

OUR MOOT STATE CONSTITUTIONAL CONVENTION

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I

WITH an attendance representing every section of the country and many varied vocations, the twenty-fifth annual meeting of the National Municipal League, held at Cleveland, Ohio, December 29, 30, and 31, 1919, tried an interesting novelty in convention methods. At the same time it signalized the entrance of the League into the field of state problems, for hitherto the questions considered at annual gatherings have had to do almost exclusively with city affairs; or, if they touched on county and state governments, it was usually with reference to their reaction upon the cities. Hereafter the entire commonwealth, with all its departments, divisions, and activities, will be the food brought to the table for dissection or digestion.

The meeting on two of the three days assumed the form of a moot state constitutional convention, to which the members of the governmental research conference and of the national association of civic secretaries, as well as of the League, were invited. Cleveland was also at this same time, the scene of the annual meetings of the American political science association and the American historical association, a fact which happily brought to several of the sessions men who in other years could not attend, though much interested, because their chief allegiance was elsewhere.

Carefully prepared planks for a model state constitution were brought to the opening sessions of the convention by men who have for years given

special study to certain divisions of state government. These planks were read, discussed, amended, and referred back to the writers, for revision and presentation on the last day, when they were given further attention by the convention as a whole, and then sent *in toto* to the committee on state government of the National Municipal League, to be used as basis for a model constitution that can later be issued with the recommendation and backing of the League.

Just as the model city charter has been of untold help to a hundred cities which have within the past few years recast their fundamental law, so this new state charter or constitution, it is safe to say, will aid mightily in guiding the statesmen of perhaps a score of commonwealths, which have under consideration, or will soon have, suggestions for revising or amending their constitutions. And again the League will justify its existence and prove itself, ever young with its increasing years of experience, forward looking, up to the minute in listening to suggestions for improvement in government, fair in testing them out, sagacious in its advice for their adoption where they will do the most good.

A change in executive officers of the League comes simultaneously, though not intentionally. The Hon. Charles Evans Hughes of New York, a former justice of the supreme court of the United States, succeeds Mr. Lawson Purdy as president, who, after five years' service, found himself unable to give the League the attention it required. Mr. Frank A. Vanderlip of New York city, former secretary of the

treasury, becomes treasurer of the League. The office of secretary has not yet been filled. Mr. Clinton Rogers Woodruff delivered his valedictory at the twenty-fifth annual meeting, which marked the rounding out of a quarter of century of service with the organization. The council of the League will select his successor.

II

The moot convention had its moments of spectacular and dramatic interest, its lights of intellect, its shadows of doubt, and its periods of gloom and of laughter, for with all shades of opinion represented by the men and women on the floor, the discussions at times waxed spirited and warm. It must suffice here, however, to deal with the high spots, and to refer the patient reader for details to the final draft, which the committee is to present next year.

Every state constitution should, of course, begin with a bill of rights; on the other hand, it should not; for our rights are sufficiently safeguarded by the fourteenth amendment to the federal constitution. There at the outset you have conflicting views! The committee of one, Prof. Albert Bushnell Hart of Harvard brought with him eighty-one sections from various bills of rights found in existing state constitutions, which he said could be boiled down to thirty, and he proved it. The Convention decided to submit the thirty to any body of constitution makers who desire the best thought of the day in such a digest, but with a prefatory note saying that they are not really essential, after all.

The convention was not ready to give unqualified approval to the so-called state-manager plan,¹ as recommended by the national short bal-

lot organization, represented by Mr. Richard S. Childs. The plan, however, received a cordial greeting, both because of the careful manner in which it had been formulated, and because, as its author pointed out, it was the logical development of the League's advocacy of the city-manager plan for municipalities. In brief, it reduced the governor to the position of presiding officer of the legislative council of nine, by which he was to be elected, with no veto or appointive power. The legislature would consist of one house of seventy-four members, the only committee of which would be the legislative council. The principal functions now exercised by the governor would be taken over by the administrative manager, elected by the legislative council, who would appoint and remove all heads of departments.

To this plan, which was ably supported by Prof. A. R. Hatton and others, strong objection was made by Dr. Charles A. Beard, minority member of Mr. Child's committee. Dr. Beard opposed the majority report with such effect that the convention, which on Monday leaned toward the adoption of the majority report, was swung back to the historical conception of governor and legislature with separated powers, but with the rights of the people safeguarded by proper methods. Dr. Beard believes that a legislature elected on the principle of proportional representation need not be larger than forty members, but the convention agreed to seventy-four. He was skeptical of the advantage to be derived by a state manager, pointing out that no city of the first magnitude has yet tried the city manager, on account of the necessity for political leadership in the executive.

Under Dr. Beard's plan the governor would be elected by the people, with absolute power to appoint and remove

¹NATIONAL MUNICIPAL REVIEW, vol. viii, pp. 707-709.

heads of departments, would prepare the budget, which the legislature might reduce but not increase; and would have the power to dissolve the legislature when it defeats any of his measures. The legislature, organized with one committee on appropriations and revenues and one standing committee for each of the major branches of state administration, might, on the other hand, call a general election to support it in any break with the governor. There would also be introduced the recall principle.

III

In other directions, the League substantially followed the precedent set in former years. It renewed its allegiance to proportional representation and showed how it might be written into a state constitution. It adopted a brief budget provision, and recommended the initiative, referendum and recall as parts of fundamental state law. Unification of all courts in the state through a single administrative system was provided in a series of sections drafted by the American judicature society. The convention favored the appointment of judges, generally speaking, by the governor; and voted against the appointment of any judges by the chief justice. It stood by the principle of local self-government in the matter of supervision by a state civil service

commission of all local public servants; but would permit a state auditor of public accounts to prescribe methods of accounting for counties and municipalities. The League's Model Charter proposals for municipal corporation provisions, were adopted without change. The declaration on taxation is limited to a single sentence declaring that "the power of taxation shall never be surrendered, suspended, or contracted away." An educational requirement for the suffrage was favored, and it was desired that a woman's status with reference to voting should not be affected by marriage. A friendly attitude toward the demands of labor for legislation as to number of hours of work and as to social insurance, was manifested. Three methods of constitutional amendment were approved: proposal by the legislature; by the electorate, through the initiative; and by a body especially selected for the purpose; all of these would require for their consummation the approval of the electorate in referendum.

The present constitution of the state of Nebraska formed the groundwork of all the suggestions made, and of the discussion, and one of the delegates to the Nebraska convention now in session, Mr. Addison E. Sheldon, who participated actively in all the proceedings of the League's meeting, declared that the amendments proposed would have immediate consideration in his state.