



Summary of Meeting with Jack Davies

Civic Caucus, 8301 Creekside Circle #920, Bloomington, MN 55437

Friday, April 28, 2006

Guest speaker: Jack Davies, former judge, Minnesota Court of Appeals and former State Senator

Present: Verne Johnson, chair; Chuck Clay, Paul Gilje, Jim Hetland, Jim Olson (by phone), and Clarence Shallbetter

A. Introduction of Davies —Verne introduced Davies. He graduated from U of M law school in 1960 while a member of State Senate from south Minneapolis. Davies taught at William Mitchell for 25 years and served in Senate for 24 years, including 10 years as Judiciary Committee chair, and 2 years as Senate President. He was appointed to the Minnesota Court of Appeals by Gov. Perpich in 1990 and served until his retirement in 2000. Davies was appointed to the Constitutional Study Commission in 1971 and prepared the document cleaning out the obsolete provisions and cleaning up awkward language in the constitution, which was approved by the House and Senate and the electorate.

Verne said Davies was invited to meet with us today to discuss proposed amendments to the state constitution to provide constitutional guarantees on revenue for transportation and natural resources and the arts.

In Davies' comments and during the discussion the following points were made:

1. A broad charter —People should take time to read the state constitution, he said. It reads smoothly and easily and functions as a broad charter for the state. For example, the word "may" appears frequently in outlining what the Legislature can do. It allows the Legislature to do what it wants to do.

2. Danger in making the constitution a vehicle for legislation —Davies believes the proposed amendments would damage the constitution and the Legislature. The constitution is not just another alternative for passing legislation, which is what is happening with the proposed amendments. Everything in those amendments could be accomplished by state law. By using the constitution, you damage the Legislature as an institution, because you deprive it of its responsibility for passing laws.

3. What the state constitution provides —The constitution provides the framework for government in the state in detail. It protects fundamental rights. It protects against fiscal temptations. It protects local government. It contains a few mandates on functions for highways and education but those mandates don't tie the hands of the Legislature as the proposed amendments would do.

4. The problem of long-term impact —What fits legislative intent today might be dramatically different in another few years. The Legislature could pass the amendments now but in a few years find that it has tied its own hands with the amendments. The Legislature can change a law every time it meets to account for changing conditions. A constitutional amendment remains in effect unless another amendment is passed to change it, which is very difficult to do.

5. Amendments are being proposed because the Governor opposes tax increases —The constitutional amendment direction is being taken because the Governor won't allow any increases in taxes. A constitutional amendment can be submitted to the voters directly by the Legislature, without going through the Governor. By contrast, a state law requires the Governor's approval.

6. Legislature at fault, too —In response to a question, Davies said some legislators should share the criticism, too. He disagreed that criticism should be addressed to the entire Legislature. He said fault lies with Republicans who oppose tax increases and whose religious views seem to guide their actions. Davies recalled a time in the past when the DFL and Republican parties competed with one another and both parties got better, reflecting the quality of the other party.

7. Existing transportation dedication not a problem — Davies was asked about whether a precedent already has been established in the constitution because of existing provisions that dedicate revenue from the state gasoline tax and the tax on licenses for motor vehicles to transportation. Davies said the existing provision is not a precedent. That provision was written very carefully to preserve as much legislative authority as would be needed. The proposed amendments are much more rigid, he said.

8. Position clarified —Davies clarified his position that he is opposed to both the transportation amendment and the natural resource amendment. Ideally, he said, all revenue-related provisions would be kept out of the constitution. He said what is needed to defeat the amendment is for some enlightened transportation proponents and sportsmen to come forward and say that it is not worth taking a victory on revenue dedication as a price for damaging the constitution.

9. Comparative silence from other advocates —It was noted that education and health and welfare advocates have been surprisingly silent during the discussions on dedication of sales tax revenue. Such advocates would seem to miss the point that their own sources of revenue are being threatened by the amendments. Davies said he doesn't think they want to ruffle feathers of legislators. But he agreed that in coming sessions the legislators will be faced with similar amendments for other functions and that with a precedent set, the Legislature would have a tough time turning down those amendments.

10. A "practical" reason to support an amendment —Reference was made back to comments by Bill Blazar of the Minnesota Chamber of Commerce. Blazar said the chamber was forced to accept the transportation amendment because transportation is so starved for funds and was unable to get a tax increase out of the Legislature. Davies pointed out that the Legislature passed a gas tax increase only to have it vetoed.

11. A way to diminish interest in the amendments —Clarence suggested that one way to diminish interest in the amendments would be for the Legislature to propose language that would not allow the functions of transportation or natural resources to receive funds other than whatever is dedicated by the amendments.

12. Summing up his thoughts —Toward the end of the discussion Davies summed up his thoughts. The constitution has functioned well over the decades and ought not be merely a tool for responding to whatever happens to be the current political impasse in the Legislature. Moreover, he said, the problem would not be present were it not for a substantial number of legislators adopting inflexible positions based on ideology.

13. Changes in the media —Davies said that the greatest problem in communicating political developments is the ability of people to read only those views that support their own, via blogs on the internet or other ways. Looking back 40 years he recalled the presence of responsible news media that had a community-wide audience.. Today, not only do you have some media outlets that just support certain views. You also have people with similar views living in the same locations and only talking with people who have the same view they do.

14. Need for a study on legislative procedures —Davies said a critical need is for an outside group like the Citizens League to do a study of legislative procedures.

15. Comment by Civic Caucus members— Jim H. said the central message he received is that we shouldn't change the constitution to meet the day-to-day problems of the Legislature. Clarence said that the constitutional argument probably doesn't concern a lot of people. Other arguments will be needed to defeat the amendments.

16. Positions on other issues —During the meeting Davies made mention of a few other concerns:

a. Delete the 'legislative day' definition —Currently, he said, the constitution limits the Legislature to a total of 120 legislative days during the first four-and-a-half months of each calendar year. Consequently, the Legislature doesn't assemble as a body during those months as much as it could, for fear of losing days. He would continue to limit the Legislature's meeting time to the first four and a half months of each calendar year. But he'd let the Legislature meet in floor session as often as it wants during those months.

b. Opposition to term limits —He said term limits for legislators has been a disaster in other states. A good legislator gets better with time.

c. Opposition to initiative and referendum —He's opposed to placing initiative and referendum in the constitution.

d. Not much need to change existing election laws —Davies sees little need to make changes in the precinct caucus system, dates of primaries or other changes in election laws. He said he's an optimist and expects that current problems with legislators taking ideological positions will gradually fade in importance.

B. Thanks —Johnson expressed thanks to Davies for meeting with us today.

The Civic Caucus is a non-partisan, tax-exempt educational organization. Core participants include persons of varying political persuasions, reflecting years of leadership in politics and business.

A working group meets face-to-face to provide leadership. They are Verne C. Johnson, chair; Lee Canning, Charles Clay, Bill Frenzel, Paul Gilje, Jim Hetland, John Mooty, Jim Olson, Wayne Popham and John Rollwagen.

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