviction for offenses against the State, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to appoint notaries public, and such other officers as may be provided by law. 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 passed by the Legislature, under such rules and limitations as are in this Constitution prescribed. He may on extraordinary occasions convene both houses of the legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the state and district offices as may be created by law until the end of the term for which the person who had vacated the office was elected, or the first Monday in January following the next general election whichever is sooner, and until their successors are chosen and qualified.

Sec. 4. The compensation, powers, and duties of the lieutenant governor shall be prescribed by law.

Sec. 5. In case a vacancy should occur, from any cause whatever, in the office of governor, the lieutenant governor shall be governor during such vacancy. In case the governor shall be unable to discharge

the powers and duties of his office, the same shall devolve on the lieutenant governor. The Legislature shall provide by law for the case of the removal, death, resignation, or inability of the governor, governor-elect, lieutenant governor, or lieutenant governor-elect, and may provide by law for the continuity of government in periods of emergency resulting from disasters caused by enemy attack in this state, including but not limited to, succession to the powers and duties of public office and change of the seat of government.

Sec. 6. Each officer created by this article shall, before entering upon his duties, take an oath of affirmation to support the Constitution of the United States and of this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

Article VIII, Sec. 4, will read as follows:

Sec. 4. The permanent school fund of the state shall consist of (a) the proceeds of such lands as are or hereafter may be granted by the United States for the use of schools within each township, (b) the proceeds derived from swamp lands granted to the state, and (c) all cash and investments now or hereafter credited to the permanent school fund and to the swamp land fund. No portion of said lands shall be sold otherwise than at public sale, and in the manner provided by law. All funds arising from the sale or other disposition of such lands, or income accruing in any way before the sale or disposition thereof, shall be credited to the permanent school fund. Within limitations prescribed by law, to secure the maximum return thereon consistent with the maintenance of the perpetuity of the fund, such fund may be invested in: (1) interest bearing fixed income securities

guaranteed in full as to payment of principal and interest by the United States, bonds of the state of Minnesota, or its political subdivisions or agencies, or of other states, but not more than 50 percent of any issue by a political subdivision, shall be purchased; (2) stocks of corporations on which cash dividends have been paid from earnings for five consecutive years or longer immediately prior to purchase, but not more than 20 percent of said fund shall be invested therein at any given time, nor more than five percent of the voting stock of any one corporation be owned; (3) bonds of corporations whose earnings have been at least three times the interest requirements on outstanding bonds for five consecutive years or longer immediately prior to purchase, but not more than 40 percent of said fund shall be invested in corporate bonds at any given time. The percentages referred to above shall be computed using the cost price of the stocks or bonds. The principal of the permanent school fund shall be perpetual and inviolate forever; provided, that this shall not prevent the sale of any public or private stocks or bonds at less than the cost thereof to the fund; however, all losses not offset by all gains, shall be repaid to the fund from the interest and dividends earned thereafter. The net interest shall be distributed to the different school districts of the state in proportion to the number of scholars in each district between the ages of five and twenty-one years. No such investment shall be made until approved by a board of investment consisting of the governor, ~~the state auditor,~~ ~~the state treasurer,~~ ~~the secretary of state,~~ ~~and the attorney general,~~ and other members provided by law who are hereby constituted a state board of investment for the purpose of administering and directing the investment of all state funds.

The state board of investment shall not permit the fund to be used for the underwriting or direct purchase of municipal securities from the issuer or his agent.

Article VIII, Section 7, will read as follows:

Sec. 7. Any of the public lands of the state, including lands held in trust for any purpose, may, with the unanimous approval of a commission consisting of the governor, ~~the attorney-general and the state-auditor,~~ and other members provided by law be exchanged for lands of the United States and/or privately owned lands in such manner as the legislature may provide, and the lands so acquired shall be subject to the trust, if any, to which the lands exchanged therefor were subject, and the state shall reserve all mineral and water power rights in lands so transferred by the state.

Article IX, Section 6, Subdivision 3, will read as follows:

Subd. 3. As authorized by law, certificates of indebtedness may be issued during each biennium, commencing on July 1 in each odd-numbered year and ending on and including June 30 in the next odd-numbered year, in anticipation of the collection of taxes levied for and other revenues appropriated to any fund of the state for expenditure during that biennium.

No such certificates shall be issued with respect to any fund when the amount thereof with interest thereon to maturity, added to the then outstanding certificates against the same fund and interest thereon to maturity, will exceed the then unexpended balance of all moneys which will be credited to that fund during the biennium under existing laws; except that the maturities of any such certificates may be extended by refunding to a date not later than December 1 of the first full calendar year following the biennium in which such

certificates were issued. If moneys on hand in any fund are not sufficient to pay all non-refunding certificates of indebtedness issued on such fund during any biennium and all certificates refunding the same, plus interest thereon, which are outstanding on December 1 immediately following the close of such biennium, the ~~state-auditor~~ governor shall levy upon all taxable property in the state a tax collectible in the then ensuing year sufficient to pay the same on or before December 1 of such ensuing year, with interest to the date or dates of payment.

Article IX, Section 6, Subdivision 4, will read as follows:

Subd. 4. Public debt other than certificates of indebtedness authorized in subdivision 3 shall be evidenced by the issuance of the bonds of this state. All bonds issued under the provisions of this section shall mature within not more than 20 years from their respective dates of issue, and each law authorizing the issuance of such bonds shall distinctly specify the purpose or purposes thereof and the maximum amount of the proceeds authorized to be expended for each purpose. The state ~~treasurer~~ shall maintain a separate and special state bond fund on ~~his~~ its official books and records, and when the full faith and credit of the state has been pledged for the payment of such bonds the ~~state-auditor~~ governor shall levy each year on all taxable property within the state a tax sufficient, with the balance then on hand in said fund, to pay all principal and interest on state bonds issued under the provisions of this section, due and to become due within the then ensuing year and to and including July 1 in the second ensuing year. The legislature may by law appropriate funds from any source to the state bond fund, and the amount of moneys actually received and on hand pursuant to such

appropriations prior to the levy of such tax in any year, shall be used to reduce the amount of tax otherwise required to be levied.

Article IX, Section 11, will read as follows:

Sec. 11. There shall be published ~~by the treasurer,~~ in at least one newspaper printed at the seat of government, during the first week in January in each year, and in the next volume of the acts of the legislature, detailed statements of all moneys drawn from the treasury during the preceding year, for what purpose and to whom paid, and by what law authorized; and also of all moneys received, and by what authority and from whom.

Article XIII, Section 1, will read as follows:

Section 1. The governor, lieutenant governor, ~~secretary of state, treasurer, auditor, attorney general,~~ and the judges ~~of the supreme and district courts,~~ may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such case shall not extend further than to removal from office and disqualification to hold office of honor, trust or profit in this State. The party convicted thereof shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Article XIII, Section 4 will be repealed:

Article XV, Section 4, will read as follows:

Sec. 4. There shall be a seal of the State, ~~which shall be kept by the secretary of state, and be used by him officially as provided by law,~~ and shall be called the great seal of the State of Minnesota, and It shall be attached to all the official acts of the governor (his signature to acts and resolves of the legislature excepted) requiring authentication. The legislature shall

provide for an appropriate device and motto for said seal.

The present Article V will be repealed.

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

"Shall the Minnesota Constitution be amended to remove the secretary of state, the state auditor, the state treasurer and the attorney general from the Constitution?"

Yes _____

No _____"

III. BIBLIOGRAPHY

Published Material

Report of the Constitutional Commission of Minnesota, St. Paul, 1948

Report of the Governor's Council on Executive Reorganization, St. Paul, 1968

Modernizing State Organization, Government of Minnesota, Public Administration Service, Chicago, 1968.

A Summary of Earlier Comprehensive Survey Proposals for Executive Reorganization, State of Minnesota, Public Administration Service, Chicago, 1968.

Model State Constitution, National Municipal League, Sixth Edition (Revised), 1970.

Internal Staff Research

"Staff Memorandum on Constitutional Officers in the Fifty States" by Stan Ulrich, February 7, 1972

"Staff Memorandum on the Legislative History of Article V" by Stan Ulrich, February 26, 1972

"Staff Memorandum on Impeachment and Removal of Officers" by Stan Ulrich, May 22, 1972

Testimony and Letters to the Committee

Testimony from June 1, 1972 hearing:

State Treasurer Val Bjornson
State Auditor Rolland F. Hatfield
Former Lieutenant Governor James B. Goetz
Former Secretary of State Joseph L. Donovan

Letters to the Committee:

Attorney General Warren Spannaus, March 31, 1972
Congressman Bill Frenzel, November 10, 1971, April 19, 1972
May 1, 1972
Secretary of State Arlen I. Erdahl, May 25, 1972
Governor Wendell R. Anderson, March 27, 1972
State Treasurer Val Bjornson, November 9, 1971; March 29, 1972
June 28, 1972
Kenneth A. Mitchell, Minneapolis Attorney, January 6, 1972
Thorwald H. Anderson, Jr., U.S. Attorney's Office, Minneapolis,
November 5, 1971

Lawrence A. Wallin, Department of Political Science, Hibbing
State Junior College, December 13, 1971
Rudolph Hanson, Albert Lea, Attorney, December 18, 1971
Rev. Alton Motter, Executive Director, Minnesota Council of
Churches, December 20, 1971
Stanley G. Peskar, Assistant Counsel, League of Minnesota
Municipalities, November 23, 1971
District Judge Lindsay G. Arthur, Minneapolis, November 4, 1971