

CITIZENS LEAGUE REPORT

No. 106

**Tax and Finance Provisions
Of the Minneapolis City Charter**

April 1959

Approved by Ba 4/8/59 (106)

Citizens League
601 Syndicate Building
Minneapolis 2, Minnesota

February 26, 1959

TO: Board of Directors

FROM: Taxation and Finance Committee (with concurrence of Forms and Structure Committee)

SUBJECT: Recommendations concerning Tax and Finance Provisions of the Minneapolis City Charter.

For some time now, more and more interest has been expressed on the part of citizens groups in amendment of the Minneapolis City Charter to make fundamental improvements in our city government. In particular, the Forms and Structure Committee of the Citizens League has developed studies and general recommendations on the subject of charter improvements. In May of 1957, that committee asked the League's Tax and Finance Committee to submit recommendations on major issues of charter improvements in the tax and finance field.

This report contains the Taxation and Finance Committee's recommendations. They have received the endorsement of the Forms and Structure Committee.

In the Taxation and Finance Committee discussion, the general framework of city organization as currently proposed by the Forms and Structure Committee was assumed. A brief summary thereof, insofar as it is pertinent to this report, will be found in Appendix A. It was also assumed that the Minneapolis Board of Education will become completely independent of the City government, in view of current proposals.

The general plan of this report is to present first the specific recommendations and secondly the background material considered by the committee in arriving at the recommendations. Cross-reference between the two parts of this report is made possible by the similar arrangement and numbering adopted for both.

RECOMMENDATIONS

1. Suggested Further Clarifications and Modifications of the Form of City Government as proposed by the Forms and Structure Committee.

1a. The charter should make it clear that the other department heads are basically responsible to the mayor, but that as to ordinary administrative decisions and procedures, they are subject to the chief administrative officer (CAO).

1b. The city assessor should not be a separate department head, but should be head of a division of the department of finance. The city assessor should serve under civil service and be appointed subject to the rule of three, by the director of finance.

1c. The charter should provide for appointment of a Board of Equalization or Board of Assessment Review of three persons by the President of the City Council with approval of the Council, all to consist of persons having qualifications for such appointments, none to be a public official of the City of Minneapolis.

ld. It is recommended that preparation of the budget should be by a budget officer directly responsible to the chief administrative officer. The budget officer would prepare the budget for all city departments but if either the library or park board is continued largely independent as at present those boards would continue to prepare and control their own budgets which would nevertheless be included in the city budget and would be presented to the city council in either event by the mayor.

(This is not meant to imply a recommendation as part of this report that either the library or the park board should continue their separate existence.)

le. Inasmuch as an annual post-audit is required by State Law by the State Public Examiner, but the city council may wish to conduct its own independent analysis and investigation, it is recommended that the council be authorized to hire outside qualified accountants or city employees to work in cooperation with or independent from the State Public Examiner in completing basic details of the annual post audit.

lf. If separate park and/or library boards are to be continued, the charter should nevertheless provide for performance of their financial functions (accounts and treasury) through the city's Department of Finance.

2. The charter should create a Department of Finance to be headed by a director of finance. The charter should further create divisions within the department according to functions, each to be headed by an official appropriately titled and having civil service status, as follows:

Division of Accounts (City Auditor or Comptroller)

Division of Treasury (Treasurer)

Division of Assessments (Assessor)

Division of Purchases (Purchasing Officer)

The general function of each division should be defined in the charter, without getting into administrative detail. The 1948 proposed charter could serve as a model for the description of the functions of the above divisions. The charter should not in general prescribe the manner in which such functions should be carried out. The Mayor acting through the CAO would have the power to preserve administrative procedures for the various departments.

3. Charter Control over Taxation and Borrowing; Budget and Budget Enforcement.

3a. The charter should limit the mill rate of property taxation so as to hold it within present limitations. One over-all limitation should be prescribed for the city; fractionalized limitations should be avoided. If the Park Board and Library Board are to be independent bodies, separate mill rate limits will have to be provided for them. However, there should be no limitations on taxes leviable for debt services and retirement, for payment of judgments, and for pensions. The mill rate should be capable of being increased by resolution of the council, but subject to a referendum vote of the people, if a petition for referendum is filed by a number of voters not less than 5% of the number of voters voting at the last previous regular city election (see the current proposal for the Minneapolis independent school district.).

3b. The charter should confer broad taxing powers on the City Council but not the Library Board or Park Board (if there are to be such independent boards) with respect to taxes other than property taxes. However, the charter should provide that no tax on a subject previously not taxed, nor any increase in rate of any existing tax, may go into effect unless opportunity has been given for referendum election thereon as provided in 3a above for increase in mill rate of property taxation.

NOTE: The Taxation and Finance Committee recommends the increased taxing authority in 3a and 3b for a City government reorganized along the lines proposed by the Forms and Structure Committee. We would not necessarily make the same recommendations if the organization were basically different from this.

3c. The charter should eliminate appropriation of particular receipts to specific purposes or departments.

3d. Provisions as to bonds and other borrowing:

(1) The charter should permit borrowing for any authorized municipal purpose, except that borrowing for current expenses should be confined to emergency situations, with the period of repayment of such emergency borrowing being limited to two years at the most.

(2) The "down payment" requirement, whereby no borrowing is permitted unless a fixed percentage of the cost of the item for which the borrowing is made is on hand, seems undesirable if put into the charter.

(3) The term of bond issues should not be restricted beyond the present thirty-year limitation.

(4) A hearing should be provided by the City Council on the purpose and amount of proposed bond issues before the council is authorized to issue any bonds.

(5) The charter should provide no further limitation on the total amount of debt than as provided by the present state law. However, a possible limitation on the amount of bonds issued in any one year should be provided, by requiring that when more than \$5,000,000 of bonds are to be issued in any year, a referendum may be had as set forth in 3a above.

(6) The charter should require sale of bonds on competitive bidding.

(7) The Board of Sinking Fund Commissioners should be abolished.

3e. The charter should provide for presentation of an operating budget and a capital budget as part of the mayor's annual budget message to the council. The chief responsibility for preparation of the budget should be assigned to the chief budget officer working under the chief administrative officer and the mayor. Public hearings on the budget should be provided for, before the city council. The Board of Estimate and Taxation should be abolished and its functions assigned as above to the City Council, the Department of Administration, and the Department of Finance. The budget should be enforced by a work program and allotment system, the allotments to be on a quarterly basis.

The above recommendations were approved by a unanimous or substantial majority of the members of the Taxation and Finance Committee, and concurred in by the Forms and Structure Committee. The basic draft of this report was prepared by DeForest Spencer, Jr.

BACKGROUND MATERIAL

1a. Role of CAO.

The Forms and Structure Committee proposals call for a chief administrative officer who is to be a top administrator to help the mayor in his duties of planning, directing and coordinating administration. Such an officer is no doubt necessary to an efficient city government, but it is essential also to clarify the extent of his authority. Without such clarification, one can imagine either of two possible extremes occurring:

(a) The administrator, if not a forceful personality, may find that the other department heads consult directly with the mayor on ordinary administrative matters, with the result that administration becomes decentralized and inefficient. Furthermore, it would not appear to be likely that the mayor could deal effectively with both major problems and routine administrative matters in no less than 8 separate departments.

(b) The administrator may on the other hand become the real strong man of the city government, practically a city manager, relegating the mayor to a "figure-head" role.

While the job would not be easy, the charter should attempt to define the scope of the authority of the CAO over administrative matters in the other departments, by implication leaving major departmental decisions to the various department heads, who would also be free to consult with the mayor.

1b. Assessor.

Present charter: City assessor is appointed by and responsible only to the council.

Model charter of the National Municipal League: City assessor is the head of a division of the department of finance.

1948 proposed charter: same as model charter.

One may question the creation of a city assessor's department outside the finance department. The Forms and Structure Committee says:

"Consideration was given to making him part of the department of finance, but it seemed preferable to give him separate and almost independent status to further insulate him from political pressure."

It is doubtful if this assertion is completely sound - if the assessor is folded into the department of finance, with civil service protection, he would seem to be more remote from political pressures. Also, why can't the Board of Equalization take some of the heat, as theirs is the final word on assessments?

A possible valid reason for making the assessor a department head is the importance of the job. Thus it is essential to get a good man for this important job, and

it may be necessary to offer him the standing and salary level of a department head. Also, a lot of feeling undoubtedly exists in this city in favor of constituting the assessor as a separate department head.

No doubt making the assessor subordinate to a department head would lessen the appeal of the job to qualified candidates. This disadvantage, however, is more than compensated by the advantages which would follow:

- (a) Civil service status,
- (b) Integration of assessing with other financial functions of the city,
- (c) Reduction in the number of the immediate subordinates of the mayor.

1c. Board of Equalization.

Present charter: Standing Committee on Taxes of the Council is the Board of Equalization (C. 5, Sec. 3).

Model charter: A 3-man Board of Assessment Review is appointed by the council to staggered 3-year terms.

1948 proposed charter: A Board of Equalization is appointed by the council from their own membership, and assessments are finally confirmed by resolution of the council.

Property assessment is a matter for skilled administration. The assessor in a large city must be a professional. The board that reviews his decisions must also be of professional calibre. Hence it should not be chosen from among council membership, who are not likely to be specially skilled in this field. Furthermore, the council should concern itself more with legislative than administrative matters. The model charter provision seems preferable. It should be noted that under the model charter the council retains considerable control through its power of appointment. As a concession to, or compromise with, the present method of appointment of the Board, one council member may be eligible for appointment to the Board, if he has the qualifications for the job.

1d. Preparation of Budget.

Present charter: the budget is prepared by the council and all boards and departments having power to levy taxes, and is then reviewed by the Board of Estimate and Taxation.

Model charter: the budget is prepared by the manager (i.e., mayor in the mayor-council form of government), with the aid of the department of finance (contemplating a possible budget division in the department of finance).

1948 proposed charter: the budget is prepared by the budget division of the department of finance.

(It is assumed that no matter who prepares the budget, it must ultimately be approved by the council).

The following discussion of the problem is taken from Municipal Finance Administration, published by the International City Managers' Association.

"In some cities there is a separate budget officer, whose function is to aid in the preparation and administration of the budget. The proper relationship of this officer to the department of finance is the source of some disagreement. If the budget is regarded as being the sole responsibility of the chief administrator, a good case can be made for having the budget officer directly responsible to the chief administrator. The budget office may be assigned the responsibility for conducting organization and management studies, which is sometimes cited as a reason for having the office directly responsible to the chief administrator because of his immediate and direct concern with these studies. On the other hand, the idea of a centralized and integrated finance department might seem logically to place the budget officer in the department of finance, along with the controller and other officials who play such an important part in the preparation and administration of the budget. If the department of finance is properly responsible to the chief administrator there need be no conflict between these two lines of reasoning. If, however, the finance department is not responsive to the policies of the chief administrator, the establishment of a separate budget office directly responsible to the chief administrator is justifiable. The budget is more than a financial document: It is the program of the chief administrator expressed in dollars and cents, and as such, its preparation and administration should be completely subordinated to the chief administrator."

In the extract quoted, for "chief administrator" read "mayor". It would be consistent with the quoted passage to assign the budget function to the department of finance.

On the other hand, there is considerable to be said for handing this function to the CAO, as provided by the structural plan in Appendix A:

(a) The CAO is more likely to have a broad over-all approach to budget needs and allotments than is the director of finance.

(b) The budget function is necessary to the prestige of the CAO. If the CAO is to control administration effectively, he must have authority beyond the duty to "administrate", and the budget function seems a natural.

(c) The CAO will have the background necessary for budget preparation from his routine function of fiscal analysis of city operations.

le. Post Audit.

State law presently requires that the State Public Examiner audit the accounts of the city. Minn. St., Secs. 215.31 to 215.38, provide for cooperation and exchange of information between the Public Examiner and public accountants in auditing municipal accounts.

Basically, the question is whether the audit performed by the Public Examiner meets the standards of audit of public accountants. From information furnished by the Public Examiner and private accounting firms which have had the opportunity of working with the Public Examiner or of checking up on the standards of the Public Examiner, it appears that the accounting standards or "work program" of

the Public Examiner have during recent years gradually been approaching the general standards or program of private accounting firms. It is felt that the Public Examiner's office does not yet have a "test program" such as the private firms have. A "test program" in accounting parlance means the thorough inspection of transactions during a set period of the accounting year, such as three months. The transactions of the particular three months are thoroughly checked in detail beyond the bookkeeping entries, as to the submission of a proper claim or invoice, the proper authorization of the work or purchase and approval of the claim, and the actual performance of the work or delivery of the goods. If the transactions appear to be in general normal during the test period, then no such thorough check is made of the remaining transactions of the accounting year. Thus the Public Examiner in most audits will make an unnecessarily thorough investigation, according to the standards of public accountants. However, it appears that the Public Examiner is likely in the near future to set up a test program.

One type of accounting service which it is said the Public Examiner does not do is the making of an audit of the books as of a date not known in advance to the officers of the corporation. Such an audit is most effective in uncovering any defalcations, because it does not permit the person who is embezzling funds to cover up the defalcations in advance. However, such an audit is not part of the normal annual audit of a corporation, and would be made in addition to the regular audit only if requested by the client.

The considerations in favor of an audit by the Public Examiner may be summarized as follows:

(a) It is cheaper than an audit by a private firm by a very substantial amount, as substantial overhead items of the Public Examiner are not charged to the municipality, but paid from the state appropriation. There is some prospect that the State Public Examiner will gradually increase his fees to municipalities so as to make them comparable to the fees charged by private firms.

(b) The Public Examiner has in the past made the claim that his staff is better informed on or conscious of state laws, attorney general's opinions, etc., than private firms, and therefore his audit will better disclose any failures to comply with law on the part of the municipality. This claim is, of course, highly debatable, inasmuch as there are some public accountants who have made a specialty of auditing municipalities.

(c) The Public Examiner has the power of subpoena. For instance, he can subpoena the private banking transactions of municipal officers. However, under the new law above cited, public accountants can call on the Public Examiner for cooperation in the audit and thereby subpoena records and witnesses.

(d) The Public Examiner's audit may be more thorough than an audit by private firms due to the former's lack of a test program. However, this probably means that the extra detail work done by the Public Examiner is unnecessary.

The disadvantages of the audit by the Public Examiner may be summarized as follows:

(a) There is no assurance that the work program of an audit by the Public Examiner will be maintained at an adequate level in the future, particularly if the present incumbent goes out of office.

(b) When the Public Examiner repeatedly audits the same city there is some likelihood that the mistakes or oversights of previous audits will be repeated.

(c) Delays in making the audit due to under-staffing are more likely if the Public Examiner performs the audit.

(d) The Public Examiner is not as able to render special auditing services as private firms.

(e) The personnel of the Public Examiner's office is in general not as competent as the men in the better private firms, due to the lower salary scale in the Public Examiner's office. This may be compensated by the fact that the Public Examiner's staff obviously specializes in auditing the books of the state and its municipalities.

1f. Financial Administration of the Library and Park Board.

The charter plan tentatively formulated by the Forms and Structure Committee provides that the City Council first approve bonds proposed to be issued by the Library and Park Boards and Board of Education, which in effect confers on the council powers now held by the Board of Estimate and Taxation. (Presumably council approval will not be required as to bonds of the Board of Education, if present plans for an independent school district are realized.) The City Council would not have the present power of the Board of Estimate and Taxation to decrease the mill rates of taxation proposed by the semi-autonomous boards. If the City Council were to possess this power, then the Park and Library Boards would be autonomous in little more than name. The Taxation and Finance Committee makes no recommendation on this issue, as it feels it is not within its proper sphere to do so.

Whatever the ultimate decision on the issue just mentioned, the financial administration of at least the Library and Park Boards could be handled by the City's Department of Finance, so that central accounting forms, purchasing, etc., would be brought about. The charter could provide that services of this sort would be performed by the Director of Finance, the boards in question, however, continuing to have the power to decide policy questions, employ other personnel, and prepare the budget with the help of the CAO. The mills of taxation necessary to pay for these financial services could be taken from the Boards and given to the City Council.

2. Organization of Finance Department..

The financial department may be divided by the charter into several divisions, each having certain definite functions, and all responsible to the director of finance. However, charters do not always go into the detail of setting up and defining the duties of each separate division. For instance, this is not done in the Model Charter, except to provide for a division of purchase. Instead the Model Charter lists in some detail the specific powers and duties of the director of finance (Art. VI), inferentially leaving it to him to determine how his department shall be organized. On the other hand, the 1948 Charter sets up the following divisions in the Department of Finance, with general descriptions of their functions or responsibilities:

Division of Accounts (Controller)
Division of Budget (Budget Officer)
Division of Treasury (Treasurer)
Division of Assessments (Assessor)
Division of Purchase (Purchasing Officer)
Division of Licenses (License Officer)

Another possibility is to leave the administrative set-up of the Finance Department (and of other departments) out of the charter, but provide that organization of each department be covered in an administrative code to be approved by the council. Presumably, each department head would submit proposals for organization of his department to the council.

This brings us to the question: is it wiser to prescribe the organization of the financial department in the charter, or leave it to the director of finance and mayor how this department shall be organized, or leave it to the council?

Fundamental Principles. One would think that there would at least be general agreement as to fundamental principles among those writing on this problem, but such is not the case. For instance, an administrative code or ordinance promulgated by the law-making body, or City Council, is favored by some, yet others point out that this proposal leads to interference by the council in administrative affairs, undermining effective administrative leadership and control. In what follows, the fundamental problems of writing administrative provisions into the charter are reviewed.

A. Flexibility. In writing about charter provisions defining (inter alia) the internal organization of departments, Prof. William Anderson says:

"Generally speaking these matters should not be dealt with at length in the charter but should be entrusted to the council for it to regulate by ordinance. Only the fundamental provisions needed to protect the city should be inserted in the charter, and these should be worked out with the greatest care . . . Every year cities learn something new and find it wise to change their administrative procedure. It would be unfortunate to embody in a charter, which is hard to amend, a whole series of detailed administrative provisions which may soon be out of date and unworkable." (From Chapter V of City Charter Making in Minnesota, 1922.)

Very much the same attitude is expressed in the National Municipal League's Guide for Charter Commissions (1947), which was largely drafted by Prof. Anderson. The Guide adds the thought that proposals for administrative re-organizations should come from the manager in the council-manager plan or from the mayor in the strong-mayor plan.

Other writers have pointed to the dangers of detailed administrative provisions in charters. The Public Administration Service, in its 1947 survey report on Minneapolis city government, said:

"The present city charter is much too long and detailed to permit the degree of administrative discretion and flexibility that is desirable. The prescription of specific administrative procedures, the assignment to important officials of routine duties that cannot

be delegated, and the establishment of a rigid organizational pattern not easily adjustable to changing conditions are some of the characteristics of the present charter which are obstacles to good administration."

In a tentative statement of principles of city organization, the Forms and Structure Committee of the Citizens League says (Principle 1 E):

" . . . more flexibility should be permitted under the City Charter. Unnecessary details should be eliminated therefrom. As the basic law of a city, the charter should be broad and flexible enough to permit changes in policy and administration without being constantly amended."

To the extent that a charter provides for detail in administration, it clearly violates the principle of flexibility.

B. Separation of Council from Administration. The principle of flexibility is answered by provision in the charter for an administrative code to be enacted by the council. But this runs counter to another principle (2D) tentatively approved by the League:

" . . . legislative interference with departmental administration should be avoided, and the two functions should be separated."

The League's commentary on this principle quotes the 1947 Public Administration Service report on the undesirability of "aldermanic administration". More specifically, the commentary points to the following evils of mixing legislation and administration:

(1) Department heads become weak administrators because their lack of real authority robs them of prestige, initiative and vitality.

(2) Administrative decisions become group decisions, subject to compromise and delay, or conversely to hasty and ill-conceived action.

(3) The council becomes bogged down in administrative detail, so that important legislative problems are neglected.

(4) The council may try to preserve as much direct administrative power as it can, and fail to set up adequate internal administrative bureaus and controls.

Another evil is that administration becomes a mixed responsibility of the mayor and his department heads on the one hand and the council on the other. This violates the important principle of visibility of governmental organization (1A). I.e., if departmental administration is poor, is it the fault of the department or of the council?

One concludes that to the extent that the charter permits the council to prescribe administrative detail, the principles of separation of powers and of visibility are violated, as well as the principle of flexibility.

It may be argued that the logical solution is for the charter not to provide any details of organization of the various departments, but leave these to be formulated by an administrative code to be drawn by the mayor, the CAO, and the department heads, or any one or more of them. Such a code would be subject to constant change and thus preserve flexibility.

C. Why Any Administrative Provisions in the Charter? In the light of the foregoing, the alternative of not providing in the charter for any administrative organization below the department head level seems attractive. This raises the question whether there is any merit in having the charter prescribe the general organization of each department.

It does seem that wisely drafted provisions in this area might accomplish some good, for instance:

(1) The functions of the division chiefs in each department would be removed from the arena of controversy, at least in the important respects.

(2) The authority of the division chiefs would be enhanced, their jobs and scope of authority being protected by the charter. The division chief posts would therefore be attractive for better qualified candidates.

(3) There is the possibility that charter administrative provisions could effect economies which might not otherwise take place, for instance, by providing for centralization of some or all purchasing under the Division of Purchasing in the Finance Department, or by placing janitorial services for all departments in the hands of a special division of the Department of Public Works, or by providing for centralization of at least the routine aspects of issuing licenses and permits under the Division of Licenses in the Finance Department. Such charter provisions could help to integrate those functions of the Library and Park boards which are not involved with policy into the over-all city government.

(4) A present source of friction could be alleviated by providing in the charter for establishment, by the CAO or some other person or body, of uniform job classifications and salary schedules, for full and part time workers. Probably this suggestion falls outside the scope of the present report, but we mention it as another example of the sort of charter administrative provision which could accomplish a lot of good.

It should be kept in mind that much of the aversion expressed by writers on charter making to including administrative regulations in charters is pointed toward such provisions in small-city charters. It is felt that in the smaller cities several functions can be handled by one administrator, but it will depend on the qualifications of those who are to fill the positions how the various administrative areas should be combined or divided. In the larger cities it is obviously not possible to allot more than one administrative area to one man, except in unusual circumstances.

3a. Mill Rate Limits on Property Taxation.

Independent of any existing or future charter provisions there exist statutory per capita limitations on tax levies by all municipalities in Minnesota. The limitation applicable to the City of Minneapolis is \$146.00 per capita. This does

not apply to special assessments, and perhaps not to debt service levies. The City's rate of taxation is far below this limitation, being \$78.97 in 1957.

In common with many city charters the present Minneapolis charter provides for limitations on the mill rate of property taxation. More than in most charters, the Minneapolis mill rate limitations are fractionalized - i.e., there are separate mill rate limitations applicable to taxes levied for specific purposes. See Appendix B.

The 1948 proposed charter established mill rate limitations as follows:

For interest and principal on debts and to pay judgments	no limit
For pension and retirement purposes	such rates as are necessary
For poor relief	such rates as are necessary
For all other municipal purposes, excluding levies mandatory under state law	25 mills
Levies by and for the Board of Education	existing char- ter left un- changed

In the model charter there are no provisions placing limitations on taxes.

Per capita or mill rate limitations on property taxation are open to the following objections:

(a) They may cause trouble in the future due to their inflexibility and changing conditions.

(b) Limitations are prone to being raised by legislative action, with or without a referendum vote of the people, or sometimes by charter amendment, so their effectiveness is open to question. The record (see Appendix B) demonstrates how most charter limitations have been nullified by enactments of the legislature. The new home rule amendment to the state constitution will not necessarily hamper the legislature's power to continue to raise existing mill rate limitations. Mill rate limits may also be in effect increased by upward adjustments of valuations of existing taxable properties, but this is not so likely to happen.

(c) There is a tendency to levy taxes right up to the maximum allowable rate. See Appendix B. As Professor William Anderson says, "The Council generally takes the maximum because it thinks the maximum is authorized." Thus a limitation tends to reduce council responsibility.

(d) Fractionalized limitations according to function may be evaded through inter-fund transfers of certain types. For instance, much of a civil defense levy could be paid to the general funds in the form of rent for office space, or for training of police and fire department personnel.

(e) Property valuations have a tendency to lag behind actual value in time of inflation, such as the last 15 years. The reason is, of course, that there is considerable resistance to increase in valuation of properties already on the tax rolls, although new properties may be added at a more realistic valuation. Thus mill rate limitations, operating on property tax valuations which are on the whole too low, are unduly restrictive in periods of inflation, as the city must pay for goods and services in terms of inflated dollars. In times of deflation, the trends and effects caused thereby are just the opposite.

Actually two questions are presented:

(1) Should there be any charter limitation on rate of taxation?

(2) If so, should a limit be prescribed separately for each purpose for which taxes might be levied, or should there be only a single overall general tax limitation?

In view of the past experience in Minneapolis and elsewhere, it seems quite certain that the answer to the second question should be that fractionalized limitations are to be avoided. This brings us back to the first question, whether there should be any limitation at all.

There are some persuasive arguments in favor of a general limit on mill rate of taxation:

(a) The statewide per capita limitations are practically no restriction at all. As a matter of fact, they were intended only to limit spending by iron range municipalities.

(b) This committee is on record to the effect that the level of ad valorem property taxation in this city is already at a very high level, and other sources of revenue ought to be found to replace property taxation in part, or at least to hold property taxation down to its present level. There is a good chance that a mill rate limitation such as to prevent the present mill rate of property taxation from going higher would tend to force the city to develop other sources of revenue, and this would be a desirable tendency.

(c) Many people would probably vote against the new charter if it became known that its effect was to wipe out existing mill rate limitations.

In drafting a limitation on mill rate of taxation the draftsman should be very careful to take account of existing levies provided for by state statute (see Appendix B). Tax levies for payment of principal and interest on bonds and on judgments should not be made subject to mill rates: limitations on sinking fund levies impair the marketability of bonds, there are separate statutory limitations on the amount of bonded debt, and certainly there should be no limitation on the right of the city to levy taxes to pay its lawful obligations. There should also be no limitation on taxes leviable to pay employee pensions, which are also fixed legal obligations.

There are other means of limiting the amounts of the city's tax levies. For instance, taxes could be limited to a 3% increase over the taxes levied in the preceding year. However, the effect of such a limitation would almost certainly be to impel the council to take advantage of the permissible increase in each year,

whether needed or not, for fear that in some future year the total maximum annual increases would be necessary. Also, such a limitation seems most inflexible. A limitation of taxes by dollar amount seems undesirable because it also is too inflexible, particularly in inflationary periods, and because it has no rational connection with the capacity of taxable property to yield tax revenue.

3b. Other sources of revenue.

Without charter authorization, the city could derive authority to collect revenue from sources other than property taxation, utility rates and charges, fees fines and penalties, and utility taxes agreed to in franchises, only to the extent that the state legislature passed enabling legislation. Since it may be difficult to get such legislation enacted, and since it may not be enacted in acceptable form, it seems advisable that the charter provide for other sources of revenue. This assumes, of course, that it is desirable for the city to have other tax sources than property taxation, and certainly this committee is on record to that effect.

The present charter has no provisions for taxes other than property taxes (of course, it provides for the levy of special assessments). The 1948 charter, in section 6.26, gives the council the power, by 2/3 vote, to pass an ordinance levying taxes "on all subjects or objects which the city could lawfully tax," except

- (1) sales taxes on clothing, food, or rent, and
- (2) income taxes.

Section 6.26 further provides that the sales tax is to be separately stated in rendering bills. The Model Charter, in Section 3, grants the city all powers which it could possibly have under the state constitution, which would include the power to levy any tax not violating constitutional provisions.

A provision in a new charter granting broad taxing powers previously non-existing would obviously be controversial. Yet to leave out such a provision would constitute a real defeat, and it should not be left out unless the political situation makes it absolutely necessary. A possible compromise step would be to put limitations on the power in the same manner as the 1948 charter did. A further compromise position would be to add a referendum requirement on any ordinance levying a new tax - either a mandatory referendum or a referendum to be held only if a specified percentage of the voters petition for it.

3c. Appropriation of Receipts to Expenditures.

A common feature of older charters, including the present Minneapolis charter, is the appropriation of particular receipts to particular departments or purposes. For instance, the Board of Public Welfare is entitled to all fees and other receipts from its own department. (C. 14, Sec. 11), fines and penalties for violation of Park Board ordinances become a part of the park fund (C. 16, Sec. 14), and all receipts from sales of property are to be paid into the permanent improvement fund (C. 5, Sec. 6).

Such provisions do not appear in modern charters. The 1948 charter simply stated that "all money received by an officer or employees of the city for or in connection with the business of the city shall be paid into the city treasury." (Sec. 6.07). The model charter requires that the director of finance shall "collect all taxes, special assessments, license fees and other revenues of the city and re-

ceive all money receivable by the city from the state or federal government, or from any court, or from any office, department or agency of the city." (Sec. 90). Section 97 provides that all fees shall belong to the city government and be paid daily to the department of finance.

The Forms and Structure Committee of the League, in its Analysis of Minneapolis City Government (etc.) has pointed out some of the evils of the earmarking of funds in Principle 2E.

3d. Provisions as to bonds and other borrowing.

(1) Purpose of borrowing.

Present charter: The power to issue bonds for various purposes is scattered throughout the charter, and exists in special laws enacted before and since adoption of the charter. The Board of Estimate and Taxation has the power to issue bonds for "municipal purposes" upon the request of the city council (C. 15, Sec. 9). This broad grant of power is confirmed by state law (Minn. St., Sec. 475.52, Subds. 1 and 2), except that power to borrow for current expenses is not granted by the state. Borrowing for current expenses is possible under charter powers. The city may borrow money in anticipation of taxes previously levied, up to 50% of the levy, on certificates of indebtedness maturing not later than the anticipated date of receipt of the taxes (C. 15, Sec. 12).

1948 charter: Permits borrowing for any authorized corporate purpose (Sec. 6.34). The power to borrow for current expenses is apparently limited by Section 6.35, permitting emergency borrowing not to exceed \$2,000,000 in any one year by 3/4 vote of the council, the bond resolution to state specifically the nature of the emergency and the bonds to run no longer than 10 years. Sec. 6.32 permits tax anticipation borrowing on the same terms as the present charter.

Model Charter: The city may issue bonds for any capital project (Sec. 59). Borrowing for current expenses is not permitted. However, the council may under certain conditions make an emergency appropriation up to a limited amount (3% of the operating budget) and issue notes to meet the appropriation (Secs. 103 and 104). One-year notes may be issued in anticipation of collection of property taxes up to 50% of the taxes levied, and notes maturing within the budget year may be issued in anticipation of other revenues to be collected within the budget year.

It seems desirable not to enumerate specifically the particular projects for which a city may issue bonds, but to confer authority to borrow for any authorized municipal purpose except current expenses. Borrowing for current expenses should be permitted only in order to meet emergency conditions. The limitations of the 1948 charter on emergency borrowing seem sound, but a shorter limitation on bond maturities would be better. The provisions of the model charter are sounder, as the maturities of the emergency bonds or notes may not extend beyond the last day of the fiscal year next following the year of borrowing.

Tax anticipation borrowing should continue to be permissible substantially as it now is, and provision should be made to permit short-term borrowing in anticipation of other revenues, as in the model charter. The latter sort of borrowing may be useful in expediting construction jobs to be paid for from state aids, particularly municipal state-aid road apportionments.

(2) Down payment requirement.

The model charter requires that 5% of the cost of a capital project for which bonds are to be authorized in that year be appropriated in the budget of that year, except that no down payment is required for issuance of bonds

- (a) to meet a disaster, or
- (b) to pay for a public utility or improvement thereof, or
- (c) to pay for a project which is to be partly paid for by the federal or state government.

See Secs. 57, 69 and 70.

The down payment requirement does not appear in the present charter or the 1948 charter. Its merits are obvious, in promoting the development of a long-range capital improvement program. On the other hand, the requirement may be unduly restrictive in certain cases.

(3) Term of bonds.

Present charter: Generally, no limitation is placed on bond maturities. General state law provides that bonds should come due serially in annual installments within 30 years, the largest annual installment to be not more than 5 times the smallest (Minn. St., Sec. 475.54).

1948 charter: The charter refers to the then-existing similar state law, and further provides that the maximum maturity shall not exceed the reasonable life expectancy of the improvement (Sec. 6.36).

Model charter: This charter provides a maximum maturity of 30 years for bonds to buy real property, water plants and mains, and sewage treatment plants, 20 years for bonds to buy power plants and equipment, fireproof buildings, etc., and ten years for bonds to buy any other improvements (Sec. 90). Additionally, it must be determined by the engineer or architect and the council that the probable period of usefulness of the capital project will be at least as long as the term of the bonds (Sec. 81). In a footnote, the draftsmen admit that this treatment of the maximum term of bonds is probably inadequate, and suggest that if the state has an adequate general law, reference may be made to such law.

It seems axiomatic that payment for an improvement should not be planned for a period longer than its probable usefulness, so that a future generation will not have to pay for what benefited only their fathers and thereby be prevented from borrowing for an improvement the future generation needs. On the other hand, there may be circumstances when the axiom should be violated: for instance, if as large an amount of short-term debt is outstanding as the city can stand, the city will have to issue only long-term bonds until the short-term debt is paid off, unless debt service levies to be made over the short term are to become unreasonably high. Or it may be that an expensive capital project having a short period of probable usefulness is needed until such time as a permanent project is feasible: for instance, dikes for river control, certain airport improvements needed while a new airport site is selected and developed, temporary power facilities, etc. It may be too much of a strain to schedule maturities of bonds financing such a project over a short period of time.

It may be significant that the present state bond law has only the 30-year limitation, without other restrictions.

(4) Hearing on bond issues.

Present charter: All bond issues have to be approved by the Board of Estimate and Taxation, whose meetings are open to the public. Hearings on bond issues are probably not required. (C. 15, Secs. 9 and 11).

1948 charter: No election or hearing is required prior to the issuance of bonds - only the favorable vote of 2/3 of the members of the council.

Model charter: Similar to 1948 charter, except that only a 3/5 vote of the council members is required.

In view of the frequency of issuance of bonds by the City of Minneapolis, and the expense of holding any city election, it is not practical to require voter approval of bond issues. However, a mandatory hearing on bond issues is not an unreasonable requirement, and would have some effect in advising the council of the wishes of the people. It would carry over into the new charter the advantages of a broader review of bond issues, presently obtained by having bond issues considered by the Board of Estimate and Taxation.

See the referendum requirement in the next recommendation.

(5) Limit on amount of debt.

Present charter: The total net bonded debt is limited to 10% of the assessed valuation (C. 15, Sec. 10). However, this 10% limitation is extended by state law (Minn. St., Sec. 475.53, Subd. 3) to apply to the full and true valuation. Also, the limitation applies to bonds payable from taxes but not to bonds payable from utility earnings or from special assessments, and does not apply to permanent improvement revolving fund bonds. The exceptions of such bonds from the 10% debt limit is accomplished by reference to the provisions of state law (C. 15, Sec. 10).

1948 charter: The limit is 10% of the full and true value, with the further provision that of the 10% not more than 7% may be exceeded for city purposes and 3% for school purposes (Sec. 6.33). The 10% limitation here, as in the present charter and statutes, does not apply to debt supported by special assessments or utility earnings, etc.

Model charter: Contains no debt limitations "because such limitations are now invariably established by the constitutions or general laws of the state." (Footnote, page 31.)

The full and true value of the city for 1957 was \$1,115,708,030, and its net debt as of December 31, 1957 was \$41,890,521, so that the net debt is only 3.8% of the full and true value. The amount of bonds outstanding not subject to debt limit was \$17,029,408. Obviously, the City is not feeling the pinch of debt limitations. The real factor holding down city debt is the prudence of those in the city government, combined with public pressure.

It may be argued that the limit on bond issues should be lowered, but on the other hand the 10% limit of full and true value may be necessary in the future,

if a capital improvement program on a larger scale becomes necessary, or if there is a change in assessing practices which lowers full and true values. In 1942, the City's net debt reached 9% of the full and true value.

However, in order to provide some public control on accumulation of debt by the city, the charter could provide that whenever the council proposes to issue more than the usual annual amount of bonds in any one year, then a referendum can be called on the issuance of the bonds by a petition of a certain minimum percentage of voters. Such referendum provision could and should be similar to that recommended in this report (3a) for increases in mill rate.

(6) Public sale of bonds.

Sale of bonds on competitive bidding is required by the present charter (C.15, Secs. 9 and 12), the 1948 charter (Sec. 6.36) and the model charter (Sec. 83). The practice should be made requisite in the charter by reference to the state law (Minn. St., Sec. 475.60).

(7) Sinking Fund Commissioners.

The present charter provides for appointment by the council of a board of 3 Sinking Fund Commissioners, who manage and invest the sinking fund with the consent of the council (C. 5, Sec. 15). The board should be abolished and its function entrusted to the Department of Finance, as the function is by and large administrative.

3e. Budget and budget control.

It was recommended earlier in this report (1d) that the budget be prepared by the CAO, so this section deals primarily with enforcement of the budget.

Present charter: The city council and each board or department of the city having power to levy taxes submit their budgets to the Board of Estimate and Taxation, which reviews the budgets at public hearings and sets the maximum amounts to be allowed to the various bodies submitting budgets (C. 15, Secs. 2 and 11). At the beginning of each fiscal year and from time to time thereafter, the city comptroller encumbers each fund or appropriation with the salaries and other expenses payable or paid therefrom. When the fund has been fully encumbered, no further warrants are to be drawn upon the fund (C. 15, Sec. 4).

1948 charter: One of the divisions of the department of finance is a division of budget under the direction of the budget officer, who compiles budget data. The mayor prepares the budget estimates and other budget documents and presents them to the council, which holds public hearings thereon. After approval of the budget, the various departments and boards of the city government submit to the director of finance a work program showing the requested allotments or appropriations for the entire fiscal year by monthly or quarterly periods. The allotments may be revised during the course of the fiscal year. Expenditures made in excess of the appropriation or allotment thereof are illegal, the controller (head of the division of accounts in the department of finance) being responsible (Secs. 6.14 through 6.22).

Model charter: In general, the model charter provisions are similar to those of the 1948 proposed charter. One interesting variation is that the capital budget is to be made not only for the budget year, but also for the next five fiscal years succeeding the budget year (Sec. 44). The model charter also provides for an allotment system, to be on a monthly basis (Sec. 91).

The provisions for public hearings on proposed city budgets are traditional and provided for in all three charters, as above noted. Although the budget is mainly the work of the CAO, it seems desirable to provide, as do the 1948 proposed charter and the model charter, that the budget be presented to the council by the mayor, with an accompanying budget message, in order that the budget may carry the prestige of the mayor's office. Having the mayor present the budget also emphasizes the responsibility which the mayor bears for the program therein set forth. The same two charters also provide for a separate capital budget, as distinguished from the operating budget. The charter might well provide that the capital budget must bear the approval of the Planning Commission.

The allotment system is not contained in the present charter, but again is provided for both in the 1948 and model charters. It seems to be a sensible way of keeping control over spending, with the advantage that over-expenditures will generally be indicated before they occur or reach the danger point, making it possible to apply remedial measures before great harm has been done. While the model charter recommends monthly allotments, this seems a bit too inflexible, and quarterly allotments would be better. The council should of course have the power to revise the allotments at any time, upon a showing of necessity.

The Forms and Structure Committee has already recommended that the Board of Estimate and Taxation should be abolished and its control over the budget and bond issues transferred to the council, and this recommendation seems sound.

APPENDIX A

GENERAL STRUCTURE OF CITY GOVERNMENT (Recommended by Forms and Structure Committee)

Tentatively, at least, the Forms and Structure Committee is favoring the strong mayor-council form of city government for Minneapolis.

(NB: Of the 35 U. S. cities in the 250,000 to 1,000,000 bracket,

20 have the mayor-council form,

5 have the commission form, and

10 the council-manager form.

The current trend is away from the commission form, toward either of the others.

The cities in the Minneapolis population category, seem to favor the mayor-council form.)

Under the Forms and Structure Committee "sense of direction" the council is the legislative head, and the mayor the executive head of the city. The mayor (4 year term) appoints a chief administrative officer (CAO), a director of finance, and a city assessor, to serve at his pleasure. The council, however, must concur in the appointments.

The CAO (head of Department of Administration) has the function of coordinating all administration for which the mayor is responsible. His department includes a budget director and a personnel director.

The director of finance (head of Finance Department) has under him the city treasurer, comptroller, and purchasing agent. Such minor officers, who are not heads of departments, would serve for fixed terms or under civil service.

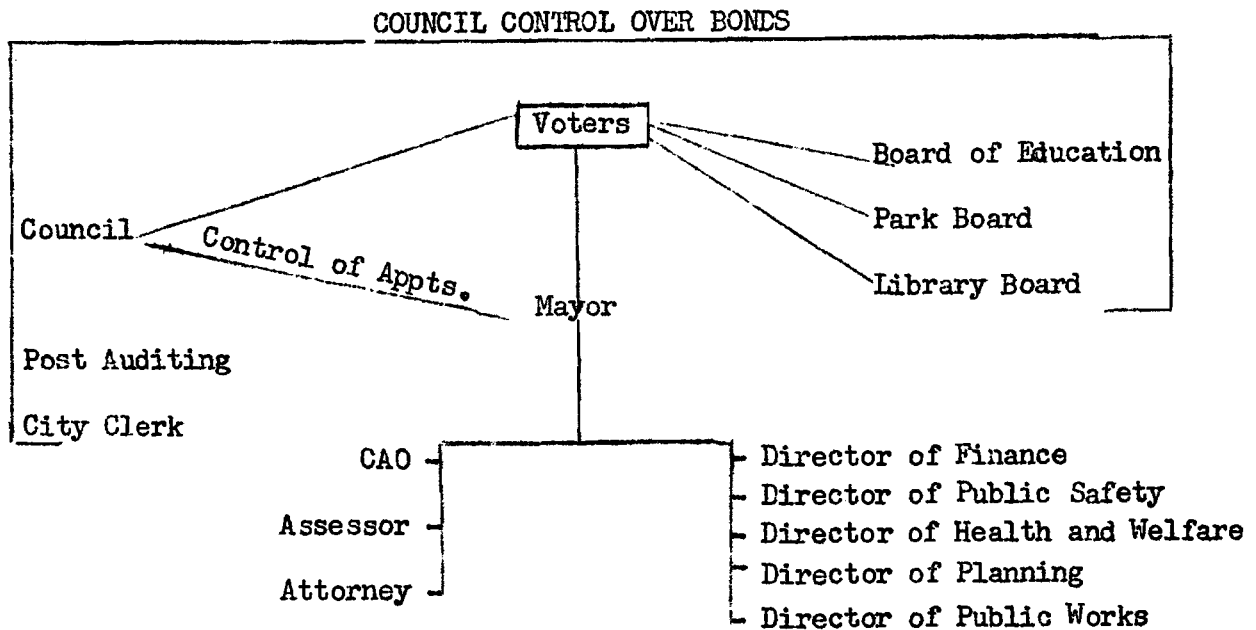
The city assessor, of course, assesses property for tax purposes.

The post auditing function is controlled by the council. The council would rely on the Public Examiner or set up its own post-auditing office, or contract for this service.

It is proposed that the School Board, Library Board, and Park Board continue as separately - elected independent bodies. They would set their own tax levies subject to charter or legislative limitation. The council, however, would have final control over their bond issues, as the Board of Estimate and Taxation would be abolished and its control over bond issues assigned to the council. (However, it appears from recent developments that the School Board will become completely independent and free from council control.)

The foregoing is only a partial description of city government reorganization as proposed by the Forms and Structure Committee. There are five other major department heads in addition to those mentioned above (the CAO, finance director and assessor): the director of planning, the director of public works, the director of health and welfare, the director of public safety, and the city attorney. The city clerk is an appointee of the council, and his function is limited to duties as clerk to the council and head of election registration.

A partial diagram of city organization would look as follows:



APPENDIX B

MINNEAPOLIS TAX LEVIES AND LIMITS

The following figures demonstrate:

- (1) the intricacies created by fractionalized mill rate limitations on taxes,
- (2) the tendency to increase such limits, usually by legislative enactment, though sometimes by charter amendment or law submitted to the voters,
- (3) the tendency to add permissible mill rates of taxation for purposes not contained in the charter, and
- (4) the tendency to levy taxes right up to the permissible limits.

The figures for mills levied are those for 1957 taxes payable in 1958.

1. Taxes Authorized by Charter.

<u>Purpose</u>	<u>Original Charter Limit</u>	<u>Present Limit</u>	<u>Increase Accomplished by:</u>		
			<u>Legislature</u>	<u>Vote of People</u>	<u>Mills Levied</u>
Current Expense	11 mills	14 mills*	X		14
Perm. Improvement	2.5 "	2.795 mills*	X		2.795
Street Maintenance	2.5 "	2.795 " *	X		2.795
Parks	1.5 ")				
Playgrounds	0.25 ")	6 "	X	X	5.90
Park Trees	0.05 "	0.05 "			0.05
Park Museum	0.125"	0.25 "	X		0.25
Civil Service	2.5¢ per capita	same			0.20
	<u>minimum</u>				(About 14½¢ per capita)
Estimate & Tax	0.06 2/3 mills	0.06 2/3 mills			0.065
School Maint.	16.15"	42.60 "	X	X	42.60
Library	1 "	4.47 "	X	X	4.40
Publ. Welfare	3.75 "	4.19 "*"			4.19
Sewage Disposal	2.5	same	X		None
Debt Interest	no limit	same			{18.20
Debt Principal	3 mills	none	X		

2. Taxes Authorized by Statute.

<u>Purpose</u>	<u>Original Limit</u>	<u>Present Limit</u>	<u>Mills Levied</u>
Public Examiner Expense	.02 mills	same	.02
Civil Defense	20¢ per capita	same	.205
Hospitals	5 mills	6.09 mills*	6.09
Poor Relief	3.75 mills	5 mills	4.94**
Mun. Bldg. Commission	none	same	1.645
Met. Airports Commission	1 mill	same	.405
Armory	.04 mills	same	.04
Fire Dept. Relief Assoc.	1 mill	1.50 mills	1.50
Police Relief Association	1½ mills	2 mills	2.00
Teachers' Retirement			
Fund Association	none	same	6.17
Municipal Employees' Retirement	none	same	6.52

Total 124.980***

* In the main, these are not true increases, but adjustments made because of reduction in the assessed valuation (i.e., the tax base on which mill rates are calculated) arising from the reduction in homestead valuation enacted in 1933.

** Actually, this was the maximum millage that could be levied in view of a further limitation to a maximum levy of \$1,850,000.

*** Omitting the county one-mill levy for schools.