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The Formation and Adoption of the 1956 Omaha Home Rule Charter, 1954-1956

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THE FORMATION AND ADOPTION OF THE 1956 OMAHA
HOME RULE CHARTER 1954-1956

A Thesis
Presented to the
Department of History
and the
Faculty of The Graduate College
University of Nebraska at Omaha

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts

by
Harold T. Muir
May 1969

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CHAPTER I

INTRODUCTION

Omaha, Nebraska received its first formal municipal government in 1857 when the Territorial Legislature passed a special act giving the city its initial charter. Under this act the city's voters elected a Mayor and a nine-member Board of Aldermen from three wards. Two years after Nebraska achieved statehood, the State Legislature passed a general charter law for Omaha which followed this basic mayor-council form, as did subsequent charter laws passed in 1871 and 1897.¹

Omaha's first fundamental charter change took place in 1911 when the city joined the nation-wide movement toward the commission form of government which was popularized by

¹Laws, Joint Resolutions, and Memorials, Passed at the Third Session of the Legislative Assembly of the Territory of Nebraska (Brownville, N. T.: Robert W. Furnas, Territorial Printer, 1857), pp. 193-97; Laws, Joint Resolutions, and Memorials, Passed at the Fourth and Fifth Sessions of the Legislative Assembly of the State of Nebraska (Omaha: St. A. D. Balcome, Printer to the State, 1869), pp. 29-62; Laws, Joint Resolutions, and Memorials, Passed at the Eighth Session of the Legislative Assembly of the State of Nebraska (Des Moines: Mills & Co., Printers and Publishers, 1871), pp. 1-23; Laws, Joint Resolutions, and Memorials, Passed at the Twenty-Fifth Session of the Legislative Assembly of the State of Nebraska (Lincoln: State Journal Company, Printers, 1897), pp. 139-79.

Galveston, Texas and Des Moines, Iowa in the early years of the twentieth century. In 1901, a group of Galveston businessmen persuaded the Texas Legislature to abolish the old mayor-alderman form of government and entrust the city's affairs to five commissioners who would act as a body to enact legislation and individually to administer separate departments of government. Such a bold and sweeping centralization was a direct response to the crisis caused by a tidal wave that swept the city the previous year and an indirect response to the corrupt and inefficient administration that had operated under the old form. Intended as an interim solution to serve only until the city's affairs were set in order, the success of the plan, which has variously been described as "striking" and "phenomenal," led to its adoption on a permanent basis.² Reformers promptly hailed the Galveston plan as a panacea for all municipal ills, and hundreds of communities adopted it in the next decade and a half, reaching a peak of 500 in 1917. Between 1911 and 1920, 43 per cent of all cities in home rule states that adopted new charters chose the commission

²Charles M. Kneier, City Government in the United States (New York: Harper and Brothers, 1957), p. 244; Austin F. Macdonald, State and Local Government in the United States (New York: Thomas Y. Crowell Company, 1955), p. 203; Clinton Rogers Woodruff, ed., City Government by Commission (New York: D. Appleton and Company, 1911), pp. 43-52; William Bennett Munro, Municipal Government and Administration (2 vols., New York: The Macmillan Company, 1925), I, pp. 400-02.

form.³ Des Moines, Iowa adopted a commission form in 1907, adding such features as a non-partisan primary, stringent civil service provisions, and those measures so closely associated with progressivism: the initiative, referendum, and recall.⁴

As the "Des Moines Plan" began to receive national recognition and publicity, and as cities in states bordering on Nebraska flocked to the plan, it was only natural that Omahans should develop interest in commission government.⁵ In 1911, a group of commission-form advocates, consisting largely of businessmen who recognized in the plan an opportunity to gain national publicity for Omaha and at the same time cause the city to manage its affairs more nearly as they managed their own businesses, lobbied a bill through the State Legislature that would permit Nebraska cities to adopt the commission form.⁶ Omahans wasted no time in

³Harold Zink, Government of Cities in the United States (New York: The Macmillan Company, 1948), p. 301.

⁴Munro, Municipal Government and Administration, p. 402.

⁵By 1910, eight cities had adopted the commission form in Iowa, ten in South Dakota, and twenty-three in Kansas. Woodruff, City Government by Commission, pp. 290-91.

⁶The sponsor of the commission form bill was the Omaha Ad Club, an organization of approximately 450 businessmen. Omaha Daily Bee, Morning Edition, February 18, 1911; Ibid, February 25, 1911; Victor Rosewater, "Omaha's Experience with the Commission Plan," National Municipal Review, X (May, 1921), p. 282.

fulfilling the terms of this law, and the city voted by a substantial margin to adopt the commission form in September of that year.⁷

While the adoption of the commission form was instigated and carried out by Omahans, the city still operated under a legislative charter, for Nebraska did not yet permit its cities home rule. The movement to rectify this also took place in 1911, when the Legislature placed a constitutional amendment on the ballot that would permit cities with a population of 5,000 or more to hold charter conventions and adopt their own charters. This measure gained the approval of the voters in 1912 and became part of the State Constitution.⁸ It did not, however, give Omaha immediate home rule, for to accomplish this the city needed to hold a charter convention and submit the proposed charter to a vote of the citizens of Omaha. Within the next decade, two such conventions wrote proposed home rule charters, but both failed to gain voter approval, and Omaha continued to operate under a legislative charter.⁹

The first step toward achieving home rule took place in 1920 with the adoption of a constitutional amendment

⁷Morning World-Herald, September 3, 1911.

⁸Nebraska Legislative Council, Nebraska Blue Book - 1956 (Lincoln, Nebraska, 1956), p. 95.

⁹Morning World-Herald, January 8, 1956.

permitting any Nebraska city in the metropolitan class to adopt its existing charter as a home rule charter.¹⁰ The following year the Legislature passed an act incorporating metropolitan cities and providing for their government, powers, and duties. This was, in effect, a charter, since Omaha was the only Nebraska city in the metropolitan class.¹¹ In 1922, Omaha voted to make this legislative charter also the city's home rule charter. Thus, Omaha had two identical charters: one deriving its authority from the legislative enactment of 1921 and the other from the home rule clause in the Nebraska Constitution. The two charters did not remain identical for very long, however. Omaha voters could, and frequently did, amend their home rule charter. The Legislature amended the legislative charter several times at the request of Omahans, who found it easier to lobby a bill through the State Legislature than to submit it to a vote of the people. When the two charters conflicted, the courts were called upon to settle the dispute.¹²

The commission form of government which was embodied in these charters, and under which Omaha operated from 1912 until 1956, organized the administration of the city into seven departments: Public Affairs; Accounts and Finances;

¹⁰Nebraska Blue Book - 1956, p. 93.

¹¹Evening World-Herald, April 4, 1956.

¹²Ibid.

Police, Sanitation, and Public Safety; Fire Protection and Water Supply; Street Cleaning and Maintenance; Public Improvements; and Public Property. Every three years, in a non-partisan election, the voters elected seven commissioners, or councilmen, who chose one of their number to act as mayor and head the Department of Public Affairs. They then divided the remaining six departments among the other commissioners. In addition to serving individually as department heads, the commissioners met jointly to form the City Council, which passed all city ordinances.¹³

This system remained basically unchanged until 1946,⁽⁵⁾ when the addition of five special commissions drastically altered and greatly complicated the administration of Omaha's government. In that year a group of citizens known as the Mayor's City-Wide Planning Committee studied the city's needs and proposed a sweeping program of capital improvements including street and highway construction, airport improvement, the building of a city auditorium, and park and sewer improvement. Since this program required the

¹³Kennedy, Holland, DeLacy, and Svoboda, Omaha Home Rule Charter (Omaha: The Daily Record and Record Printing Co., 1956). The date of this document is misleading, since it is not the new charter adopted in 1956 but the charter adopted in 1922 and amended forty-nine times thereafter. In 1956, an Omaha law firm compiled the charter, incorporating into it the amendments approved by Omaha voters, those enacted by the State Legislature, and notes on court decisions on conflicts between the two. To avoid confusion, this charter will hereafter be cited as 1922 Charter.

issuance of over twenty million dollars' worth of general obligation bonds, and Omaha voters had a history of rejecting bond issues, the committee sought to find a new approach that would assure the success of its program. The committee members felt that the voters recognized the need for the proposed improvements but lacked enough confidence in their elected commissioners to entrust them with the spending of such a large sum of money. They therefore offered the voters a package that included the necessary bonds and the creation of five special citizen commissions that would have complete control over the expenditure of the bond money.¹⁴

Members of these five bodies, the Omaha Improvement Commission, Sanitation Commission, Airport Commission, Auditorium Commission, and Park and Recreation Commission, were to be appointed by the Mayor, confirmed by the City Council, and were to serve without pay. The plan succeeded in gaining voter approval, but it also led to considerable confusion and overlapping of responsibility in the city government, since the powers of the special commissions went beyond the actual spending of the bond money, and it

¹⁴ Tape Recordings of Omaha City Charter Convention Public Hearings, May 31, June 2, 5, 7, 1956, Law Department, City Hall, Omaha, Nebraska. Testifying at these hearings were City Councilmen and members of the appointive commissions. These tape recordings of the Public Hearings of the Omaha City Charter Convention of 1956 will hereafter be cited by date.

was sometimes difficult to discern the dividing line between the powers of the appointed commissions and those of the elected commissioners.¹⁵

In view of this confusing allocation of governmental powers and responsibilities, it is not surprising that a movement developed in Omaha to utilize the home rule amendment to the State Constitution and call a charter convention. In attempting to analyze the reasons for this movement, it is important to recognize that the issue was not necessarily a new form of government, or even drastic changes in the old form, but a new charter. An Omahan might have been quite satisfied with the existence of the five special commissions, and still see the need for a new charter. Omahans who were dissatisfied with the 1922 charter generally fell into three categories. First, there were those who wanted to abandon the commission form. Omaha had adopted it at the peak of its popularity, but that popularity suffered a swift decline in the years following the First World War. Between 1921 and 1930, only 6 per cent of the cities in home rule states that adopted new charters chose the commission form, as compared with 45 per cent for the previous decade. Adoptions became even less frequent after 1930, and many commission cities abandoned that form for either

¹⁵Ibid.; 1922 Charter, pp. 135-53.

the city-manager or mayor-council plan.¹⁶ The commission form, in the opinion of an Omaha attorney who had served as Assistant City Prosecutor, was "out-dated, passé, and old-hat." He did not feel that it was a matter of reforming a disastrous situation, but considered the mayor-council form more streamlined and modern.¹⁷ Another prominent Omahan considered the commission form unworkable because it created seven separate governments with no provision for getting the commissioners to work together. Each was a "king in his own right" and the mayor lacked the power to force them to cooperate.¹⁸ One of the city's business leaders cited log-rolling and political manipulation as the basic weakness of the commission form. Each commissioner, he felt, was concerned solely with his own department and would frequently trade votes to further his own pet projects.¹⁹

The two most basic and frequently cited criticisms of the commission form, however, were that it merged the

¹⁶Zink, Government of Cities in the United States, p. 301.

¹⁷Personal interview by author with Samuel V. Cooper, attorney at law, at his office, Omaha, Nebraska, December 18, 1968.

¹⁸Personal interview by author with Howard Drew, Vice-President, Byron Reed Company, at his office, Omaha, Nebraska, January 3, 1969.

¹⁹Personal interview by author with Wray M. Scott, President, Wray M. Scott Company, at his office, Omaha, Nebraska, December 18, 1968.

executive and legislative branches of government and that it did not provide for experienced and qualified department heads. Having the same men make and administer the laws violated the constitutional principles of separation of powers and checks and balances. The election of department heads was especially irksome to businessmen, who likened the commission form to allowing their employees to elect executives and foremen. Since the commissioners distributed the departments after the election, a winning candidate might not get the department for which he was best qualified. "If I had decided to run for the commission and got elected," stated one business executive, "I might end up as Fire Commissioner. What I don't know about fighting fires would fill several volumes."²⁰ Another said that it was a "fluke" if a qualified man was elected to a post. They tried to do their jobs, he felt, but too often lacked the expert qualifications. "The man who got the least votes usually ended up as Police Commissioner, because that was the hardest job. That's a real sloppy way to run a government."²¹

A second group of charter convention advocates was composed of those who felt that the city's government had

²⁰ Personal interview by author with H. Fred Jacobberger, Vice-President, Kimball Launderers and Dry Cleaners, at his office, Omaha, Nebraska, January 2, 1969.

²¹ Personal interview by author with John R. Maenner, President, T. H. Maenner Company, at his office, Omaha, Nebraska, December 19, 1968.

been seriously damaged by the addition of the appointive commissions, resulting in diffusion of responsibility and overlapping of authority. Many Omahans who were active in civic and governmental affairs favored abolishing the special commissions but felt that the voters would accept their abolition only if a more responsible form of government was substituted for the commission form.²² Nearly all of the City Councilmen, however, wanted to retain the commission form but felt that the special commissions were an unwarranted intrusion into their rightful provinces and should be abolished.²³

A third source of support for a charter convention came from those who felt that a new charter could give the city more modern and efficient government, but who did not necessarily oppose the commission form or the appointive commissions. Suggested improvements in the commission form included direct election of the mayor, a provision requiring candidates for the City Council to run for specific offices, and rearrangement or consolidation of

²²Interviews with Cooper, Drew, Scott, Jacobberger, and Maenner; Personal interview by author with Thomas C. Quinlan, attorney at law, at his office, Omaha, Nebraska, December 17, 1968; Personal interview by author with Alexander V. Sorensen, Mayor, City of Omaha, at his office, January 10, 1969; Personal interview by author with W. Phillips Dodge, Chairman of the Board, N. P. Dodge Company, at his office, Omaha, Nebraska, February 27, 1969.

²³Tape Recordings, May 31, June 2, 5, 7, 1956. See Chapter IV, below.

the city's departments. A Department of Public Safety, for example, could replace the Police and Fire Departments.²⁴

Others who favored charter revisions that did not involve the form of government or the appointed commissions felt that the passage of time had rendered much of the charter obsolete and that all charters should be revised periodically to keep them modern. City Councilman Warren R. Swigart, one of the leaders of the drive for a charter convention, frequently referred to Omaha's "horse-and-buggy charter" which, he pointed out, gave the City Council power to regulate the width of wagon tires and to prevent the rolling of hoops, flying of kites, and other practices tending to frighten horses.²⁵ Perhaps the most out-dated aspect of the 1922 charter was the commissioners' salary: \$4,500 per year. Forty years of inflation had changed the office from a full-time job to one that could be filled only on a part-time basis or by retirees. Another criticism of the charter that involved no criticism of the commission form or the appointed commissions was directed at the fact that it contained many detailed provisions that would normally be considered legislation. For example, the entire police civil service program was written into the

²⁴Warren R. Swigart to M. R. Vosik, March 22, 1955, Warren R. Swigart Papers, City Hall, Omaha, Nebraska; Tape Recording, June 2, 1956.

²⁵Warren R. Swigart, "Reasons for Charter Convention," February 20, 1956, mimeographed, Swigart Papers.

Charter including the number of hours per day that a police officer was to work.²⁶ Thus, neither the police administrators nor the City Council could change these detailed provisions; revisions required a Charter amendment and therefore a vote of the people.

The framers of the home rule amendment to the State Constitution did not intend that Nebraska cities should take the adoption of a new charter lightly. The first step required a City Council ordinance that would place on the ballot the question of whether or not to hold a charter convention. If a majority of Omahans voted "yes," the next step was the selection of fifteen delegates. The Constitution did not specify how many elections were required for this purpose, but if more than thirty candidates filed for election, a primary and a run-off would be needed to assure an accurate reflection of the voters' preferences. The fifteen winning candidates would then have four months in which to either propose amendments to the charter or write an entirely new charter and submit it to the voters at still another election.²⁷ Thus a successful charter convention involved a long and difficult process. Since Omaha had no corrupt machine to throw out and no disastrous situation to reform, the enthusiasm for

²⁶1922 Charter, art. XXIV.

²⁷Nebraska, Constitution, art. XI, secs. 2-5.

holding a convention was not self-generating; someone had to generate it. Then fifteen delegates had to be elected who could and would serve without pay for four months and who had the ability to write a new charter or package of amendments within that fairly restrictive time limit that the voters would accept. Next someone had to raise the money and provide the organizational talent for a campaign of selling the new charter and convincing the people that they should change the system of government under which they had lived since 1912. Obviously, a convention that proposed an entirely new charter or a change in the basic form of government would have a much more difficult job in both the writing and the selling than a convention that merely proposed amendments. Furthermore, a charter convention was not the only way to change the form of government. In 1950, a group of city-manager advocates had attempted to substitute this plan for the commission form by way of a simple charter amendment, which required only one vote of the people, but the voters had rejected their proposal by a margin of two to one.²⁸ Thus, when the subject of charter revision arose in 1954 there was considerably more agreement on the need for change than on the kinds of changes that might be made.

²⁸Evening World-Herald, November 8, 1950.

CHAPTER II

THE CALLING OF THE OMAHA CHARTER CONVENTION OF 1956

The person who probably deserves more credit than any other individual for transforming public dissatisfaction with Omaha's government into the reality of a charter convention was Warren R. Swigart, an Omaha realtor and contractor. He ran twice for the City Council on platforms that included charter revision, and in May, 1954 he was elected in his second attempt at that office.¹ Swigart was not alone in making such campaign promises; in fact, all seven of the winning candidates in that election pledged support to charter reform, but in light of subsequent actions and events there is reason to doubt that all of their promises were sincerely made.² The newly-elected Mayor, John A. Rosenblatt, supported Swigart's position a few days after the election when he said that the city should be given a chance during his administration to decide whether or not it wanted a charter convention. The issue, he said, "should be decided one way or the other in

¹Personal interview by author with Warren R. Swigart, Coordinator of Services for the City of Omaha, at his office, September 16, 1968.

²Morning World-Herald, May 13, 1954.

the next two years."³ In early June, Swigart introduced a resolution in the City Council calling for placing the question on the August 10 ballot. The measure came up for final action on the 22nd of that month, and the Council voted, reluctantly in Swigart's opinion, to pass the resolution. One of Swigart's fellow Councilmen, Finance Commissioner Walter X. Spellman, warned him, "You'll charter yourself right out of City Hall."⁴

Because Swigart was less than enthusiastic about recommendations that the Charter Convention ultimately made, it is reasonable to ask just what sort of charter revision he had in mind. First of all, it is clear that he did not wish to abandon the commission form of government. Shortly after he introduced his June resolution, he told an audience of Masons that he was not advocating a new system of government, but merely a thorough study of the present one.⁵ The primary reason for a charter convention, he felt, was the need to eliminate overlapping of responsibility in city government. As an example of this overlapping, he cited the experience of a friend who had to talk to fourteen

³Ibid., May 23, 1954.

⁴Interview with Swigart; Evening World-Herald, June 22, 1956.

⁵Excerpts from Commissioner Swigart's Speech at the Square and Compass Group at the Castle Hotel," June 11, 1954, Swigart Papers.

different parties at City Hall before she got permission to place a "No Dumping" sign on her lot.⁶ And there was no question in his mind as to the cause of this overlapping. "The powers most evident [sic.]⁷ in conflict at the present time," he wrote, "are those between appointive Commissions and the City Council."⁷ In addition to abolishing these appointive commissions, he wanted to "wipe out obsolete statutes and laws of horse and buggy day orientation," elect the mayor directly, and grant him additional executive powers. He also advocated unifying financial responsibility into one department, clarifying annexation, zoning, and planning procedures, and elimination of excessive bonded indebtedness, reverting to a "pay-as-you-go" plan where feasible.⁸

In a relatively light voter turnout, Omahans decided on August 10, by a vote of 19,659 to 12,081, to hold a charter convention, and Mayor Rosenblatt stated four days later that he would ask the Council to make immediate preparations for the election of convention delegates. City Attorney Edward F. Fogarty had ruled that since the state statute was rather broad and inexplicit on this

⁶Swigart to Mrs. Jasmine Metz, January 14, 1955, Ibid.

⁷"Reasons for Charter Convention," February 20, 1956, Ibid.

⁸Ibid.

matter, the Council would have to decide how the delegates would be elected. The statute called for fifteen delegates to be elected but made no mention of a primary.⁹ On August 27, the Council voted to hold two delegate elections, a primary on November 2 that would limit the field to thirty candidates and a run-off in early December.¹⁰ The relatively smooth sailing that the charter convention issue had enjoyed thus far, however, came to an end on September 1 when Fogarty, in a letter to the City Council, suggested that the movement was proceeding too rapidly. A special election in December, he warned, followed by another special election in 1955 to accept or reject the Convention's recommendations, would cost the city eighty to ninety thousand dollars.

There is respectable authority to the effect that we need only one election for delegates, and, I believe, that position would be legally unassailable but I can not devise a way in which we could hold a single election and get fifteen delegates who would represent a majority of the voters. Possibly, if the filing requirements were made strict enough, or expensive enough, the field could be kept down to approximately thirty which would give us a choice of the majority.

.....

There is great advantage, as I see it, to take plenty of time for this project. It entails a great deal of work by a great many minds.

He also pointed out that while the Council had voted to hold

⁹Morning World-Herald, August 15, 1954.

¹⁰Ibid., August 28, 1954.

the special election in December, it had not budgeted funds to pay for it.¹¹

Mayor Rosenblatt promptly called a special Council meeting to discuss the points Fogarty had raised, and he told his fellow Councilmen that he favored holding only one election. Since delegates would receive no pay, he said, only sincere candidates would file, and the city could save the expense of a special election. Swigart objected, saying that it would be worth the expense in the long run to get good men elected, and the Council decided to postpone action.¹² Swigart clearly feared that the Council might attempt to scuttle the entire charter convention through the use of delaying tactics. "I am fearful of the plight of the people's mandate of last August 10," he said in a press release. The argument that the Council had failed to budget funds for the election was a weak one, he said, for the budget had been made up after the election had been set. He pointed out that it was a normal procedure for the County to stand the election costs and file a friendly suit against the City, which the City would then pay out of the judgment fund. The argument that special elections represented unnecessary expense was being "penny wise and pound foolish," for the savings that could be realized

¹¹Letter from Edward F. Fogarty to the Mayor and City Council, September 1, 1954, Swigart Papers.

¹²Evening World-Herald, September 1, 1954.

under a more streamlined charter would more than compensate for the cost of the elections.¹³

On September 17, the Council met again and voted unanimously to leave the primary on the November 1 ballot but to postpone the run-off until the regular spring primary election of May 15, 1956. "We're handling dynamite," stated Finance Commissioner Walter X. Spellman. "We don't want to get into a tailspin by going too fast."¹⁴ This decision to postpone the run-off election meant that the city would be in the unusual position of electing thirty candidates and then waiting over a year and a half to choose the final fifteen. The reaction from Omahans who had considered running for the position of delegate was predictable. Two former chairmen of the Omaha Improvement Commission announced that they were dropping plans to run because of the long delay between the primary and the run-off. Harry Dodson said he was "astonished" at the timing, which would make running "utterly impractical." "How can I tell what I'll be doing 19 months from now?" asked Lloyd C. Mattson.

¹³News Release by Swigart, undated, Swigart Papers. The practice of friendly suits for the financing of unbudgeted city elections began during the Depression when Omaha was in dire financial straits. The county followed the same procedure for recovering the cost of jail feeding city prisoners, and desired to eliminate the practice in both cases. Letter from Eugene F. Fitzgerald, Douglas County Attorney, to Rosenblatt, December 16, 1954, Ibid.

¹⁴Evening World-Herald, September 17, 1954.

"This looks like a deliberate plan to slowly strangle the entire project."¹⁵ Swigart also attacked the scheduling and said that he had misunderstood the amendment, thinking that it called for the run-off in 1955.¹⁶ The World-Herald denounced the plan on September 20, saying that it would produce the longest campaign in history and that few candidates would want to become involved in so lengthy a project. The following day the same paper called the delay "outlandish," and quoted one potential candidate, a retired businessman, as saying, "I'll be glad to lend them my lot at Forest Lawn for the first meeting."

In the face of this opposition, Mayor Rosenblatt announced on September 21 that he would call a special Council meeting to reconsider the holding of the November 2 election. Although the Council on September 17 had passed the resolution scheduling the election, it would not become effective until a fifteen-day waiting period had expired, during which that body could reconsider. Rosenblatt suggested that they recall the ordinance and set up two special elections for the following winter or spring. "We are not trying to kill the Charter Convention. If special elections are wanted we will be glad to have them."¹⁷ The following

¹⁵ Ibid., September 20, 1954.

¹⁶ Ibid.

¹⁷ Ibid., September 21, 1954.

day still another complication arose. Edward Shafton, a local attorney, attempted to file as a candidate in the November primary, but Election Commissioner Herman E. Kuppinger told him that he would not accept any filings until the ordinance became effective. Since the law required candidates to file at least thirty days before the election, they would have only one day in which to file. "In view of this," Rosenblatt commented, "I think we had better back up and start over. It is unfortunate." Commissioner Simon A. Simon had a similar reaction: "We've rushed in and gotten in a jam on this thing. We'd better slow up." Rosenblatt called a special Council Meeting for the following morning, and although they took no action because two members were absent, the Commissioners agreed informally on a tentative plan: hold the primary in November, 1955, the run-off in May, 1956, and the vote on the Convention's recommendations in November, 1956. Perhaps to reassure those who might have suspected the Council of actually opposing the holding of a convention, the Mayor announced at the meeting that he would appoint a committee of lawyers to make preliminary studies of the Charter and have recommendations ready for the Convention when it met.¹⁸ On September 28, the Council voted formally to remove the primary from the November, 1954 election and

¹⁸Ibid., September 23, 1954.

schedule it for November, 1955. Swigart voted for the proposal, but he suggested that the primary might be held earlier in the event that an unforeseen special election came up within the next year.¹⁹

Rather than wait for the chance occurrence of a special election, however, Swigart began a personal campaign to get the election dates advanced. In December, he told a radio audience that he was disappointed at the delay and said that in his six months of service he had seen a great need for charter revision, even though it might abolish his job.²⁰ His plan called for a primary in June, 1955, a run-off in November, and a referendum on the Convention's proposals the following April.²¹ Thus, he felt, the charter issue could avoid coinciding with the Presidential election of 1956, and the consolidations, efficiencies, and economies that would be embodied in the new charter would go into effect sooner, more than offsetting the cost of special elections.²² Swigart continued his personal campaign throughout the winter and early spring, maintaining a correspondence with those

¹⁹Ibid., September 28, 1954.

²⁰ Transcript of speech by Swigart, broadcast on radio station KPAB, December 22, 1954, Swigart Papers.

²¹ Swigart to Mrs. Jasmine Metz, March 17, 1955, Ibid.

²² Memorandum, March 29, 1955, Ibid.

whom he was able to interest in his proposal. The West Side Civic Club responded to his radio speech, and its secretary sent him a copy of an indignant letter the club had sent to Mayor Rosenblatt wanting to know why the Council appeared to be delaying the convention.²³ Swigart replied that he felt the Mayor was now in favor of "pushing it ahead," and that Swigart had "twisted his arm a little bit, and it seemingly had some effect."²⁴ In later correspondence, however, he was less optimistic. In March he wrote to supporters that he feared his proposal would fail, for he had only the votes of Mayor Rosenblatt, Commissioner Simon, and himself--one short of a majority.²⁵

The showdown took place at the City Council meetings of Monday and Tuesday, April 4 and 5. On Monday, when Swigart's resolution for early election dates came up, Commissioner Simon asked City Attorney Fogarty if the City could legally hold a special election in 1955 when they had not budgeted funds for it, and Fogarty replied, "No." His assistant had prepared a six-page legal opinion declaring that use of the miscellaneous or judgment funds for this

²³Mrs. Agnes Wilson to Swigart, January 20, 1955, Ibid.

²⁴Swigart to West Side Civic Club, January 24, 1955, Ibid.

²⁵Swigart to M. R. Vosik, March 25, 1955, and Thomas H. Townsend, March 25, 1955, Ibid.

purpose would be "malfeasance in office." When Swigart protested that the City had followed this practice for twenty-five years, Mayor Rosenblatt stated that in doing so they had been "skating on thin ice. Just because errors have been made in the past is no reason they should be made now." This decision ruled out not only Swigart's proposal, but also the plan the Council had adopted in September calling for the primary in November, 1955, for both called for an unbudgeted special election. When the Council met the following day, Commissioner Arthur J. Hanson proposed setting the two delegate elections for March 20 and May 15, 1956, the first to be a special election and the second to coincide with the regular spring primary. The referendum on the Convention's proposals, according to this plan, would be held along with the presidential election in November. Simon countered by offering an amendment that would call for only one delegate election, to be held on May 15. This would have eliminated the cost of a special election, but it would not have expedited the process of providing a new charter for Omaha, so Swigart had apparently lost both of his supposed allies, Rosenblatt and Simon. At this point, Fogarty approached Simon's desk and conferred with him privately, apparently convincing him of the inadvisability of foregoing the primary, for he withdrew his amendment, but declared that he would

still not vote for Hanson's proposal. The Council then approved Hanson's election dates, with only Swigart and Simon voting "no."²⁶ Thus, after nearly eight months, the Council had provided for the election of delegates to a Charter Convention, the product of which Omahans would vote on two years and three months after they had voted to hold such a convention.

Well before potential convention delegates began their campaign, Mayor Rosenblatt initiated a discussion of what type of changes the Convention should propose, the reactions to which presaged the attitudes that City Councilmen would ultimately take toward the work of the Convention. On July 25, he announced that he favored a strong-mayor form of government for Omaha and would work for one when the Convention was in session the following summer. Under his plan, the mayor would be elected directly, have charge of the entire executive branch of the government, and have a vote on the council. The council would be limited strictly to legislation.²⁷ The Mayor's proposal brought immediate reactions from the other six commissioners, only one of whom, Police Commissioner Henry Boesen, supported Rosenblatt. Hanson called for the adoption of the city manager plan, Swigart declared that the delegates should approach

²⁶Evening World-Herald, April 5, 1955.

²⁷Ibid., July 25, 1955.

their task "uncommitted and unprejudiced," and the other three staunchly defended the commission form. Rosenblatt's plan, charged Commissioner Spellman, would make the mayor a "czar" and render the councilmen merely "rubber stamps."²⁸

Another pre-election issue arose in early September, when City Attorney Fogarty ruled that City Commissioners would be eligible to run for the Convention. Reacting to this announcement, Boesen, Swigart, and Spellman indicated that they might run. Spellman said that it might be a good idea to have two or three City Commissioners on the Convention to give the others "a picture of the operation of city government." Both Simon and Public Improvements Commissioner William R. Milner, however, stated emphatically that they felt that Councilmen should "stay out of it."²⁹ The World-Herald, which had heretofore paid relatively little attention to the charter convention issue, but which was later to play an extremely active role, attacked the idea of Commissioners serving on the Charter Convention. Councilmen, the paper editorialized, "would be unable to see the forest for the trees," and their ideas would have a "privileged status."

²⁸ Ibid., July 27, 1955.

²⁹ Ibid., September 1, 1955.

Furthermore, the Convention members would certainly give them plenty of opportunity to present their ideas. The World-Herald acknowledged their right to run, but felt that they would serve the city better if they did not.³⁰

Later that month, Rosenblatt announced the appointment of the legal committee that he had promised earlier. It was comprised of fifteen Omaha lawyers, headed by Thomas P. Kelley, the President of the Omaha Bar Association and Deputy County Attorney. The Mayor made it clear that this group would not deal with such substantive issues as the form of government, but would merely examine the Charter for obsolete provisions and present its recommendations to the Convention when it convened in May. Such pre-planning was necessary, he felt, because of the restrictive 120-day limit under which the Convention would be working.³¹

Because a conspiratorial theme was later to play a major role in the opposition to the work of the Charter Convention, it is noteworthy that an example of this theme arose as soon as the Mayor announced the appointment of his legal committee. Convention delegates "will not be able to choose their own counsel," one citizen wrote to the World-Herald. "At this time the mayor and his cohorts are picking them."³² It is

³⁰ Ibid., September 3, 1955.

³¹ Ibid., September 14, 1955.

³² Ibid., September 10, 1955.

true that little of this type of opposition had manifested itself at this point. But neither had the caliber of leadership come forth that could bring the Charter Convention to a successful culmination.

CHAPTER III

THE SELECTION OF THE DELEGATES

In mid-October, 1955, an event took place which may well have made the difference between success and failure for the Charter Convention: A. V. Sorensen adopted it as his personal project. The fifty-one-year-old Chamber of Commerce president was the epitome of the so-called self-made man. Born of Danish immigrant stock and forced to drop out of high school upon his father's death, Alexander Vergman Sorensen formed an electrical equipment company on a borrowed investment of \$1100. Midwest Equipment Company soon became one of the largest electrical sales outlets in the nation and made its founder a millionaire.¹ At the time of the Charter Convention, he had a record of active participation in civic affairs, including the chairmanship of the Mayor's City-Wide Planning Committee and membership in the Omaha Industrial Foundation, an organization of businessmen formed to attract industry to the city. It is not surprising then, that when Rosenblatt became concerned that the Convention might die from lack of interest, or worse yet, do a poor job, he approached Sorensen to seek

¹Omaha World-Herald, January 8, 1969.

his support for the project. Few qualified men were willing to seek election to the Convention, he told Sorensen, because of the 120-day limit and the fact that delegates would not be paid. To arouse interest in the Convention, and to challenge qualified Omahans to file for election, Sorensen devised what he called a "gimmick."² He wrote to Gordon C. Preble, president of the Nebraska State Federation of Labor, AFL, suggesting that they file jointly, "representing Labor and Business." If businessmen like himself spearheaded a drive to attract candidates, he wrote, their motives would be questioned, and the same would be true if labor leaders took the initiative.³ Preble accepted the challenge, and the two secured their petitions on November 15, with the local press providing extensive coverage of the event.⁴ The immediate response to the "gimmick" was less than he had hoped for, however, and Sorensen tried another approach. Through letters and personal conversations he approached individuals whom he considered good potential candidates, urging them to file and offering the services of the Chamber of Commerce for securing the necessary petition signatures. With each letter he enclosed a self-addressed postcard on

²Interview with Sorensen.

³Sorensen to Gordon C. Preble, October 19, 1955, A. V. Sorensen Papers, Omaha Public Library.

⁴Evening World-Herald, November 15, 1955; Interview with Sorensen.

which the potential candidate could indicate his willingness to run. The fact that all of these men were prominent businessmen probably reflects Sorensen's business background and also his conception of what kind of men should write a new charter for Omaha.⁵ It is impossible to estimate accurately how many candidates were influenced in their decisions to run either directly or indirectly by Sorensen's efforts, but the number would certainly be large, particularly among the successful candidates. The Chamber circulated the petitions of eighteen candidates, fifteen of whom won in the primary and nine of whom were elected delegates to the convention.⁶ Harry Trustin, who came in first in both the primary and the run-off, attributed his decision to run solely to Sorensen. He had been a City Commissioner from 1933 to 1949 and had had no desire to run for the Convention until Sorensen convinced him that his filing would attract others to enter the race.⁷ Sorensen's encouragement spurred others to action who had only slight interest in the project, and it is probable that the publicity which his efforts generated

⁵Sorensen to Owen Cotton, November 22, 1955, Edward W. Pettis, December 5, 1955, Edward Owen, November 1, 1955; To Sorensen from Verne W. Vance, December 3, 1955, Alfred S. Mayer, December 5, 1955, Alfred C. Kennedy, December 22, 1955, N. Phillips Dodge, December 28, 1955, James M. Paxson, December 30, 1955, Sorensen Papers.

⁶List of candidates whom "Chamber of Commerce assisted in preparation for filing as delegate," Sorensen Papers.

⁷Interview with Trustin.

for the Convention influenced still others in an indirect way.

His activities were somewhat slow in bearing fruit, however, and by the beginning of 1956 only eight candidates had filed. Swigart issued a statement on January 1 expressing concern about the apparent lack of interest in the Convention and pointing out that the filing deadline of February 18 was only a month and a half away. He felt that people feared that it would be too time-consuming to write a new charter in only four months. This fear was groundless, he said, because the Convention would probably meet in the evenings and a delegate would have to devote only as much time to the project as he could spare.⁸ Sorensen wrote to Swigart two days later in a letter which he released to the press, saying that he shared Swigart's concern. Too few were filing, he wrote, and this was probably because people felt that the time required would be excessive. He suggested that the Council help to resolve this difficulty by setting up an Advisory Council of attorneys with a paid chairman who would begin immediately to study the Charter and do much of the preliminary work. He also suggested that the Council hire

⁸Sunday World-Herald, January 1, 1956. Swigart rejected the idea of entering the race himself because he wanted to avoid giving the impression that the Convention movement was a "one-man show." Telephone interview by author with Swigart, March 28, 1969.

the American Municipal Association to provide expert counsel in Charter revision. Such a plan, he wrote, would alleviate the pressure of the 120-day limit and leave only the major policy decisions to the elected Convention delegates.

"Frankly, unless the City Council takes some aggressive steps immediately in the interest of the convention," he wrote, "I am of the opinion a completely unsatisfactory job will be done by those finally elected." Rosenblatt replied that "practically everything" that Sorensen had suggested was already being done. He pointed to the Mayor's Legal Committee, headed by Thomas Kelley, and said that he intended to hire a full-time counsel, perhaps securing another Assistant Attorney for the Legal Department to free Fogarty for that job. Also, he had already intended to seek the advice of the American Municipal Association and the Council of Mayors. "Mr. Sorensen and I have been thinking along the same lines all along," he said.⁹

To help inform the electorate on the subject of Charter revision, the Women's Interclub Council, representing sixty organizations, and the University of Omaha College of Adult Education jointly sponsored a series of study sessions devoted to the Charter Convention.¹⁰ At the first of these, former Mayor Glenn Cunningham, who

⁹Sorensen to Swigart, January 3, 1956, Sorensen Papers; Evening World-Herald, January 4, 1956.

¹⁰Evening World-Herald, January 20, 1956.

headed the list of speakers, told an audience of eighty-seven that the Convention should adopt the strong-mayor form of government. Under the commission form, he said, "The Mayor is nothing more than the chairman of a committee. He has to get down on his hands and knees and beg three of the Commissioners to go along with him if he wants to get anything done." The Council made up the city's budget, he said, through a process of "horse trading." He also criticized the existence of the appointive commissions and suggested that the City Council be elected partially by district. During his administration, he said, most of the Council lived just east of Elmwood Park, a relatively well-to-do section of the city.¹¹ At another session in this series the speaker was William T. Utley, Head of the Department of History and Political Science at the University of Omaha. Utley told the audience that Omaha would have an unusually difficult job in holding a successful convention. Most cities took a year to write a new charter, he said, while Omaha would be limited to four months. Another disadvantage would be working during the summer, when many groups that could assist the delegates would be inactive due to vacations. Finally, he said, the delegates might have a difficult time selling their product because

¹¹Ibid., February 8, 1956.

the city had no corrupt machine to crusade against, only inefficient governmental machinery.¹²

By the February 18 filing deadline, sixty candidates had entered the race, thirty of whom would be eliminated on March 20. Of the sixty, ten were lawyers, nine were in the insurance business, eight were realtors, two were printers, two were automobile dealers, and thirteen were owners of or executives in other businesses. Also in the race were seven housewives, two professional labor leaders, two salesmen, one dentist, and four who could be classified as "working man" in the commonly accepted sense of the term. Forty-two of the sixty had attended a college or university, and five were retired. Two had served on the City Council, six on the appointive commissions, and fifteen had sought elective offices before, only six of them successfully. The average age of the candidates was forty-nine, and over half of them were between forty and sixty; sixteen were younger than forty and thirteen older than sixty.¹³ The World-Herald polled the candidates on which form of government they were inclined toward, and of the twenty-eight who expressed a preference, twenty-six desired to abandon the commission form. Of these, fifteen preferred the strong-mayor

¹²Ibid., February 15, 1956.

¹³These figures are compiled from biographical sketches published in the Evening World-Herald, March 12-14, 1956.

form, six the city-manager form, and five considered both equally acceptable.¹⁴

The campaign did not capture the imaginations of Omaha voters. The candidates did little campaigning, and only two, Wray M. Scott and Sorensen, advertised in the World-Herald. Five days before the election the League of Women Voters sponsored a meet-the-candidates program to which only seventy-five citizens turned out. Twenty-six of the candidates appeared, only four of whom ultimately served on the Convention. Election officials prepared for a light turnout, and their expectations were fulfilled when slightly more than 19,000 Omahans cast ballots, the lowest total in recent city history. A school bond election the previous fall had drawn over 34,000 voters, and the record high was the November, 1952 election: over 125,000. Harry Trustin, a former City Commissioner, finished in first place, followed by Wray M. Scott, the owner of a large plumbing concern, and Sorensen. In selecting the thirty nominees, the voters expressed no preference for any particular form of government, but instead seemed to choose well-known names. Sixteen of the winners were uncommitted on form of government, and only one preferred the commission form. Six favored the strong-mayor form, four the city-manager form, and three would accept either the city-manager or strong-mayor form. Nor did the voters seem to prefer any particular

¹⁴Sunday World-Herald, March 11, 1956.

profession or occupation to write their charter; exactly half of the ten lawyers, for example, were eliminated in the primary. Two of the winners, Samuel V. Cooper, a thirty-four-year-old attorney, and Thomas J. O'Connor, a sixty-two-year-old tavern owner, might have benefitted by having names similar to other prominent Omahans.

Samuel L. Cooper was on the Board of Directors of the Omaha Public Power District, and a long-time Registrar of Deeds also bore the name Thomas J. O'Connor.¹⁵

Shortly before the primary, Rosenblatt announced that he would call a meeting of the thirty winners as soon as the results were known. The nominees could then use the two months before the run-off to do preliminary work and relieve the pressure of the 120-day limit. He made it clear that they could make no substantive decisions, but they could get a head start on gathering information and selecting personnel, with the understanding that the fifteen eventual winners would have to approve any decisions that they made.¹⁶ The day after the primary, then, twenty-four of the candidates met and voted to name a steering committee of the five top vote-getters: Trustin, Scott, Sorenson, H. Fred Jacobberger, the vice-president of a laundry, and Louis Kavan, a former school board member and

¹⁵Evening World-Herald, March 21, 1956.

¹⁶Ibid., March 13, 1956.

president of the Omaha Retail Grocers' Association. This group was to suggest the names of three persons who would be qualified to serve as Convention Coordinator, and the nominees would select one of them at the next meeting, called for three days later.¹⁷

The following Saturday, the candidates assembled for more organizational work. They expanded the steering committee to include union-leader Preble, who finished fifteenth in the balloting, and re-named it the Executive Committee. The next decision was an important one: they elected Sorensen temporary chairman, bypassing two candidates who had received more votes. "Sorensen immediately emerged as the strong man, dynamic and astute," recalled one delegate in explaining the decision. "When he is committed to something, it is a total commitment. He didn't know a lot about city government, but he was anxious to prove that he could learn fast, and he did."¹⁸ Other action at the meeting included the appointment of ten committees which were to plan such things as public hearings, the selection of a coordinator, and the establishment of a speakers' bureau to publicize the work of

¹⁷Ibid., March 21, 1956.

¹⁸Minutes of Charter Convention Candidates Meeting, March 24, 1956, Edward F. Fogarty Papers, Law Department, City Hall, Omaha, Nebraska; Interview with Quinlan.

the Convention. The candidates also agreed to instruct the Executive Committee to send a letter to the Mayor and City Councilmen, asking them to study the needs of their departments with a view toward improvements that could be effected by charter revision, and prepare to present these recommendations at Convention hearings.¹⁹

At the next meeting, held on April 7, committee chairmen reported, and the group took important steps toward the selection of a professional staff. They voted unanimously to try to obtain Fogarty as legal counsel and instructed the Executive Committee to write Rosenblatt, asking that Fogarty be temporarily released from his duties as City Attorney for that purpose. The chairman of the committee appointed to recommend a coordinator reported that he had talked with Father Carl M. Reinert, the president of Creighton University and President Milo Bail of the University of Omaha. Reinert said that he had several fine candidates for the position on his faculty, but he regretted that he would be unable to spare any of them. Bail, however, was "receptive to the possible release" of Utley. Following this report, the candidates voted unanimously to ask for Utley's release on a full-time basis if possible, or at least part-time, with the Convention accepting responsibility for his salary. Turning to the matter of a

¹⁹Minutes, March 24, 1956; Executive Committee to Mayor and City Council, March 24, 1956, Fogarty Papers.

consultant, the candidates submitted the names of twelve consulting firms and individuals and instructed the Executive Committee to contact each of them by letter, asking them about their availability, their credentials and references, what specific contributions they could make to the Convention, how they would proceed if hired, and the estimated cost of their services.²⁰

The City Council released Fogarty, appointing his assistant, Herbert M. Fittle, as Acting City Attorney, despite Swigart's protest that such a move would "jeopardize city work." President Bail promptly agreed to make Utley available from April 15 to September 15 if the Convention would pay his full-time salary of \$700 per month.²¹

Utley had already taken an active interest in the Charter Convention. He had helped arrange for the University and the American Federation of Labor to sponsor jointly a Charter Convention workshop, to which the thirty candidates were invited in mid-April. The day after the primary election, Utley wrote to each of the candidates congratulating them on their election and outlining the purpose of the workshop. "Undoubtedly, as you contemplate the May 15th

²⁰Minutes, April 7, 1956, Fogarty Papers.

²¹Evening World-Herald, April 11, 1956; Milo Bail to Sorensen, April 17, 1956, John R. Maenner Papers, T. H. Maenner Company, Omaha, Nebraska.

election and the likelihood of your election as one of 'the fifteen' many questions run through your mind," he wrote. "How would you like to sit down with a competent authority and discuss them?" The program, he said, would deal only with convention organization and procedure, and would not "presume to tell you what form of government Omaha should have."²² The "competent authority" was George R. Sidwell, an independent consultant from Lansing, Michigan, who had assisted in the writing of forty-eight charters. At the one-day workshop, held on April 17, Sidwell advised the candidates to avoid precommitment to any one form of government, but to reserve their decisions until they had studied the "larger picture." The most serious problem Omaha would have in writing a charter, he said, was the four-month limitation, which might force them to resort to the otherwise undesirable practice of "fragmenting the Convention with committees." He also urged them to make their sessions public and informal, keeping rules of order to a minimum and making their decisions by a simple majority vote.²³

The question of whether or not candidates should commit themselves in advance to a particular form of

²²Utley to Candidates, March 21, 1956, Samuel V. Cooper Papers, Office of Samuel V. Cooper, Attorney at Law, Omaha, Nebraska. Utley's emphasis.

²³Evening World-Herald, April 17, 18, 1956.

government aroused strong feelings in some people. One group favoring precommitment was the Q Street Merchants' Association, an organization of small businessmen in the stockyards area of south Omaha. This group appointed a Charter Convention committee which formulated recommendations and attempted to find out which of the candidates could be expected to favor them. The Merchants' plan called for the retention of the commission form, reducing the number of Commissioners from seven to five, and abolishing the appointive commissions. The new Charter, they felt, should require each Councilman to take an active part in formulating policy for all of the departments, rather than limiting his activities to his own. Furthermore, these officials should be prevented from having any outside employment or business interests, and their salaries should be raised so that serving on the City Commission would be a full-time job. John J. Swoboda, the president of the Q Street Merchants, wrote to the candidates outlining their plan and asking them to fill out a questionnaire giving their position on the Merchants' recommendations.²⁴ Since most of the candidates had already indicated that they were undecided or uncommitted, it is not surprising that the Q Street men were unsatisfied

²⁴John Swoboda to Cooper, April 14, 1956, Cooper Papers.

with the response to their questionnaire. In early May, the chairman of the Merchants' Charter Convention committee, John C. Barrett, expressed his concern to the South Omaha Sun. "I've never seen anything like this in my life," he said. "I have always voted in every election. But this time it looks as if I'm going to have to go to the polls blindfolded, because most of the candidates won't tell us where they stand."²⁵

Sorensen, a strong opponent of precommitment, phoned Barrett and explained to him that he felt that candidates should reserve their decisions until they had made a thorough study, which, he felt, was what they were elected to do. Barrett, however, still "ridiculed" his position. This was a matter of great concern to Sorensen, and he wrote to Walter E. Christensen, the president of the World-Herald, to ask for the paper's support. Barrett's remarks, he feared, might cast doubt in the public mind on the integrity of the candidates. "Your help is needed in support of the majority of the candidates' position," he wrote, "not so much because they may or may not be elected, but more to establish confidence in the minds of the public in the end result of the work of the Charter Convention."²⁶ If Christensen agreed with him the World-Herald's editorial

²⁵South Omaha Sun, May 3, 1956.

²⁶Sorensen to Walter E. Christensen, May 9, 1956, Sorensen Papers.

columns did not immediately reflect the fact, but that paper was later to give the Convention all of the support that Sorensen could have possibly desired.

In the meantime, the newly-hired coordinator was busily engaged in the task of selecting a consultant for the Convention. Three large consulting firms indicated their willingness to accept the job: J. L. Jacobs and Company, Griffenhagen and Associates, and Public Administration Service, all of Chicago. All three had had extensive experience in writing city charters, and none was affiliated with a particular form of government. Jacobs suggested sending one man to Omaha on a full-time basis initially and later as needed, in addition to part-time specialists when required. They estimated the cost of their services at \$6,500. The other two firms offered estimates of \$12,000 and indicated that they would send a full-time consultant for the duration of the Convention and part-time specialists when needed. All three were confident that they had the staff and facilities to handle the consulting job in all aspects of the charter.²⁷

In addition to the consulting firms, Utley received letters from three individuals who indicated willingness to offer varying degrees of assistance to the Convention. One

²⁷Letters to Utley from J. L. Jacobs and Company, April 16, 1956, Griffenhagen and Associates, April 18, 1956, and Public Administration Service, May 11, 1956, Fogarty Papers.

of these was George R. Sidwell, who addressed the Charter Convention Workshop. If hired, he said, he would come to Omaha for two to three days on alternate weeks and spend the remaining time in research and drafting. He would base his charges on an hourly rate plus expenses, and he felt that they would total from \$6,000 to \$7,000.²⁸ A second individual who offered his services was Charles F. Spencer, the President of East Central State College at Ada, Oklahoma. Spencer, who had written a city-manager charter that ten Oklahoma cities had adopted, wrote that he could not serve as a full-time consultant, but would be willing to come to Omaha for one or two days at no charge, save expenses. He suggested hiring a local person as consultant and bringing in specialists when needed.²⁹ Basically the same suggestion came from Lennox L. Moak, the Director of the Bureau of Municipal Research and Pennsylvania Economy League, who had helped write the Philadelphia and New Orleans charters. He personally could not accept a "prime responsibility," but would serve on a part-time basis for \$100 per day plus expenses. He doubted if any single consulting firm could handle all of the aspects of charter consulting, but suggested that

²⁸George R. Sidwell to Utley, April 11, 1956, Ibid.

²⁹Charles F. Spencer to Utley, April 29, 1956, Ibid.

Public Administration Service had the most "competent and diversified staff."³⁰

Shortly before the final delegate election, Utley issued the first of many staff memoranda, this one entitled, "Consultants--Some General Observations," in which he advised against hiring a full-time consultant. "Where charter revision is the prime objective," he wrote, "the bulk of practice would seem to indicate intermittent use of the consultant." This would prevent the Convention from paying for "non-or-minimum-productive time" and avoid the danger of the consultant becoming too well-known, which could result in loss of "detached objectivity." Furthermore, the consultant could do the drafting better at his home office, where he had his resource material and a full staff. Turning to the nature of the consultant, Utley pointed to three alternatives: a firm, an individual, and a combination of several specialists. Most firms, he wrote, dealt with specific areas of city government, although "complete charters are not beyond their scope." The Convention should be careful, however, to avoid buying a service that a department of the city government could logically provide. A sounder approach, Utley implied, would be to hire a single individual who was an "overall expert" and supplement him with specialists as needed.

³⁰Lennox L. Moak to Utley, April 16, 1956, Ibid.

This would allow the city to make full use of its own resources and avoid the likelihood of an expert dominating the Convention.³¹

On April 28, the candidates met for the last time before the election and voted to have the Executive Committee, along with Utley and Fogarty, consider the available consultants and recommend one of them after the election.³² Sorensen missed the meeting, but his personal attorney, Charles A. Nye, attended and sent his client a memorandum summarizing the discussion, during which, he said, candidates frequently used the terms "city-manager" and "strong-mayor." Nye felt that the use of these terms, about which

³¹Utley, "Consultants--Some General Observations," May 11, 1956, Ibid. It is possible that Utley had himself in mind as the "overall expert." While nearly all of the delegates agreed that his contribution was an excellent one, some felt that in the early stages of the Convention he "tried to take over." "The biggest problem we had," said Wray Scott "was to get Bill Utley to keep his . . . mouth shut. He's a hell of a nice fellow, but he's just like any school teacher. He could talk forever without making his point." Sorensen recalled that shortly after Utley was hired, "the professor in him came out, and he was inclined to lecture. I had to tell him what the other delegates were telling me. I had to remind him of his role. He accepted it in good spirits and became an outstanding coordinator." N. P. Dodge, however, considered his "lectures" of great value and felt that they were his most important contribution to the Convention. Utley himself disclaimed any attempt to "take over." Failure on the part of some delegates to appreciate his contributions, he said, was probably based on a distrust of academicians in general. Interviews with Scott, Sorensen, and Dodge. Personal interview by author with William T. Utley, Dean of the College of Continuing Studies, University of Nebraska at Omaha, at his office, March 10, 1969.

³²Minutes, April 28, 1956, Maenner Papers.

people had pre-conceived ideas, should be discouraged, and he suggested instead the term "Omaha plan" or "Omaha charter," adding that "perhaps this could even be used in the publicity as the Convention goes along."³³ Sorensen agreed and thereafter used the phrase "Omaha plan" exclusively in referring to the new Charter.

On May 15, in another unusually low voter turnout, Omahans elected the fifteen delegates to their Charter Convention, with Trustin once again leading the balloting, followed by Sorensen and Scott. The winners included representatives of Omaha's three largest real estate firms and three attorneys, one of whom had quit his practice to become a bakery executive. Six others were business executives or owners, one was an insurance man, and two were the wives of prominent businessmen. One of the women elected represented the League of Women Voters, and the other had achieved considerable fame as a supporter of Omaha's parks. The average age of the delegates, like that of the primary winners, was forty-nine; three were under forty and four were over sixty. Two had served on the City Council, and eleven of the fifteen had been extremely active in civic and governmental activities.³⁴

³³Memorandum from Charles A. Nye to Sorensen, April 28, 1956, Sorensen Papers.

³⁴Evening World-Herald, May 21, 1956, March 12-14, 1956. See Appendix.

In view of later charges that the delegates violated the voters' mandate, it is worthwhile to inquire at this point into just what kind of a mandate the Convention received. Ten of the delegates were publicly uncommitted or undecided on the form of government. The five who had expressed a preference in the earlier World-Herald poll all desired to abandon the commission form.³⁵ Apparently the Omahans who voted for delegates subscribed to the idea of "gentleman politics," at least on the Charter Convention issue. That is, they preferred to select men and women of ability and give them a free hand rather than choose representatives who shared their views on city government. At least five of the delegates could be safely described as "wealthy," and all but two of the others were probably in the "well-to-do" category. Nine of them had attended colleges or universities, including Harvard and Smith.³⁶

The election also demonstrated that Omaha voters did not insist upon having a geographic cross-section of the city write their charter. Ten delegates lived in a relatively small, well-to-do area west of Fiftieth Street and within fifteen blocks of Dodge Street, and only one delegate lived in the eastern third of the city. Only one lived in south Omaha. This was John J. Cavanaugh, who was

³⁵Sunday World-Herald, March 11, 1956.

³⁶Evening World-Herald, March 12-14, 1956.

to become the lone dissenter from the decision of the Convention and who led a movement to reject the Charter that his fellow delegates recommended to Omaha.

CHAPTER IV

THE PUBLIC HEARINGS: PART I

The Mayor called the first meeting of the Convention for May 16, the day after the election. Rosenblatt congratulated the delegates and turned the meeting over to Sorensen, who suggested that Trustin take over as temporary chairman, since he had received the highest number of votes. Trustin, however, moved that Sorensen retain the gavel until the election commissioner had certified the results, and the delegates agreed, designating Trustin as vice-chairman. The Convention understandably accomplished little of a substantive nature at this first session. The members voted to request the continued cooperation of the "losers," and to set up budget and rules committees. Sorensen announced the next meeting for the following Saturday, when Lennox L. Moak, the charter expert from Philadelphia, would address the Convention.¹ Moak discussed general problems in charter writing, made scheduling and organizational suggestions, and advised the Convention to make a final decision on the form of government by the end of June.²

¹Minutes, May 16, 1956, Fogarty Papers.

²Evening World-Herald, May 19, 1956.

During the following week, the budget and rules committees met to prepare recommendations to present to the Convention. On May 26 these groups reported. The rules committee, chaired by Thomas C. Quinlan, a forty-seven-year-old lawyer and former Deputy County Attorney, proposed that ten members constitute a quorum, but the delegates voted to reduce that number to eight.³ The budget committee, which Trustin headed, proposed a budget of \$30,000, which the Convention approved. Nine thousand dollars of this sum was earmarked for the salaries of Utley and Fogarty and \$7,500 for the chief consultant, who had not yet been selected. Sorensen then told the Convention that the Executive Committee had met with representatives from Griffenhagen and Associates, J. L. Jacobs and Company, and Public Administration Service (PAS) and recommended the latter, because the committee members were impressed by its representative and felt that it had had the most experience at charter-writing. The cost of its services would not exceed \$12,000, and the Convention voted to hire PAS and increase the budget by \$5,000. Before adjournment Utley gave the members a list of fifty questions about charter-writing "to stimulate their thinking."⁴

³"Proposed Rules for the 1956 Charter Convention - City of Omaha," Fogarty Papers; Minutes, May 26, 1956, Maenner Papers.

⁴Minutes, May 26, 1956; "Charter Convention Tentative Budget," Fogarty Papers. The Convention, of course, was

On May 29, the delegates began what they called Stage One of the Convention, a series of public hearings designed to gather information on the workings of Omaha's government and to hear recommendations on charter revision. Testifying first were the seven City Councilmen, who took up most of three sessions. The delegates attempted to determine these witness's opinions on whether the commission form of government was best for Omaha; whether the appointive commissions should be abolished or reduced in power; and what efficiencies the city could accomplish through consolidation and centralization. On the first of these issues, two of the Commissioners made strong pleas for alternative forms of government, and the other five either defended the commission form or refused to commit themselves. Rosenblatt, who had earlier called for the adoption of the strong-mayer form, said that the chief weakness of the commission form was its haphazard method of selecting department heads. During his administration, he said, election winners distributed the offices by drawing straws. Commissioner Hanson, a city-manager proponent, told the Convention that commissioners often had no technical knowledge of their jobs. They were

dependent on the City Council for the appropriation of funds. Finance Commissioner Walter X. Spellman told the delegates that the \$35,000 figure was somewhat higher than the Councilmen had anticipated but that they would "go along wholeheartedly." Tape Recording, June 2, 1956.

usually dedicated public servants, he felt, but it took them some time to acquaint themselves with their duties. Furthermore, there was no way to assure that they would head the departments for which they were the most qualified. He ruled out the strong-mayor form because he believed that it encouraged the spoils system, and people in other cities had warned him against it. Hanson declared that the city-manager plan divorced legislative functions from executive ones, but unlike the strong-mayor plan, the Council could fire the city-manager at will.⁵

Finance Commissioner Walter X. Spellman favored retention of the commission form, saying that it was "sound, efficient, and economical." Under it, he said, the Commissioners had done a "conservative and progressive job for the City of Omaha. Make your revisions and amendments that are necessary, but don't disturb the basic functions." Swigart agreed, saying that all department heads should be elected in order to keep the government close to the people. The staunchest defender of the commission form, however, was Fire Commissioner Simon A. Simon, who equated election of department heads with the American way of life. "In this country we're getting too far away from our original ideas of government by representation," he said. When asked if he would oppose any other form of government that the

⁵Tape Recording, May 29, 1956.

Convention recommended to the voters, he exclaimed, "I'd oppose any government that takes the power away from the people and concentrates it in the hands of a dictator or the hands of a man that is not responsible to the people directly." Delegate John R. Maenner, a thirty-one-year-old real estate executive, asked him, "If you elect a man who appoints administrative personnel in the various departments, is that dictatorship?"

"You're making a dictator out of one man," Simon replied. At this point Sorensen interrupted to ask Utley for figures on the number of cities that had adopted the city-manager form. "I don't care what other cities are doing," Simon declared with some agitation. "I'm from the old school and I believe in representative government!"⁶

Police Commissioner Henry Boesen, who came prepared to expound on the financial needs of his department, was obviously surprised at being asked to comment on form of government. Sorensen was quick to take advantage of his unpreparedness. "You're an expert," he told the Police Commissioner, who had previously been Chief of Police. "Omaha is fortunate to have a man of your police background running the Police Department. But suppose I decided to

⁶Tape Recordings, May 31, June 2, 1956; Minutes, May 29, 1956, Maenner Papers.

run for office, which I assure you will never happen. I'm just a poor electrician. Suppose I got elected to run the Police Department. Could I run it as well as you do?"

"Well, no, I don't think you could," Boesen replied, after some hesitation. Others were not so susceptible to this combination of logic and flattery from the chairman. Reacting to similar questions, Simon and Public Improvements Commissioner William R. Milner both stated that a Commissioner's job was primarily administrative, and that a good policeman, for example, might not be a good administrator. "I don't know anything about fire fighting, and I don't need to," said the Fire Commissioner. "My mission is to administer the money that the taxpayers permit us and guard over that portion of the business." Milner refused to comment on form of government, saying that as an elected official he did not think he should take a stand. This statement, coming directly after Boesen's indecisive testimony, clearly irked some of the delegates. "One of our biggest jobs here is to decide if we should recommend a change of government," said Jacobberger. "Sooner or later somebody's going to have to say they like or dislike something. The last man up here never said anything."⁷

Turning to the subject of the appointive commissions, the delegates heard nothing but adverse testimony from the

⁷Tape Recording, May 31, 1956.

Councilmen. Although Boesen and Hanson confined their remarks to the monetary needs of the Police Department and the merits of the city-manager plan respectively, the other five attacked the appointive bodies with varying degrees of vehemence. Rosenblatt was the most restrained, merely saying that he had found it difficult to find qualified people to appoint to them. Swigart, in attacking the commissions, illustrated his point by displaying a gallon bucket of broken glass, which, he said, had been found in a dump near a school yard. The job of cleaning the dump belonged to the Sanitation Commission, but that body had not acted because it lacked the necessary equipment. The Street Department, he said, had the equipment but lacked the authority to do the job. Milner said that he opposed the commissions but characteristically refused to allow the delegates to pin him down as to his reasons. Asked if he could be more specific in a closed session, he replied, "No, I've been frank and open here." Simon characterized the commissions as "back-seat drivers" and said that they should be reduced to an advisory capacity. "They are not responsible," he claimed. "They mean well. They're trying to do a job. But somebody can sell them a bill of goods because of the lack of time to study a matter, and I think its a hindrance to the City Council."⁸

⁸Minutes, May 29, 1956; Tape Recording, May 31, 1956.

Spellman, who was perhaps the most articulate of the Commissioners, presented the most cogent and well-prepared indictment of the appointive commissions, which, he felt, had "created a confusing allocation of power and administrative duties" between those bodies and the City Council. Their existence, he said, gave the city a "dual government." While the Council retained the legislative power, many of the administrative duties had been transferred out of its hands. Consequently, the voters held the Councilmen responsible for many things over which they no longer had jurisdiction. The people who ran these "sub-governments," as he called the appointive commissions, were appointed by the Mayor and therefore not directly responsible to the voters. They were neither bonded nor under oath, "although they spend millions of dollars of the taxpayers' money." The Omaha Improvement Commission (OIC), he said, had authority over the spending of \$20,000,000, and the Park and Recreation Commission, which took over the running of the city's parks, spent \$500,000 per year. The Sanitation Commission operated the garbage and trash program, city dump, and incinerator, and had authority to take over the entire sewer system and disposal plants. In the next ten years it would control the expenditure of \$16,000,000. The Auditorium Commission selected the architects and location for the Civic Auditorium, spent over \$6,000,000

on its construction, and was operating it at a cost of \$275,000 per year. Spellman emphasized that commission members were "a fine group of people and some of Omaha's outstanding citizens," but he felt that no one who was not bonded or under oath should be able to supervise the expenditure of such large sums of money. Furthermore, he contended, the voters, in creating these commissions, intended them to be strictly advisory. Spellman added that the Convention should make this clear in the Charter if it retained them.⁹

Most of the suggestions which Commissioners made in the area of streamlining the city's government and effecting economies involved some sort of consolidation or centralization. More centralized purchasing, garaging, and insurance coverage would save money, they suggested. Spellman and Milner both proposed merging the Street Department with the Department of Public Improvement, and Spellman suggested consolidating the Police and Fire Departments into a Department of Public Safety. Both of the Commissioners whose departments would be involved in this latter suggestion, however, felt that police and fire operations were so diverse that they needed separate status.¹⁰

⁹Tape Recording, June 2, 1956.

¹⁰Minutes, May 29, 1956; Tape Recordings, May 31, June 2, 1956.

Simon contended that Omaha's government would be more efficient if each of the seven Commissioners had complete charge of his department without fear of Council intervention. When asked to cite examples of such intervention, however, he was again noncommittal. "I don't think that would be necessary," he said. "I don't think it would be helpful to this committee." A delegate then asked him to comment on the suggestion that the city's purchasing could be more centralized, and he replied that it was completely centralized already. Asked if it was not true that his department bought its own fire-fighting equipment, he denied this and proceeded to give a detailed description of the manner in which the Fire Department acquired equipment. Wray Scott clearly did not believe him. "Mr. Simon," he said, "this all sounds like a fine Pollyanna affair where there's never any difficulty and everything runs according to Hoyle . . ."

"This isn't no Pollyanna affair, Sir," Simon interrupted, clearly agitated. There followed a brief shouting match in which Scott emerged as the better shouter. When tempers cooled the Fire Commissioner admitted that he was describing "what actually should happen and what the law is in the city government."¹¹

¹¹Tape Recording, May 31, 1956.

Swigart made the surprising statement that the Public Property Department, over which he presided, "wouldn't need too much change," since it controlled only a few buildings that were not assigned to other departments. Scott interrupted to ask him if he knew how much property the city owned, and he replied, "No, I do not." Scott found this answer appalling, and later cited it as a prime example of governmental inefficiency under the commission form. Turning to other departments, Swigart, a contractor, charged that revenue collected from building permits exceeded the cost of the required inspections, which, in his opinion, was unfair to builders.¹²

In suggesting measures designed to streamline and economize the city's government, Spellman was once again the best prepared of the seven Commissioners. Elimination of the bond program and reversion to a pay-as-you-go system, he said, could save Omaha more than \$200,000 per year in interest charges. The retirement of \$2,000,000 worth of bonds required a levy of 5.85 mills, while a six-mill levy would produce \$2,500,000 per year. He then called for coordinating the setting of the levy with the fixing of the budget. As Spellman said, "it's a cockeyed operation . . . trying to set a levy in August and a budget in

¹²Minutes, May 29, 1956; Interview with Scott.

December," because department heads could not always foresee their needs for the coming year.

Spellman then asked the Convention to give Charter authorization to a practice that he had been carrying on, but which was legally questionable. He had proposed, and the Council had passed, an ordinance requiring any department having a surplus of funds at the end of the year to carry that surplus over to the next year, even though Fogarty had warned him that this measure was "unconstitutional." Fogarty's opinion notwithstanding, Spellman argued that this ordinance prevented surpluses from becoming a "pot at the end of the rainbow and a grab-bag at the end of the year." Under this provision, he said, the city was transferring nearly \$250,000 to the next year that in the past had been spent needlessly. This observation brought a protest from Wray Scott, who charged that the practice of allowing departments to retain their surpluses was "unbusinesslike." He asked Spellman if the Charter did not require unexpended funds to go toward paying off bonds. "Yes," he replied, "that's Ed's ~~Fogarty's~~ opinion too, that it should go into the sinking fund. . . . I'm skating on thin ice here, and if the ice starts to break, why, I'll rectify it." In any case, he said, the Convention could resolve the matter through a Charter provision.¹³

¹³Tape Recording, June 2, 1956.

On June 5 and 7, representatives of the five appointive commissions appeared before the Convention and devoted the greater part of their testimony to justifying the existence of those bodies. All of them pointed to the fact that members served without pay, and thus the city received the free services of some of Omaha's most prominent and successful businessmen. The commissions, they said, provided for citizen participation in government, and furthermore the voters had twice rejected proposals to abolish them. Since members were appointed for staggered terms, rather than being subject to replacement every three years as the Councilmen were, they were able to do long-range planning and give continuity to their various projects. To make these commissions strictly advisory, they felt, would not only destroy their effectiveness but make it difficult to interest citizens in serving on them. "You'd feel that you would do a lot of work," said one member, "and then have the elected officials, or whoever it might be, refuse to accept your advice and just go off on his own way or perhaps go off on another way for political considerations." Several witnesses stressed this last point, feeling that appointed commission members were not subject to political or special-interest pressure as were the elected Councilmen.¹⁴

¹⁴Ibid., June 5, 7, 1956.

Testifying for the OIC were its president, Hayden W. Ahmanson, who headed the National American Insurance Company, and Mrs. Hazel Smith, OIC Secretary, but not a member of that body. With fifteen members, the OIC was the largest of the five commissions, and unlike the other four, it did not include a member of the City Council. It was known as the "watchdog" commission, supervising the construction of several large improvement projects and overseeing the work of the other four commissions. It also differed from the other four in that its members were not appointed for definite terms. They were to stay on the OIC until the projects for which it was created were completed, after which it was to go out of existence. Mrs. Smith told the delegates that the OIC had already spent most of the \$23,000,000 allocated to it. Remaining were \$1,000,000 in storm and sanitary bonds and \$1,293,700 in highway bonds earmarked for the completion of two arterial thoroughfares. By ordinance, the storm and sanitary bonds could be issued only at the rate of \$250,000 per year, so the OIC's existence was foreshadowed for at least four more years. The group met regularly once a month, she said, but it had held fifty-four special meetings since its creation, so no project was delayed because of its failure to act. The overhead costs of the commission, Mrs. Smith continued, totaled only one half of 1 per cent of the bond money. It was essential, she felt, to retain the OIC

until its remaining bond money had been spent, but after that a similar authority should replace it to supervise future improvement projects. She added that if the Sanitation Commission were abolished, the OIC could take charge of a planned sewer project.¹⁵

Delegates asked the two OIC representatives to comment on the adverse criticism that Councilmen had offered in the previous sessions. "There's been an awful lot of talk on the other side," said N. Phillips Dodge, a forty-five-year-old real estate executive. There was no question, Ahmanson replied, that some duplication existed, but this was not necessarily bad. If the Convention could set up a city government that would supervise the expenditure of \$23,000,000 as carefully as the OIC had, then it properly could be abolished, but otherwise it should be retained. Furthermore, he denied the charge that the OIC was completely autonomous and independent of the elected city government. "We still are subject to the whims of the City Council," he said, and the OIC could not act without the Council's approval.

We laid out the Southwest Radial Highway and had it approved by every engineer from the federal government down to our own, and we couldn't get four votes from the City Council. They held out for Leavenworth Street when all the members of the Council had received a letter from the State Engineer which said the state and federal government was not interested in spending

¹⁵Ibid., June 5, 1956.

a penny on Leavenworth Street. In spite of that, when they knew that without matching funds we couldn't possibly build a highway. It was just childish to think of developing Leavenworth Street when they said, "No federal funds."

Our commission does not have all the authority that you think we have. Everything we do must be approved by the City Commission. Every dollar we spend comes from a city office. We have no money. There's been some reference to the fact that we're not bonded. Why, I've been president for a couple of years, and I've never seen a postage stamp. You don't need to bond me. I couldn't steal if I was so inclined.

Asked if such criticism was politically motivated, Ahmanson replied, "Yes. People running for re-election are subject to pressure groups."¹⁶

Ahmanson's testimony prompted a discussion of whether the OIC was not actually advisory in a technical sense, since it depended on the City Council for approval of its actions. This discussion revealed the fact that neither body could initiate a project without the other's consent, a situation that could and sometimes did result in a deadlock, as in the case of the Southwest Radial to which Ahmanson had referred. Samuel Cooper then asked him to comment on alleged "frictions" between the OIC and the Council, and Ahmanson replied that he had never had any frictions, only differences of opinion. "They've all treated me with the utmost of respect."

"I don't think there's any personal friction,"

Cooper declared. "But there's definitely . . . a feeling

¹⁶Ibid. Ahmanson's emphasis.

of resentment that the commissions have taken over administrative authority that belongs to the elected officials. I'm not saying it's good or bad, but I'm saying that this is an issue we have to face." Dodge then inquired of the OIC president if he felt that the problems could be solved by the adoption of a new form of government. Ahmanson replied that this might be possible if the Convention could devise a city government that would not be subject to the "whims of the voters." The city-manager plan might work, he said, but he did not know enough about it to be certain.¹⁷

The testimony of the Park and Recreation Commission was complicated by two close personal connections between the commission and Convention delegates. Thomas Quinlan's wife was the chairman of the commission, and Delegate Rachael Gallagher was a former Park and Recreation Commission chairman who had run for the Convention solely because she feared that the commission's existence was in danger.¹⁸ This body, like the Sanitation, Auditorium, and Airport Commissions, was composed of six members, including one City Councilman. Members served staggered terms, with two being replaced each year. Representing it at the hearings was one of its members, Howard Kennedy, who told the delegates that the Park

¹⁷Ibid.

¹⁸Personal interview by author with Mrs. Rachael Gallagher, at her home, Omaha, Nebraska, January 3, 1969.

and Recreation Commission was not a temporary "watchdog" commission like the OIC. The voters created it, he said, because they wanted their parks and recreation program under the management of a citizens' group that would not be susceptible to political pressure and which would have the continuity to look ahead and make long-range plans. The commission had done its job responsibly and efficiently, he contended, pointing out that income from concessions had increased five-fold since the Commission went into operation. Asked to comment on Rosenblatt's assertion that it was difficult to get qualified citizens to serve on these bodies, he replied that the real problem was choosing among the good people who desired to serve. "I don't think there's any danger," he said, "of running out of citizens who are anxious and willing to spend a heck of a lot of time trying to do some good." Some members in the past, he continued, had joined the commission with the express purpose of disrupting it and securing its abolition, but "as soon as they got involved in the work and saw what was going on, they were working for it 100 per cent."¹⁹

Turning to suggestions for charter revision that would improve the operation of the park and recreation program, Kennedy contended that the city's purchasing

¹⁹Tape Recording, June 5, 1956.

should be less, rather than more, centralized. On purchases such as grass seed, for example, he felt that the Park and Recreation Commission could make better contracts if it could purchase on its own without advertising for bids and working through the Purchasing Department. This was because the Purchasing Department was understaffed, and its employees did not have the necessary time to determine which bid was best. He also made a strong plea for the authority to issue revenue bonds. The commission could build a golf course, for example, that would easily pay for itself and eventually produce revenue for the city. Its bonds would be readily marketable because of the growing popularity of golf, but the commission had no authority to issue them. Asked how he would feel about abolishing the other four commissions, Kennedy replied that he did not know enough about them to comment.²⁰ At the following session, Trustin noted that the delegates were sitting in new, more comfortable chairs and read a note that he had found attached to one of them: "These chairs are loaned by the Park and Recreation Department upon the condition that the Park and Recreation Commission be retained with increased power."²¹

Joseph Barker, Jr., chairman of the Auditorium Commission, told the delegates that while the work of that

²⁰Ibid.

²¹Tape Recording, June 7, 1956.

body was nearly completed, the Civic Auditorium should remain under the management of a citizens' group, perhaps the Park and Recreation Commission. Possibly a Management Commission could operate the auditorium, stadium, airport, and other large facilities. His commission, he said, followed a strict policy of charging all groups equally for the use of the Auditorium and never permitting a convention to use it free of charge. This permitted a profitable operation of the Auditorium, rather than allowing it to become a burden on the taxpayers. The elected commissioners would not do this, he felt, "because they have to succumb to a certain amount of pressure from the various groups. And we get plenty of it, but we stand firm on it." Asked how much convention business was lost because of this policy, he replied, "to listen to the Chamber of Commerce, we're losing a great many. I doubt it." Barker added that Chamber of Commerce members were the ones who benefited directly from conventions. Therefore, if they wanted to attract such gatherings by offering a free auditorium, then they should pay the rent on it.²²

Sanitation Commission chairman John P. Lynch not only asked for that body's retention, but urged the delegates to increase its powers by freeing it of all City Council control. In defending this position, he cited

²²Ibid.

instances in which he alleged that the Council had wrongfully tied the commission's hands on key sanitation matters. The Council had been misguided in these cases, he claimed, because its members lacked the necessary time to study sanitation problems. Leonard H. Powers, a Sanitation Commission member, asked the Convention to approach the matter pragmatically. The key question, he said, was whether or not Omaha had benefited from the existence of the Sanitation Commission.²³

Airport Commission member Charles A. "Doc" Irvine also defended his agency on pragmatic grounds. The year before the commission was created, he said, the airport had required an appropriation of \$68,000 from the City Council. Under the management of the commission, the appropriation had steadily decreased until, by 1951, the airport was self-supporting, and during 1955 it had produced a revenue of \$290,000. Like his counterpart on the Park and Recreation Commission, Irvine urged the Convention to provide for the issuance of revenue bonds for future expansion without a vote of the people. He could foresee the time, he said, when the city would need five airports, and it was impossible to convince the voters that revenue bonds did not raise taxes. Omaha's airport was in an excellent position to raise revenue, he said, because unlike airport authorities

²³Ibid.

in other cities the commission had wisely avoided letting long-term leases on terminal space and runway use. Thus the bonds would be readily marketable. Asked if the Council could issue these bonds, Irvine said that he had been unable to get an answer to that question. Fogarty, without setting forth his reasoning, then told the group that bonds issued by the Council would be a general obligation of the city, which would drastically reduce their marketability. The real problem, Irvine said, was that while they could use surplus revenue for current improvements, they could not use it to set up a sinking fund for the retirement of bonds. Asked to comment on Barker's suggestion that a Management Commission operate the airport, auditorium, and stadium, Irvine said that this would destroy the possibility of marketing revenue bonds, once the commission received the authorization. He observed that the airport had a greater potential than the other two for producing revenue, and "if you bring two losers in with a winner you detract from the winner."²⁴

From the elected Commissioners and the appointed commission members the Convention heard two widely differing philosophies on who should administer a city's government. The delegates were faced with the basic question of whether or not an administrator should be directly responsible to

²⁴Ibid.

the voters. On the one hand was the assertion that only a directly responsible official would work for the best interests of his constituents. On the other hand was the belief that such an official was concerned primarily with his own re-election. The hearings thus far had demonstrated that Omaha's government was a hybrid, mixing the two philosophies. If the delegates desired to eliminate this duality, they would be faced with the task of deciding which philosophy would prevail.

CHAPTER V

PUBLIC HEARINGS: PART II

During the remainder of June the Convention heard testimony from heads of the city's operating departments and from various civic organizations and citizens' groups having ideas on charter revision. The first week of these hearings, beginning on June 9, probably represented the nadir of the Convention largely because of a general lack of understanding on the part of the witnesses, and sometimes the delegates, of the purpose of the investigation. This lack of understanding was due to a failure to grasp the scope and purpose of a city charter. These department heads had been operating under a charter that was nearly 200 pages in length and which included numerous amendments that were nothing more nor less than legislation. While there was sometimes disagreement among the delegates as to just how detailed the city's charter should be, the majority of them agreed on the principle of writing a charter that would provide for the form of government and establish the broad outline for Omaha's administration while leaving legislation to the City Council. Indeed, the fact that the Charter had accumulated detailed and cumbersome legislative

amendments over the years had been one of the primary arguments for the calling of a Convention. The department heads, however, faced with administrative problems that were related to Charter provisions, appealed to the Convention for the revision of these provisions. The result was a considerable waste of the Convention's time on matters that did not concern the writing of the Charter. This problem was heightened by the fact that Sorensen was absent from the hearings until June 16, leaving a definite leadership vacuum. Trustin, who presided in his absence, lacked either the ability or the inclination to restrict the scope of the testimony and discussion. Some of the delegates, Wray Scott and Howard Drew in particular, made frequent attempts to do this but were usually unsuccessful.

An example of this type of digression was the testimony of Ivan L. Swanson, head of the Purchasing Department, who recommended that all city departments that sold scrap metal should be required to do so through his agency. He knew of cases, he said, in which city employees had sold such scrap for prices that were lower than he could have gotten. He also complained that too many employees made small purchases on their own, costing the city tax dollars. He and Trustin then spent several minutes discussing whether more tax money was wasted through bypassing the Purchasing Department or through work stoppages that resulted from

waiting for the Purchasing Department to replace worn-out parts. "Well, Mr. Chairman," Scott interrupted, "I don't think this group or any other group is smart enough to write a law that will do away with human integrity and human judgment." Frequent interjections of this nature, however, apparently had little effect on either the acting chairman or the officials who were testifying. City Engineer Edwin W. Woodbridge asked the Convention to require the building of sidewalks each time a street was paved, and Library Director Arthur H. Parsons suggested increasing the fines for defacing library books.¹

While these proposals were at least somewhat relevant to the Charter in that they dealt with problems created by existing Charter provisions, the officials who testified at these hearings also brought up problems which the City Council could easily have handled, as they involved no Charter provisions. Swanson, for example, told the delegates that he could save money for Omaha taxpayers if the city owned warehouses and stockrooms, enabling him to get discounts for bulk purchases. Police Chief Harry M. Green pointed to the need to hire more policewomen to combat sex offenders. Planning Commission Chairman H. G. Grove suggested increasing the size of residential lots and cited areas where zoning classifications should be revised. Delegate Quinlan

¹Tape Recordings, June 9, 11, 14, 1956.

pointed out that the inclusion of such minor provisions in a charter would be unwise, since it would then require a Charter amendment and therefore a vote of the people to change them. Wouldn't it be more logical, he asked, for the City Council to specify the size of residential lots by ordinance? Grove replied that he had been trying to get Councilmen to make these changes for some time, but they had refused. Civil Defense Director William D. Noyes complained of the expense involved in sending his employees out of the state for training, and recommended the hiring of a training officer. This had nothing to do with the Charter, he admitted, but he felt that it would be good to bring the matter to public attention.²

Nearly all of the city officials who testified at these hearings cited departmental problems that boiled down to the simple need for more money, and delegates had a difficult time convincing them that this matter was not within the province of the Convention. Police Chief Green quoted Federal Bureau of Investigation statistics to show that Omaha's police force was short of manpower, and Woodbridge complained that he had a difficult time maintaining a staff because the salary schedule was too low. Again and again Scott told the officials that the Convention could not allocate funds and did not intend to write a charter that specified the salaries

²Ibid.

of city employees. The head of the Department of Weights and Measures, Willis W. Gray, told the delegates that the work of his department was fixed by state statutes and would be the same under any form of government, so he could contribute nothing to the hearings. All he needed was more money and manpower, he said, and he realized that the Convention could do nothing about that. "How much more do you need?" asked Trustin. At this point Scott's patience came to an end. "Why do we waste time on that, Harry?" he asked, in a tone of extreme exasperation.³

At the close of one of these meetings, Drew asked for the attention of his fellow delegates. "I'm extremely disappointed with the meeting today," he said. First he took the Convention members to task for lack of conscientiousness, noting that only six delegates were still present and that the meeting had been delayed twenty minutes for lack of a quorum. Next he criticized the delegates for talking too much and allowing themselves to become involved in detailed and irrelevant discussions. "What we want is their ideas, not our ideas. I want to question them." It was the responsibility of the chairman, he said, to keep the testimony on the subject, and delegates should refrain from interrupting the speakers until they had finished their presentations. "If we want a discussion period, then I think

³Ibid.

we should set aside a discussion period to talk about these things." Drew then issued an implied criticism of the coordinator, whose job it was to invite guests and instruct them as to what their testimony should cover. They should be clearly instructed, he said, to discuss only the problems of their departments that dealt with the Charter, not administrative problems. "We want their specific recommendations. Recommendations A, B, C, D, E, F, right down the line, that have a bearing on the Charter. . . . And if they can't have them in that form, don't bring them up here." Utley responded with a vehement defense of his work. "We do give them specific instructions," he said. "Sometimes they don't have a clear grasp of what is Charter matter and what is not. We don't ourselves sometimes." Turning again to the matter of absence and tardiness, Drew warned that the Convention might "bog down for lack of interest and then fall through." Mrs. Rose Graham, one of the two women delegates, said that she shared his concern and asked Utley if he could find out which delegates had not been attending and why. "Well, frankly, I haven't, Mrs. Graham," he replied, "for the simple reason that I haven't felt that this group of adults should be treated like Sunday school children."⁴

⁴Tape Recording, June 9, 1956. Drew's emphasis. Of the eight sessions up to this point, Sorensen and Mrs. Gallagher had missed four each. Sorensen was out of the city until June 16, but had a perfect attendance record thereafter. Three delegates had missed two meetings each:

Part of the discussion during these early-June hearings did deal with matters that involved the writing of the Charter directly, but it was not always productive because of a hesitancy on the part of some officials to commit themselves. When Drew pressured Fire Chief Eugene W. Fields to express an opinion on the form of government, Fields refused to comment. "Tomorrow morning," he said, "I would be in the newspapers that I'm advocating a certain form of government." Trustin defended the Fire Chief's reluctance. "I don't think it's fair to ask him that. He's working for a Commissioner. If he said he wanted the city-manager form, he's liable to get his--he's liable to get burned up."

"If a fellow can't come up here and give us an honest answer to an intelligent question," said Drew, "It's a sad commentary on our present form."

"Oh, I don't think so," Trustin replied. "A man's got a right to be a pragmatist from any standpoint." Drew continued to apply pressure, assuring him that the press would permit him to keep his answer off the record. "You can answer it if you want to," said Trustin. "It's up to you."

Dodge, Jacobberger, and Louis Kavan, a school board member and president of the Retail Grocers Association. Minutes, May 16, 26, 29, 31, June 2, 5, 7, and 9, 1956.

"Well, I could answer that question, but I--." After a long pause he continued, "I just don't like to answer it."⁵

Civil Defense Director Noyes, who had formerly served as Fire Commissioner, was also reluctant to comment on this subject, saying that he worked for the city and did not want to get into a "hassle." Under questioning, however, he reluctantly admitted that he considered the commission form weak because of the politically inspired favor-trading that took place on the Council.⁶

Delegates also quizzed Noyes, Fields, and Green on the advisability of combining the Police and Fire Departments into a Department of Public Safety, but only Fields expressed a definite opinion. Such an arrangement was undesirable for a city of Omaha's size, he felt, because the Public Safety Director might favor either police or fire activities over the other. Noyes and Green said, in effect, that it had worked well in some cities and might work in Omaha.⁷

Delegates heard differing opinions on the role of the Purchasing Department. Swanson asked for increased power, particularly over the five appointive commissions, which, he said, had too much freedom to circumvent the

⁵Tape Recording, June 11, 1956.

⁶Ibid.

⁷Tape Recordings, June 11, 14, 1956.

Purchasing Department. The relationship between his department and the commissions has been good, Swanson declared, but there was an "awareness of their independency," and if he criticized their purchases he did so without authority. Trustin said that he had been under the impression that the commissions always bought through the Purchasing Department. "They're not buying anyway, are they?" he asked.

"Oh, they buy occasionally."

"Is that so?" Trustin asked with surprise. "Well, that gives us something to chew on."⁸

Arthur Parsons, however, felt that purchasing regulations were too restrictive and that the library should be able to purchase independently. Book-buying was a specialized operation, he said, and he warned the delegates against establishing a purchasing department that would be too centralized.⁹

Another Charter-related subject that received some discussion during this stage of the hearings was Omaha's civil service program. The Police and Fire Departments had separate civil service programs, and the Convention considered combining them with the civilian employees' Civil Service Department. Green refused to comment on this, because it was in the "realm of politics." Fields was

⁸Ibid., June 9, 1956.

⁹Ibid., June 14, 1956.

dissatisfied with the independent status of the Fire Department civil service program because the fact that he administered it himself left him open to criticism. An outside commission should give the examinations and make the promotions, he said, "provided that the questions that are asked the Fire Department are Fire Department questions, that we don't run off here all at a tangent and try to get a bunch of university questions." Examinations, he felt, pounding the table to emphasize his point, should be based on "information that the firemen have a chance to learn, so there's no tricks about this thing." Parsons and Park and Recreation Director Ralph B. McClintock both considered the city's civil service regulations too restrictive, limiting their ability to hire the most qualified applicants.¹⁰

Asked if he felt that the city's golf courses were lucrative enough to justify the issuance of revenue bonds, McClintock answered with pride that golf courses were turning a profit of \$20,000 per year and that such bonds would be readily marketable. He also noted that while swimming pools had traditionally lost money, he had been able to nearly erase the deficit during his administration. Delegates Cooper and Cavanaugh both questioned the use of public recreational facilities for producing revenue. "Aren't they built for the people who can't afford to go

¹⁰ Ibid., June 11, 14, 1956. Fields's emphasis.

to the private pools?" Cavanaugh asked. McClintock replied that "this business of public recreation being only for the poor people has long gone by the board." Wasn't that the same as charging tuition for public schools, Cavanaugh asked? "Well, some places operate like that," McClintock replied.

In Oakland, California you don't pay for anything in their Recreation Department. But they're spending over a million dollars a year just for recreation. You can walk into a community center there and you can do anything. You can build a table like this. It don't cost you a dime. You can walk in and build it and walk out with it. Or you can make a dress or you can build a boat. They pay for that. The taxpayer pays for it. Personally, I don't believe in this giveaway stuff, and our commission doesn't believe in giveaway stuff.

The exclamations of agreement that followed his speech removed any possible doubt as to where the majority of the delegates stood on "giveaway stuff." Jacobberger reminded Cavanaugh that nothing is free. "It would cost the same regardless of who pays for it." Mrs. Gallagher made the point that there was usually more vandalism and destruction of free equipment. "If they pay for it they respect it more," she said; accompanied by several exclamations of "good point."¹¹

On June 16 Sorensen returned and resumed the chair. He immediately expressed the fear that the Convention was wasting time in hearing from so many minor city officials

¹¹ ibid., June 11, 1956.

and was getting behind schedule. They could do nothing of consequence, he said, until they had made such major decisions as the form of government and consolidation of the Police and Fire Departments, and he urged the staff to set early dates for deciding these issues. The Convention could save time, he suggested, by dividing itself into committees to hear from the remaining witnesses. Jacobberger agreed, saying that they generally could predict what a witness was going to say even before he testified. A decision on the form of government should come first, he added, since it would consume most of the Convention's time. Utley, speaking with some agitation, declared that the Convention's timing was proper according to Public Administration Service standards. Furthermore, if the delegates began making important decisions before listening to all of the testimony, "somebody's going to get their nose out of joint." Delegates could certainly be considering these decisions on their own, he said, and he had distributed a number of staff memoranda to assist them. Trustin, whose agitation matched Utley's, questioned the value of these documents and also challenged Sorensen's attempt to curtail the hearings. "Now I think we're on the right track, myself," he said. "I have no concern about this time limit that you're talking about, Al. I think that this thing is set up about as fine as anything I've ever set up."¹²

¹²Ibid., June 16, 1956.

In the face of this opposition, the chairman dropped his attempt to step up the schedule, and the Convention devoted most of the next three sessions to hearing from more lower-echelon city officials. As in the case of earlier witnesses, most of their recommendations dealt with problems which could be handled administratively or with simple shortages of money and manpower. However, three Charter-related subjects did arise during these sessions. First was the fact that Omaha's Planning Commission was inadequate, not only because of a lack of funds, but because of a lack of authority which only the Charter could grant. Planning Technician Earl R. Spencer testified that, in effect, Omaha had no overall planning program since his department's activities consisted almost entirely of zoning and related matters. No provision existed, he said, for coordinating the construction of schools, parks, and other city facilities according to a master plan. The school board, for example, did not inform the Planning Commission in advance of the location of a planned school because it feared that divulging future locations would cause the price of the land to go up. He recommended that the new Charter provide for a central planning authority that would not only decide questions of zoning but would decide which streets would be paved, where parks and schools would be located, and, in fact, "plan" the city. Even its zoning

functions were not as effective as they should be, Spencer felt, because the City Council could, and often did, overrule decisions of the Planning Commission by a simple majority vote. With no master plan, it was just one man's opinion against another's as to whether a given piece of land should be residential or commercial, and the Council found it easy to "slide off and use friendship or votes" as a criterion for zoning decisions.¹³

The delegates also learned that in some departments lines of authority were weak or non-existent. Lawrence E. Christensen testified that he had been Chief Plumbing Inspector for twenty-two years without knowing which department he was in or to whom he was responsible. Chief Building Inspector Lloyd M. Rathbun also stated that it was difficult to tell for whom he worked, because the Building Department had been a "football" for many years, passed from one commissioner to another. Electrical inspection was under the Fire Commissioner, plumbing inspection under the Mayor, and building inspection was under the Department of Public Buildings, a second step away from an elected commissioner.¹⁴

A third impression that the delegates gained from these lower-echelon hearings was that there was much room for consolidation and centralization in Omaha's governmental

¹³Ibid., June 18, 1956.

¹⁴Ibid., June 16, 18, 1956.

administration. Superintendent of Streets Bryan E. Seymour testified that both his department and the City Forester under the Park and Recreation Department maintained tree, grass, and flower crews and equipment. Under questioning, he admitted that the necessary consolidation could be done administratively, but it was also possible for a new charter to clarify lines of authority in such a way that would prevent such decentralization and duplication. City Forester Charles W. Warren agreed that several departments were doing forestry work that could logically be unified into one department, resulting in increased efficiency and economy. Director of Street Transportation Burt Whedon told the delegates that several departments handled street and highway design, construction, and maintenance, and recommended consolidation in that area.¹⁵

Also testifying at the Convention's public hearings were representatives of three city employees' unions and fourteen Omaha civic groups and trade organizations. Appearing for Police Union Local #531 were Lieutenants Walter J. Devere and Lester K. Smith, who recommended that the Convention retain the existing police civil service program, which had been adopted in 1946 as an amendment to the 1922 charter. This amendment established

¹⁵Ibid., June 16, 21, 1956; Minutes, June 19, 1956, Maenner Papers.

a three-member Police Civil Service Board consisting of one member appointed by the Mayor, one elected by the policemen, and a third member chosen by the first two. The Board administered examinations, awarded promotions, and settled personnel conflicts within the department. This system had worked well, Smith said, and the policemen desired to retain it. Since the question of one unified civil service system for all city employees was one of the important issues before the Convention, the delegates subjected Smith and Devere to considerable questioning. Sorensen asked why they would oppose a unified system, and Smith replied that because of the "complex operations of a modern metropolitan police department" members of the force needed a board totally devoted to their particular needs. "You can't compare a police sergeant with a truck driver for the park department." Asked how policemen would react to one system for policemen and firemen and a second one for all civilian employees, Smith replied that policemen and firemen had never been able to agree on a plan for unification. Dodge assured him that the delegates were conscious of the special needs of the police and that any unified system would protect the identity and standards of the Police Department. The federal government had only one civil service system, he pointed out, and it had a greater variety of

job classifications than Omaha. Scott added that no one intended to deprive policemen of their "vested rights," but that many people felt that a single system could provide more streamlined administration. Smith replied that he understood that the Charter Convention was going to strike out bad features of the city government and retain the good ones. "We feel that our civil service system is a good one," he said, adding that he could not understand why it should be changed.¹⁶

Representing the firemen was James W. Pattavina, Vice President of Firemen's Union Local #385. Omaha's firemen had a hiring and promotion program by examination which the Fire Chief administered, and Pattavina asked the Convention for a civil service system similar to that of the policemen, with a board on which firemen would be represented. Asked if it could be joined with the police system, he replied that he saw no objection to this "if it included our desires." Among their desires were shorter working hours, a more favorable vacation schedule, and a clothing allowance. Sorensen told him that the delegates considered these requests reasonable, but they were not inclined to include in the Charter "administrative details," especially ones that might soon become outdated.¹⁷

¹⁶Tape Recording, June 30, 1956.

¹⁷Ibid., June 23, 1956.

Speaking for the civilian employees was Theodore Fontaine, a full-time representative of City Employees Local #251. The civilian Civil Service Board consisted of one City Councilman, one employee representative, and a third member from the public at large. This group hired the Personnel Director, Dr. William H. Thompson, who was also the Dean of the College of Arts and Sciences at the University of Omaha and personnel director for that institution. Fontaine's primary contention was that the city should have a full-time personnel director "working with the employees and their problems." His presentation was confused and halting, however, and it was clear that he was poorly prepared. Sorensen suggested that this was an administrative matter that the Civil Service Board could handle and asked him to name its members. Fontaine could name only Dr. Thompson. After an embarrassing silence, Sorensen demanded to know how Fontaine could criticize Omaha's personnel system when he did not even know "who these men are that you're working with now." Again the union representative was without an answer. Trustin, whose skeptical tone of voice revealed his attitude toward Fontaine, asked how the city employees were suffering under the existing system. Fontaine cited several examples of employees being treated unfairly, including a case in which an employee had been laid off and not notified when he was eligible for re-hiring. "Isn't that a clerical mistake?" Trustin wanted to know.

"Possibly, but if we had a full-time director, a lot of these things could be cleared up." Thompson tried to do a good job, he said, but he did not have enough time.¹⁸

Fontaine's next request was for a forty-hour week provision in the Charter. When Jacobberger suggested that a forty-hour week might become obsolete and would be difficult to change if it were part of the Charter, Fontaine said that he agreed, but all of the department heads claimed that they lacked the authority to grant it. Perhaps, he suggested, the Charter could give them that authority. Asked what he thought about the possibility of a unified civil service system for all city employees he declined to comment. "I don't want to get into a fight with the police and firemen," he said.

"I'm asking for your advice," replied Sorensen impatiently. Fontaine still had no recommendation.¹⁹

Personnel Director Thompson, in his testimony, made two basic points, both of which conflicted with union requests. A personnel director should be part-time, he said, so that he could be independent of the city for his livelihood and therefore able to resist pressure from those who wanted to control the city's jobs in order to build a political machine. "The man that pays you owns you," he

¹⁸Ibid., June 18, 1956.

¹⁹Ibid.

remarked. Asked how a part-time director could be accessible to the several hundred Omaha city employees, he replied that as far as he knew, no one had ever been denied an appointment with him. Furthermore, the people who raised these objections were usually "people who are seeking power over the personnel . . . to use them for their own personal political aims." He did not identify these power-seekers, nor was he asked to do so.²⁰

Thompson also felt that Omaha should have a single civil service system with no employee representation on the board. The board members should represent the public as a whole, he said, so that they could take an objective view. Delegate Cavanaugh took issue with Thompson's theorizing and asked why both the employees and the general public could not be represented. The employee representative, Thompson replied, would yield to "crowd opinion" and would be unable to rise above his own biased point of view and "face the issues." But, Cavanaugh asked, how would board members know what the employees' particular needs and problems were? Thompson replied that employees could express their ideas without being on the board. "You want to stack the jury," he told Cavanaugh. Jacobberger defended Thompson's position. It had been his experience, he said, that when one represented the employees, one the management, and one the

²⁰Ibid., June 23, 1956.

public, the first two cancelled each other out so that the third ended up making all of the decisions.²¹

Of the five business or trade associations which testified at these hearings, three favored a strong-mayor plan with well-paid, appointed department heads and a city council reduced to strictly legislative duties. Kieth Tobias of the Omaha Homebuilders Association said that his group had not taken a stand on form of government, but he estimated that its members favored the city-manager plan by three to one. Only the Q Street Merchants wanted to retain the commission form, and they desired some significant revisions. The number of commissions should be reduced to five, they felt, and candidates should run for specific offices. John C. Barrett, the organization's representative, suggested a salary of \$12,500 for the commissioners. "We're liberal in south Omaha," he said. The most important change, he asserted, would be a Charter provision requiring commissioners to concern themselves with the government of the entire city, rather than just their individual departments. Delegates tried without success to learn from Barrett how a Charter provision could assure this, but he simply reiterated that it should be spelled out in that document.²²

²¹Ibid.

²²Ibid., June 21, 25, 30, 1956.

These business and trade associations also suggested a number of economy-minded reforms such as more centralized purchasing, pooling of vehicles, and more careful scrutiny of expense accounts. Many of their recommendations represented the special interests of the organizations testifying. The Omaha Homebuilders, for example, wanted licensing for all city contractors, but with "grandfather rights" exempting those who were operating before the system went into effect. They also wanted a Charter provision requiring at least one residential builder on the Planning Commission. The Graphic Arts Association, an organization of Omaha printers, had no Charter recommendations but did provide some comic relief for the hearings. Its president, Anton S. Piskac, told the delegates that the city had purchased a multilith machine to do some of its own printing, which was far less efficient, he said, than hiring the services of a private printer. Asked what this had to do with the Charter, he replied, "I don't know for sure. I don't know for sure why I'm here." But, he noted, there were a number of businessmen present who required printing, and "It's a good pitch for me."²³

Lawrence W. McVoy, representing the Omaha branch of the National Association for the Advancement of Colored People, and Arthur McCall of the Omaha Urban League both asked the delegates to include provisions in the Charter

²³Ibid., June 12, 21, 25, 30, 1956.

that would eliminate discrimination in the city's employment policies. Both cited the Fire Department as the most flagrant violator of fair employment and promotion practices. All Negroes, they said, were assigned to Station Fourteen and were never promoted out of that station. Thus, a white fireman who had a sufficiently good work record, enough seniority, and who had passed the necessary examinations could apply for any vacancy in the city, but a colored fireman could not hope for a promotion until a vacancy occurred in Station Fourteen. "It is a fact," said McVoy,

that there can be no Negro captain unless one of them dies or gets his leg broken who is already a captain. . . . We have not been able to determine where the rule is that says that all of these Negro men must be assigned to Station Fourteen. But we have not been able to find the rule that says they can't be assigned to Station Fourteen either. So I mean you're caught between the devil and the deep blue sea.²⁴

To end this practice of discrimination, McCall urged the establishment of a single civil service system for all city employees that would safeguard the right of all employees to apply for any jobs for which they qualified. LeMar asked him how such a system would prevent a man from the Street Department, for example, from successfully applying for a job opening in the Fire Department. McCall replied that the hypothetical individual would not get the job unless he was qualified for it, but LeMar continued to question his

²⁴Ibid., June 12, 1956.

plan. A man might have considerable "book knowledge" and still not be qualified for the job, he asserted. "I think that could be worked out," McCall replied patiently. Utley added that the examinations would take into consideration not only "book knowledge" but also practical training and experience. "That's only partly true," LeMar insisted. A man might be able to pass a written examination, he felt, and lack experience and practical knowledge.²⁵

McCall also called for the establishment of a permanent human relations commission that would "operate on an educational level, making appropriate recommendations to city officials for proper conduct in situations involving human relations problems." Carefully avoiding any specific reference to race, he asserted that "problems in the South" would result in a great influx of people into Omaha in the next two decades. "We think that these people can come in here and be an asset to the community and be helpful in our great economic growth by providing the same source of labor that formerly came from overseas."²⁶

The Convention ended the public hearings with three "neighborhood" meetings in north, central, and south Omaha. The first two, which drew a total of fifty-seven citizens including the press, provided no clear consensus as to what

²⁵Ibid.

²⁶Ibid.

north and central Omaha wanted their Charter Convention to do. Four who attended recommended the city-manager plan, two the strong-mayor plan, and two favored retention of the commission form with higher salaries for the commissioners and abolition of the appointive commissions. One spoke for ward representation in the City Council.²⁷

Those who attended the south Omaha hearing, however, were more nearly in agreement. Only one proposed the strong-mayor plan, and eleven asked for retention of the commission form with various revisions. No one called for adoption of the city-manager plan, and two specifically opposed it. Nine south Omahans spoke for abolition of the appointed commissions, and seven favored ward representation.²⁸

The south Omaha hearing, held on July 2, completed Stage One of the Charter Convention, and the delegates were ready to proceed to Stage Two: revising the Charter or writing a new one.

²⁷Minutes, June 26, 1956, Maenner Papers; Minutes, June 28, 1956, Fogarty Papers.

²⁸Minutes, July 2, 1956, Maenner Papers.

CHAPTER VI

WRITING THE FIRST DRAFT

In early July, with the information-gathering stage of the Convention completed, the delegates began the process of writing a charter to recommend to Omaha voters. On June 25 they had unanimously and without discussion voted to make Sorensen the permanent chairman, a decision that reflected his emergence as the group's natural leader. The following day, Drew wrote to the chairman to thank him for accepting the position. During Sorensen's absence, he wrote, "attendance was lagging and interest by the various members seemed to be waning fast. Upon your return the group seemed to take on 'new life.'" Drew added that his letter represented the feelings of the other delegates.¹

Wayne F. Anderson, the Public Administration Service consultant, had arrived in Omaha on June 18, and had spent the remainder of the month acquainting himself with the city's government and assessing the attitudes of the delegates. The thirty-one-year-old Anderson held a master's

¹Drew to Sorensen, June 26, 1956, Sorensen Papers. Absences for the seven sessions while Sorensen was out of the city averaged 4.3 per meeting, as compared with 1.7 per meeting for the six sessions between his return and Drew's letter. The absence of Sorensen himself, of course, contributed to the difference between these figures.

degree in public finance from the University of Wisconsin and had recently returned from Israel, where he had represented PAS in developing a taxation and financial plan for that nation. Prior to that he had worked on a similar project in Greece and had consulted the United States government in writing a charter for the atomic city of Richland, Washington.²

During the first month and a half of the Convention, the delegates had devoted most of their time to assessing the weaknesses of the city's government and had made little attempt to discuss what form of government they should propose. However, one related question did pervade the public hearing stage of the Convention: should they recommend a charter which would attempt to solve Omaha's greatest governmental problems while staying as close as possible to the existing charter, or should they propose a complete break with the old charter? The reasoning behind the first alternative was the belief that voters would be leary of drastic changes and would reject a completely rewritten charter even though it might be a significant improvement. Sorensen had taken this point of view during his campaign for election. He would work for a charter, he had written, "which seems to me would be an improvement over our present system and one which I believe the voters will accept!"

²Tape Recording, June 18, 1956; Evening World-Herald, June 18, 1956.

"If the people reject the recommendations of the Convention we will be right where we are now. . . ." ³

Delegate Thomas Quinlan was hopeful that the Convention would be able to revise the commission form and present the voters a modernized and streamlined version of the old charter, rather than a completely new one. This view was based solely on political considerations. The failure of the city-manager movement six years previously, he felt, was evidence that Omahans would oppose drastic change. ⁴

Louis J. TePoel, a member of the Mayor's Legal Committee, had given the delegates another argument for keeping charter changes minimal. Over the years, he said, the courts had interpreted and construed much of the charter's wording, and there was no certain way to predict how they would react to alterations. "Change the wording and you've got to go through the courts again," he warned. ⁵

This question arose at the end of one of the hearings in late June, after that day's witnesses had left. Sorensen

³League of Women Voters of Omaha, "Candidates Bulletin," (undated). Sorensen's emphasis.

⁴Interview with Quinlan.

⁵Tape Recording, June 2, 1956. TePoel was a former City Attorney and Dean Emeritus of the Creighton University School of Law. While the delegates held the Dean in high regard, they must certainly have realized that he represented an extremely conservative point of view. His recommendation was that the City abdicate its home rule authority and revert to a legislative charter.

asked the delegates if they wanted to come up with the best possible charter, only to have the voters reject it, or if they wanted to write the best one that they felt the people would accept. Scott replied that he considered TePoel's warning a sound one, and he felt that the Convention should avoid "change for change's sake." Dodge objected strongly to this approach. "I don't think we should be bound by TePoel and the lawyers," he said. "Maybe those sections had to go to court because they weren't clear in the first place." It would be impossible for them to write a streamlined charter, he said, if they were "afraid to throw anything out." Their first job, he felt, was to write the best possible charter and then try to sell it. "A good charter is our best selling point."⁶

Four days later Sorensen reversed his position on this vital question. In a confidential memorandum to Utley, Fogarty, Anderson, and the members of the Executive Committee (Vice-Chairmen Trustin and Quinlan and Secretary Maenner), he reported a conversation with Walter E. Christensen, president of the World-Herald. He had asked Christensen for his advice as to whether the Convention should write the best possible charter, even though it might lose at the polls, or simply attempt to make improvements in the existing charter that would have a better chance of gaining voter approval.

⁶Ibid., June 21, 1956.

Mr. Christensen stated emphatically that if the members of the Charter Convention would ultimately say to him that--here is what we believe to be the best Charter for the City of Omaha, he would accept it in its entirety without question and would attempt to sell it to the people on the basis that a group of dedicated citizens studied the Charter and out of this study and experience, their recommendation should be accepted. Accordingly, I am willing to change my personal opinion and proceed on the philosophy of coming up with the best Charter we can develop and then make an honest effort to sell it to the community.⁷

On July 3 the Convention began a series of closed sessions for the writing of the first draft. The first session, devoted to selecting the form of government, lasted nine hours and was probably the climactic point of the Convention. Anderson presented descriptive charts and oral summaries of four basic forms, and the delegates discussed each. The commission form required little discussion. After Anderson pointed to its supposed strengths and weaknesses, Utley reviewed its origins and subsequent decline in popularity. The city-manager plan brought unfavorable comment from Jacobberger, who feared that the city manager could become a "dictator," and from Cavanaugh and Drew, who suggested that it would cause people to lose interest in politics. Anderson then described the strong-mayor plan and the mayor-administrator plan. The key element in the first of these was the fact that the mayor appointed the

⁷Sorensen to Executive Committee and Staff, June 25, 1956, Sorensen Papers.

department heads, preferably without city council confirmation. Thus he would be directly responsible for carrying out any programs which he had promised to the voters. The mayor-administrator plan included features of both the strong-mayor and city-manager plans, providing for a mayor with broad appointive powers and also a professionally qualified administrator. The delegates decided to consider all four, with the understanding that the commission form, if selected would be modified. The consultant then took a poll of the first and second choices of the delegates, which showed Mrs. Graham, a League of Women Voters official, favoring the strong-mayor form and Dodge preferring the city-manager form. Jacobberger, Kavan, O'Connor, Trustin, and Cavanaugh voted for the modified commission form, and the remaining eight delegates chose the mayor-administrator form. Of the eight who expressed a second choice, five favored the modified commission form. The other three forms received one second-place vote each.⁸

The delegates then voted unanimously to rule out the city-manager and strong-mayor plans, and Jacobberger presented his version of a modified commission form. His plan called for the election of five commissioners: a directly-elected mayor and commissioners of public safety, public improvements, finance, and streets. The OIC would

⁸Minutes, July 3, 1956, Fogarty Papers.

control the expenditure of all bond money, and the other four appointive commissions would become advisory. Jacobberger admitted that there would be some "sloppiness" under this form, but he claimed that this was inherent in democratic government. Europeans had perfectly efficient governments, he asserted, but they were "not so good to live under." Supporting this proposal most vigorously were Cavanaugh and Trustin, both of whom claimed that the voters would not accept a drastic change. Drew, however, charged that Jacobberger's plan did nothing to remedy the lack of leadership that existed under the commission form and urged the Convention to give the voters a real choice. Quinlan agreed, saying that it was not their job to "out-guess the voters." Cooper pointed out that Jacobberger's proposals could be instituted through subsequent amendments, and said that the Convention should not miss the opportunity to effect a genuine change. LeMar denied that the voters would necessarily reject a completely new charter, saying that he had been elected on a strong-mayer platform.⁹

After a dinner recess, the Convention turned to a discussion of a plan which Scott had proposed in a letter to the delegates the previous week. The testimony at the hearings had convinced him, he wrote, that the city government's greatest need was the separation of legislative and

⁹Ibid.

administrative functions. He proposed a strictly legislative City Council of twelve members, with six elected at large and six by district. The Mayor would preside over the City Council and have the power of veto, which the Council could override with a two-thirds majority. Under the Mayor would be four administrators, who would supervise the departments of public safety; finance and budget control; public property; and municipal engineering, planning, and public improvements. The charter would require that each of these department heads be professionals, with a minimum of ten years experience in municipal administration or its equivalent.¹⁰ Scott compared this plan to the organization of a corporation, with the Mayor acting as the general manager. LeMar, speaking in support of Scott's plan, said that it was structured like an army, with a commanding general and his staff. Maenner and Cooper suggested the addition of an administrator between the Mayor and his four department heads. Anderson suggested that they could allay public fears by calling this person an "administrative assistant" and also by making the position optional. The Mayor could say, "I am going to appoint an administrator to do this work for me."

Trustin objected to the Scott proposal, saying that "this plan tells everybody what to do." It was similar to

¹⁰Scott to "Fellow Charter Members," June 30, 1956, Maenner Papers.

the commission form, he said, except that the commissioners would be appointed instead of elected. "Will people allow you to cut off their right to elect the men who will run the city?" he asked. Jacobberger liked the plan, even though it contrasted markedly with the one he had offered, but felt that the Council, rather than the Mayor, should appoint the department heads. He was fearful, he said, of the Mayor "running away with the thing." Quinlan retorted that since the Council would levy taxes and prepare the budget, it would not need to hire and fire the department heads to maintain control over policy. Cooper agreed, saying that the Council would pass the legislation and make the policy, which the department heads would carry out.¹¹

The Convention then voted on the two plans, and Scott's, with the addition of an administrative assistant, won by a vote of eleven to four. Favoring the modified commission form were Cavanaugh, O'Connor, Trustin, and Kavan, with Jacobberger voting against his own proposal. The basic form decided, the delegates turned to a discussion of how they should report their decision to the press. Dodge suggested that they merely say that the legislative and administrative branches were separated. Jacobberger proposed that they report that the Convention had adopted the mayor-council form, and Quinlan offered

¹¹Minutes, July 3, 1956.

the suggestion that they tell the press that they had ruled out the city-manager plan. Drew favored a statement which would merely report that the delegates had decided on a plan in which the mayor and council would be elected. Sorensen then dictated a statement which made no mention of the appointed department heads or of the administrative assistant. The statement read, in part,

The members of the Convention voted in favor of an Omaha plan which anticipated an elected Mayor who will be the Administrative head of the city and an elected Council whose duties will be Legislative.

The details concerning the Mayor, Council, and departmental organization will be discussed and tentative decisions agreed upon at subsequent meetings.¹²

Despite such a cautious and hesitant press statement, however, it was impossible to disguise the fact that the Convention was recommending a strong-mayor form of government to the voters, even though the delegates had voted unanimously earlier in the July 3 meeting to rule out the strong-mayor form. The World-Herald reported it as such, and quoted the chairman as saying that ". . . the philosophy is that of the strong-mayor plan." Utley told the paper's reporter that "it is safe to say that what they had in mind was the strong-mayor plan."¹³ Despite Christensen's private assurance to Sorensen that that paper would support any plan that the Convention proposed, the World-Herald adopted an

¹²Ibid.

¹³Evening World-Herald, July 5, 1956.

official policy of reserving judgment until the Convention unfolded more details of its plan. The paper did pave the way, however, for an all-out endorsement. "Judging by the generally favorable atmosphere in which the Charter Convention has worked up to now," read a July 6 editorial, "it seems reasonable to hope that the 'Omaha plan' will get a good reception, and a favorable vote."

Swigart, however, was less optimistic, and he expressed his fears in a letter to the Convention. "As author of the ordinance bringing about this Charter Convention," he wrote,

I can assure you the success or failure of your exhaustive efforts weighs equally heavily upon my mind as I am sure it does with each of you. It must not fail, but your problem is as clearly two-fold as black and white. The problem is not only to provide the most feasible government possible for our city, but, equally as important, a charter that the public will accept.

It is a sobering thought to face the fact that two out of every five voters on August 10, 1954 voted NOT TO HAVE A CHARTER CONVENTION; that all previous Charter Conventions in our history have failed, and that our city voted down a radical change in our administration of city affairs only several years ago by a vote of 2½ to 1.

Omahans were accustomed, he said, to bringing their problems to elected city officials, and he was convinced that the city would not accept a "powerful one-man government at this time. . . . I am sure it is safe to say the public from one end of town to the other finds nothing wrong with his city government except confusion." The "sudden move" to the

strong-mayor form, he wrote, came as a complete surprise "to many thousands including myself. But the dye [sic] is now cast, we are to vote on a Mayor Council type of government. I think the success of that vote now hinges upon the moderasy [sic] of the set-up." The Mayor should not have a veto, he wrote, and the Council should participate in all appointments and serve as an appeals board for such matters as neighborhood zoning and condemnation proceedings. Finally, he warned the delegates not to "diminish the City Council to unimportance through little pay."¹⁴

The Convention devoted the remainder of July to transforming the basic plan which Scott had proposed into a complete charter. The Executive Committee and the staff planned the agenda for each meeting, and Anderson drafted memoranda on each subject up for consideration. He presided over the meetings and distributed and explained his memoranda, which were actually tentative drafts of Charter provisions. The delegates then discussed these documents, sometimes offering suggested revisions, and voted on each one. Anderson must have had a firm grip on the pulse of the Convention, for most of his memoranda were adopted in summary fashion, especially the ones that concerned rather routine and uncontroversial matters. On July 12, for example, the

¹⁴Swigart to Charter Convention, July 7, 1956, Fogarty Papers.

delegates approved unanimously and without discussion seven of these memoranda, covering such subjects as incorporation, corporate limits, independent annual audit, and filling council vacancies.¹⁵

The Convention, however, had a number of more controversial matters to consider, and these naturally consumed more time. One of these was the Mayor's administrative assistant. At the first meeting after the form-of-government decision, Scott proposed the deletion of this position. The Mayor should have more to do than "cut ribbons and open bridges," he said, and one man could administer a city the size of Omaha without an assistant.¹⁶ Five days later the staff scheduled a vote on whether the position should be optional or mandatory, but since four delegates were absent, neither side could gain a majority. The vote of seven to four in favor of making the position optional, however, may have indicated that support for the post was waning.¹⁷ The matter came up for a final decision four days later. Anderson told the Convention that optional administrative assistants with unspecified duties had not worked well in other cities. After a brief discussion the delegates voted eleven to two to eliminate the position, with only Cooper and Dodge

¹⁵Minutes, July 12, 1956, Maenner Papers.

¹⁶Minutes, July 5, 1956, Ibid.

¹⁷Minutes, July 10, 1956, Ibid.

voting "no."¹⁸ In a press release, Sorensen pointed to this move as evidence of the fact that the Convention was regularly reviewing its actions.¹⁹ It was Utley's opinion, however, that this decision resulted from an agreement between Sorensen and World-Herald executives. Sorensen told the delegates, according to Utley, that several of the paper's officials had told him that they felt that the Mayor should not have an administrative assistant. The chairman then agreed to eliminate the post, Utley said, in return for assurances that the World-Herald would not object to the Convention meeting in closed session.²⁰

The delegates were unanimous in the belief that a substantial raise in pay should accompany the Mayor's increased powers and duties. Scott and Drew both asserted that \$20,000 per year should be the minimum. Quinlan, however, said that he had been cautioned against that figure and suggested that \$17,500 would have a better chance of gaining voter approval. The Convention then voted without dissent to approve that figure, but not to specify department-head salaries in the Charter, leaving them open for action by the Civil Service Commission.²¹

¹⁸Minutes, July 14, 1956, Ibid.

¹⁹"News Release and Progress Report," July 14, 1956, Fogarty Papers.

²⁰Interview with Utley.

²¹Minutes, July 10, 1956. Quinlan did not identify the persons who had warned him against the \$20,000 figure.

There was no such unanimity on the question of City Council salaries. Since the Council would be limited to legislative duties, the delegates agreed, perhaps with a sense of noblesse oblige, that Councilmen should not receive full-time salaries. Opinions differed, however, on whether pay should be commensurate with the Councilmen's workload or merely a token payment. Scott and Maenner proposed \$50 per meeting with a maximum of \$2,500 per year, and Dodge and Trustin suggested \$100 per month. After some discussion, Drew moved that the salary be set at \$2,500 per year, and his motion carried by a vote of nine to five.²² There is no record of how the individual delegates voted on this issue, but Cooper, O'Connor, Graham, and Quinlan all made later attempts to increase this figure.²³ Both Scott and Graham suggested that the Council be elected partially by district, but neither could have felt very strongly about this issue, for the vote to elect the entire Council at large was unanimous.²⁴

The Convention expanded the number of department heads, which they called the Mayor's Cabinet, from the four which Scott had proposed to seven, and also rearranged their duties. Four of these departments received Convention

²²Minutes, July 5, 1956.

²³Minutes, August 4, 1956, Maenner Papers.

²⁴Minutes, July 5, 1956.

approval on July 9: Public Works; Finance; Public Safety; and Parks, Recreation, and Public Property. The votes to approve Anderson's memoranda on the powers and duties of these cabinet posts were all unanimous with one exception. Mrs. Gallagher dissented on the Parks, Recreation, and Public Property Department since it was to absorb the functions of the Park and Recreation Commission.²⁵ Her defeat on this vote, however, was only the first skirmish in a battle that lasted for the entire Convention. A woman of great charm and wit, she was also possessed of considerable determination, and she was prepared to fight long and hard for the retention of the Park and Recreation Commission.

The three other departments which received cabinet status were the Law Department, the Personnel Department, and the Planning Department. The first of these came up for discussion on July 9 when Fogarty made a plea for placing the City Attorney under civil service. That position was a quasi-judicial one, he said, since he frequently had to rule on the legality of the Mayor's and Council's actions. Therefore, Fogarty felt, the Civil Service Commission should appoint him so that he would not be obligated to the Mayor. Anderson, who generally took a neutral position on such issues, cautioned against such a move. The Mayor, he said, should be able to appoint his own City Attorney and remove him from

²⁵Minutes, July 9, 1956, Maenner Papers.

office since he would have to work closely with him in carrying out his program. Drew agreed with the consultant, but LeMar and Quinlan spoke in favor of Fogarty's position. The following day the delegates unanimously approved a compromise under which the City Attorney would be appointed by the Mayor, confirmed by the Council, and thereafter under civil service and not subject to removal by either.²⁶

To assist the Convention in establishing a Planning Department, PAS brought to Omaha Paul Opperman, the Director of Planning for the City and County of San Francisco, California. At a public session, Opperman made some general statements on the importance of planning and the development of a master plan. A city paid for planning whether it planned or not, he said, for if officials waited until a piece of land was acutely needed before purchasing it, the cost would probably have risen considerably. Good planning required three elements, he contended. First, the city should have a planning board composed of public-spirited citizens who should be unpaid and free of political connections. This group would establish policy and act as a board of review on planning matters. Next, there should be an experienced professional planning director with a competent and adequately paid staff of appropriate size. The planning director and his staff would develop a master plan for the

²⁶Minutes, July 9, 10, 1956.

city which would designate the nature and location of all streets, highways, parks, schools, and other public facilities. Once this plan was approved by the planning board, all land acquisitions, street widening, building projects, and public improvements would have to conform to it.²⁷

The Convention then retired into executive session, and Opperman read and explained a series of memoranda that he had prepared for the implementation of this planning program. The following day the delegates voted to adopt these memoranda with very little discussion and only a few minor revisions. The only dissenting vote came when Opperman presented the memorandum for the establishment of the Planning Board. Mrs. Gallagher voted "no" to protest the fact that the draft did not recognize the contributions of the other boards and commissions which had served the city well in the past. The delegates agreed to insert such an item in the preamble, and she voted "yes" on the remaining planning provisions.²⁸

For the planning of the final cabinet-level department, PAS sent to Omaha one of its personnel specialists, Donald E. Nemetz, who had handled similar consulting jobs in El Salvador, Ethiopia, Baltimore, Wichita, and Oakland. He spent three days investigating Omaha's personnel program

²⁷Minutes, July 23, 1956, Maenner Papers.

²⁸Minutes, July 23, 24, 1956, Ibid.

and then made his report to the Convention in a public session. Omaha, he said, had been a relative latecomer to the civil service ranks, adopting its first civil service charter amendment in 1940. "You have had what purports to be civil service for sixteen years," he said, but in that time the city had not moved very far toward "what was permitted and expected" in the charter amendment. First, he criticized the existence of three separate personnel systems. Within one system, he said, provisions could be made for the various needs of the different types of employees. Next, he expressed his surprise at the fact that Omaha did not have a full-time personnel director, a situation which was "almost unique." Most personnel directors in cities approaching the size of Omaha claimed that their jobs required twenty hours per day, according to Nemetz. All of the employee groups that he had talked with were concerned about this, saying that they had to make an appointment days in advance to talk with Dr. Thompson, and sometimes could not get time off from work to do so. "Of course, you don't have anything here that approaches a complete personnel program," he commented.²⁹

In addition to a full-time personnel director, Nemetz said that the city should have a single personnel board whose members would be appointed by the Mayor from the general public, with neither employee nor employer representation.

²⁹Tape Recording, July 21, 1956.

Cavanaugh, who was a former fireman, objected strongly to this and asked why the employees should not be represented. Nemetz replied that the employee representative would be considered biased and not to be taken seriously. If the members of the board were identified with certain interest groups, he said, there would be a "built-in cleavage" resulting in the outside representative making all of the decisions. Furthermore, if the employee representative proved to be too open-minded, he would invite the displeasure of his fellow workers. Experience, he claimed, had shown that there was no real advantage in having an employee on the board.³⁰

Asked to comment further on the weaknesses of Omaha's personnel program, Nemetz said that the city had an understaffed personnel department, a "dissatisfied employee group," a "second rate" testing program, and no in-service training. In addition, the city's pay plan was poorly administered, and its job classification plan did not "meet the standards of technical competence that it should." Trustin wanted to know what was wrong with Omaha's classification program. He had been told, he said, that it was a good one. "You have about 200 different classifications for 600 and some jobs," Nemetz replied. "It gives evidence of being done on a piecemeal basis." Whenever a new job

³⁰Ibid.

developed, he said, the city had apparently made a new classification without periodic review. "Who designs the standards that you speak of, and how widespread are they?" Quinlan asked. Nemetz replied that PAS had established the classification programs for over 100 cities, seventeen states, and several federal agencies. "They are rather widespread."³¹

Not surprisingly, Nemetz's comments brought an angry protest from the Civil Service Commission, whose members wrote the Convention that "It is beyond our comprehension where Mr. Nemetz acquired his misinformation." The Personnel Department's staff, they wrote, "although small, is one of the most highly qualified in the United States." They denied that there was significant dissatisfaction among the employees, claiming that "outside groups attempting to organize city employees on the basis of dissatisfaction have failed repeatedly. . . ." ³²

Nemetz was prepared for such reactions, for two days earlier he wrote a "Confidential Memorandum" to Anderson defending his criticisms. "It is recognized," he began, "that the point will be made by those who oppose change in the present personnel system that I sought to indict the

³¹ Ibid.

³² John Latenser, Jr., Joseph A. Churchich, and Walter X. Spellman to Charter Convention, July 30, 1956, Fogarty Papers.

system on the basis of only three days observation." He had, however, held "full discussions" with Anderson and meetings with police, fire, and civilian employees and their representatives. He had carefully reviewed Charter provisions, ordinances, rules, the pay plan, and "other written materials." Furthermore, "most of the shortcomings were acknowledged, but not admitted to be shortcomings." Nemetz then turned to what had apparently been an attack from Dr. Thompson:

It is unfortunate that there has been but one incumbent in the position of Personnel Director in the 16 years that "civil service" has been operative in Omaha. This results in the identification of the present system with one individual, who naturally will assume a defensive attitude towards it and oppose any change. It has, however, been his choice to personalize this matter; not the choice of the Convention or its consultants. This must be acknowledged and publicized, to the extent indicated by the form and degree of the opposition generated.³³

After Nemetz had presented his general observations on personnel at the public hearing, the Convention retired into executive session where he presented a series of memoranda for the establishment of a Personnel Department. His plan called for a unified civil service system with a full-time Personnel Director, who would be a member of the Mayor's cabinet, and a five-member Personnel Board appointed by the Mayor from the public at large. The chief point of discussion about this plan revolved around whether or not the

³³Confidential Memorandum from D. E. Nemetz to Wayne Anderson, July 28, 1956, Sorensen Papers.

Mayor's appointments of the Director and Board members should be subject to Council confirmation. Most of the delegates seemed to feel that Council confirmation would retard efficiency, but might be required to assure voter acceptance of the Charter. Finally, LeMar proposed that the Board, but not the Director be confirmed by the Council, and this motion passed by a vote of eleven to one, with Cavanaugh voting "no." The south-Omaha delegate voted "no" on all of the personnel memoranda to express his objection to the lack of employee representation on the Personnel Board, but he was the lone dissenter in each case.³⁴

Scott's original proposal on which the "Omaha Plan" was based required that each department head, or cabinet member, have at least ten years professional experience in his field. The delegates, feeling that this provision would make it excessively difficult for the Mayor to find qualified appointees, decided to reduce the minimum years of experience to five. In insisting that the city's administrators be professionally, rather than politically qualified, the Convention was asserting its belief in businesslike government. Along with the elimination of the practice of electing department heads, this was probably the most

³⁴Minutes, July 27, 28, 1956, Maenner Papers.

significant governmental change that the Convention was offering to Omaha.³⁵

To assist in dealing with another personnel-related matter, the city's pension and retirement system, PAS sent to Omaha A. A. Weinberg, an actuary and Certified Public Accountant. Weinberg was past-president of the Municipal Finance Officer's Association of the United States and Canada and had worked on actuarial and pension programs for a number of states. Like Nemetz, he presented his general observations at a public hearing, after which the Convention went into closed session to consider his specific proposals for Charter provisions. Weinberg demonstrated that he had made a careful study of Omaha's retirement and pension system and clearly made an excellent impression on the delegates. His chief criticism was of the fact that the city had two systems: one for civilian employees and a second for police and firemen. Unification would be "feasible and practical," he said, and it would be relatively easy to resolve the few complications that would arise, such as the lower retirement age for police and firemen. The benefits for all employees should be the same, however, since "there's no distinction in old age between a fireman and a civilian employee." Weinberg made a number of other suggestions for improving the administration of the pension

³⁵Minutes, July 21, 24, 27, 1956.

system but advised against spelling them out in the Charter. Instead, the Convention should give the City Council full authority to work out a plan, since ordinances were more flexible and adaptable to changing conditions than Charter provisions.³⁶ In the closed session that followed, the delegates speedily followed Weinberg's advice and adopted his memorandum calling for a brief Charter provision which set general guidelines for a pension plan but which left the details up to the Council.³⁷

The question of Council confirmation of the department heads was a somewhat controversial one. Andersen advised strongly against such a measure, warning that it could interfere with the Mayor's ability to carry out his program, but LeMar felt that the voters would demand Council confirmation because of their fear of too much power in the hands of the Mayor. Only Cavanaugh, among the delegates, favored Council confirmation as a matter of principle, however, so most of the discussion centered around whether the Convention should make this concession to insure adoption of the Charter. Drew said that he had not encountered major problems from the public on this question, and asserted that the Mayor should not be "hogtied" by the Council. The delegates then

³⁶Tape Recording, July 21, 1956.

³⁷Minutes, July 21, 1956, Maenner Papers.

voted to reject Council confirmation, with only LeMar and Cavanaugh dissenting.³⁸

Sorensen, however, was not certain that they had made the right decision, and he instructed his attorney, Charles A. Nye, to seek advice on this question from outside authorities. Nye accordingly wrote to Griffenhagen and Associates, J. L. Jacobs and Company, the National Municipal League, and George R. Sidwell, three of whom strongly recommended that the Mayor be given a completely free hand to appoint and remove department heads. Jacobs wrote that Council confirmation could result in diffusion of responsibility and division of power. The Convention should be able to obtain voter approval of their work, they felt, if it had a good "program of voter education." John P. Keith, a senior associate of the National Municipal League, wrote that the delegates would not have chosen the strong-mayor form if they had "wanted to mesh administrative and legislative functions." However, he continued, if it appeared that this issue would "doom the charter's chances for acceptance, we would certainly not quibble about adding confirmation." Sidwell wrote that confirmation would deprive the strong-mayor form of its greatest strength: the fixing of responsibility. Such a provision was needed in the federal government for checks and balances, he felt, but in a

³⁸Minutes, July 10, 1956.

city "the checks and balances are right directly in the hands of the people themselves." Only Griffenhagen and Associates, who charged \$120 for a four-page opinion, was equivocal, writing that there was no "yes or no" answer to the question. The job of the Convention, they declared, was to find a "suitable balance" between the Council and the Mayor, and Council confirmation of department heads was only one way to achieve this.³⁹ These replies apparently satisfied the chairman, for he allowed the subject to rest.

The question of what to do about the appointive commissions would have been an easy one to resolve were it not for the presence of Mrs. Gallagher. It would have been a simple matter for the delegates to merely out-vote her, but they were hesitant to do so because of the fear that she might oppose the entire Charter on the basis of the Park and Recreation Commission issue. Thus, they were inclined to approach the subject cautiously and consequently invited former OIC President Lloyd C. Mattson to appear before the Convention to give his observations about the commissions. Mattson advised the delegates to abolish all five of them, giving basically the same anti-commission arguments that the Convention had heard during the public hearings. Since Mrs. Gallagher was inclined to defend only the Park and Recreation

³⁹J. L. Jacobs and Company to Nye, August 3, 1956; John R. Keith to Nye, July 30, 1956; George R. Sidwell to Nye, July 27, 1956; Griffenhagen and Associates to Nye, July 31, 1956, Sorensen Papers.

Commission, and, to a limited extent, the OIC, the delegates began with the least controversial ones and voted unanimously to eliminate the Auditorium, Airport, and Sanitation Commissions.⁴⁰

On July 14, the Convention faced the Park and Recreation Commission question, and Mrs. Gallagher, speaking from notes, defended that body. It had worked well, she said, and had survived at least three attempts to abolish it. Because its members were appointed, and therefore not subject to political pressures, they could decide all questions on the sole basis of what was best for the city rather than how best to get re-elected. She admitted that the Commission was not representative government, but insisted that it was good for the people. Quinlan, whose wife was Chairman of the Commission, moved the creation of an elected body which would have the same powers and duties, and Jacobberger seconded the motion. Scott spoke against this proposal, saying that it violated the principle of consolidating and streamlining the city's government which the Convention was attempting to follow. The motion lost by a vote of six to seven, with Cooper, Jacobberger, Gallagher, Graham, Quinlan, and Trustin voting "yes" and Dodge, Drew, Kavan, O'Connor, Scott, LeMar, and Sorensen voting "no."⁴¹

⁴⁰Minutes, July 14, 16, 1956.

⁴¹Minutes, July 14, 1956.

Two days later the Convention made a second attempt to resolve the question, and Mrs. Gallagher made another speech in defense of the Park and Recreation Commission. Her main fear, she said, was that the voters would not approve bond issues until the new government had proven itself. Thus, the abolition of the Commission would set the park and recreation program back five years, she said. She then proposed a compromise that would have retained the Commission with its existing powers for ten years after the new Charter went into effect. Maenner said that the Commission had done a "valiant" job, but it was no different than the other commissions and should be "put back into the city government." A move by Quinlan to delay the issue failed, and Maenner moved to abolish the Park and Recreation Commission, but to allow it to exist for five years in an advisory capacity. This motion carried, with only Gallagher, Graham, and Jacobberger dissenting.⁴²

The question of the OIC was more complex than that of the other commissions since the Charter amendment which had created it provided for its existence only until it had spent all of the bond money allocated to it. Thus the Convention could simply allow it to die by leaving it out of the new Charter altogether, or it could provide for its immediate abolition, transferring the remaining bond money to the

⁴²Minutes, July 16, 1956.

Public Works Department. A third alternative, of course, which Mrs. Gallagher alone among the delegates supported, was to establish the OIC as a permanent part of the city's government. After a brief discussion of whether the Convention should allow it to "die a natural death" or "wipe the slate clean," the delegates voted twelve to one to choose the former course of action.⁴³

In addition to the special commissions, the Convention considered the abolition of two bodies that had been established by state legislation: the Library and Dock Boards. Ordinarily these statutory bodies would have been considered outside of the province of the Charter Convention, but Fogarty made a strong plea to the delegates to assert the city's home rule authority and bring these functions back into the city government where, he felt, they belonged. He doubted that they would face any legal problem in doing this, since, he said, the state legislature would take a lenient attitude toward such action. Trustin, who was a member of the Dock Board, argued for its retention not on the basis that the Convention lacked the authority to abolish it, but because it served a worthwhile purpose. Nonetheless, the delegates voted ten to three to follow Fogarty's advice. Turning to the Library Board, Fogarty said that the same

⁴³Minutes, July 17, 1956, Maenner Papers.

home rule principle applied and argued for its elimination. Anderson agreed, saying that Omaha had excellent home rule authority and the Convention should establish it in every possible way. LeMar, however, questioned the right of the Convention to "take on these statutory measures," and Quinlan agreed, saying that he could not imagine that Anderson's thinking was sound on this subject. Possibly because both LeMar and Quinlan were lawyers, Sorensen suggested that perhaps the Convention was acting with too much haste and proposed that they postpone the matter for "more serious thinking."⁴⁴

A week later, Library Director Arthur H. Parsons wrote to the members of the Library Board warning them that the existence of that body was in jeopardy. Dodge had invited him to lunch, he wrote, ostensibly to talk about the possibility of a separate library tax, "but he kept pulling the conversation back to the Board." Parsons asked him if he favored abolishing the Board, and Dodge assured him that he did not, but he needed more arguments "to combat some of the other thinking in the group." If the Convention abolished the Board, Parsons wrote to its members, it would place the library under a department head who would also operate the city's parks, auditorium, stadium, and airport. "You have in that situation a mixing

⁴⁴Minutes, July 16, 1956.

under one man of a number of nearly completely unlike functions and services, and one function or another is going to have to 'give.'" Mrs. Gallagher, he continued, had "fought valiantly" for the Park and Recreation Commission, and he understood that Jacobberger had supported her. Also, he would guess that Quinlan was "sympathetic," since his wife was on the Commission.

However, Parks and Recreation went down with the rest.

This is a strong-willed group, both as individuals as well as in a group, which is as it should be if they are to come up with a new charter which is worth anything. However, they are not possessed of all knowledge, and it is our right and duty to point out arguments wherever they may apply.⁴⁵

Attached to the letter was a list of the names and addresses of Convention delegates.

The following day, Parsons and Robert D. Neely, a local attorney who was President of the Library Board, appeared before the Convention to argue for the Board's retention. The Board, Parsons said, served as a valuable "buffer" between the library and various pressure groups, particularly when questions of censorship arose. The Board also built good public relations for the library and lent continuity and uniformity to its development that would not exist if the library was operated by a department head. Furthermore, he said, the library operating under a board

⁴⁵Parsons to Library Board, July 23, 1956, Charter Convention File, Omaha Public Library.

of citizens was less likely to be slighted in the allocation of operating funds than it would be under a department head who had other facilities and services to consider. Finally, Parsons concluded, Board members were able to keep informed on "library matters nation-wide" which a busy city official would probably not be able to do. The delegates were apparently impressed by his arguments, or they had lost their will to challenge the state legislature, for they voted twelve to two to retain the Library Board and defeated an attempt by Dodge and Drew to limit it to an advisory capacity. Consistent with this action, they voted unanimously to retain the Dock Board with its full powers, reversing their previous decision to abolish it.⁴⁶

In response to the numerous demands for a more centralized purchasing procedure, the Convention unanimously voted to establish a Purchasing Department under the Finance Director. All purchases were required to go through this department, although the delegates later excluded library books and other "unique or non-competitive items" from this provision. Acknowledging the effects of inflation, the Convention raised from \$100 to \$500 the size of purchases that could be made without competitive bidding.⁴⁷

⁴⁶Minutes, July 24, 1956.

⁴⁷Minutes, July 21, 1956.

Two Charter provisions associated with fiscal responsibility which received Convention approval were a mandatory referendum on both general obligation and revenue bonds and a sixteen-mill limit on the property tax levy. In adopting the first of these, the delegates were frankly admitting their inability to educate the voters on the difference between revenue and general obligation bonds and would not have included it in the Charter had they not been convinced that the Charter would be rejected without such a provision. Anderson advised them strongly against this measure, calling it a "capricious device throughout the country," but it passed by a vote of twelve to nothing.⁴⁸ One of the delegates, speaking twelve years later, cited this as an example of undue caution and willingness to compromise too much in an effort to write a charter that the people would accept.⁴⁹

The mill-levy limit was also designed to improve the Charter's chances at the polls, but it cannot be explained quite as easily. The limit under the existing charter of 36 mills was, in effect, no limit at all, and the current levy was 17.3 mills, although that figure included debt service, which the proposed 16-mill limit excluded. Thus, even if the new form of government could

⁴⁸Minutes, July 14, 28, 1956.

⁴⁹Interview with Maenner.

be expected to effect significant economies, the 16-mill limit represented a genuine attempt to contain government spending. When included in so inflexible a document as a city charter, it indicated that the majority of the delegates did not envision an expanding role for city government. Yet there was another possible explanation for the passage of this provision. It was the opinion of Jacobberger and Utley that the relatively low limit received its greatest support from the five delegates who were in the real estate business. They recognized, Utley and Jacobberger felt, that the city would soon outgrow this limit and would be forced to seek other sources of revenue, relieving what they considered the unfair burden on property.⁵⁰ Two delegates, Jacobberger and LeMar, wanted no mill-levy limit at all, and three others, including Quinlan and Cooper, supported more liberal limits. In arriving at the sixteen-mill figure, the delegates started with twenty mills and worked their way downward until they reached a figure which received the necessary majority.⁵¹

On July 28 the delegates made the last of the basic decisions that would be incorporated into the first draft, and the Convention then took a six-day recess to allow

⁵⁰Interviews with Jacobberger and Utley. Dodge, Drew, and Maenner represented Omaha's three largest real estate firms. O'Connor and Mrs. Graham were also in the real estate business, but on a more modest scale.

⁵¹Minutes, July 21, 1956.

Anderson to complete the drafting of that document. During the first four sessions in August, they listened to the consultant read the first draft and made some minor revisions, but all attempts at substantive changes fell short of the needed majorities. Cooper, O'Connor, Graham, and Quinlan all tried without success to effect nominal increases in the Councilmen's salaries, and Gallagher and Drew failed in their attempt to give the Mayor a seat on the Council.⁵² A proposal to raise the mill-levy limit to eighteen mills received only four votes, and a seventeen-mill limit received five.⁵³

Stage Two of the Convention, the writing of the first draft, ended on August 7, and the delegates recessed for two weeks to await public reaction to their work and to contemplate Stage Three: putting the finishing touches on the document which they would recommend to the voters in November.

⁵²Minutes, August 4, 1956, Maenner Papers.

⁵³Minutes, August 6, 1956, Ibid.

CHAPTER VII

WRITING THE FINAL DRAFT

On August 16 the World-Herald published the first draft, and four days later the Convention began a new round of hearings designed to gauge public reaction to its work and to hear recommendations for further revision. In one sense, this stage was hardly necessary, for by that time the delegates could be expected to have made up their minds on all substantive issues, and a comparison of the first and final drafts bears this out. The Convention considered this second round of hearings important, however, from the standpoint of public acceptance of the Charter. In a mimeographed handout that Sorensen authored in late July, he emphasized the point that the Convention was keeping in close touch with public opinion throughout the entire process of Charter writing. The first draft was strictly tentative, he wrote, and he urged citizens to study it carefully and to bring any suggested changes to the attention of the Convention.¹ Sorensen did not want these hearings to be limited to adverse criticism, however. He wrote to

¹Sorensen, "The Work of the Omaha Charter Convention to Date," July 28, 1956, Fogarty Papers.

Chamber of Commerce President Owen W. Cotton asking him to help assure a "fair press" by encouraging "favorable people" to appear. "We will hear from all the City Hall politicians, Unions, etc.," he wrote. "We probably won't hear a word from all the good people who approve of our work and proposals." Perhaps, he suggested, "a letter to the Chamber 'brass list' would bring results--certainly would develop some favorable correspondence at least."² There is no indication in the records of the hearings that Cotton successfully carried out Sorensen's request, but he did appear himself with words of praise for the work of the Convention.³

The two most significant additions that the delegates made to the Charter during this stage were a permanent Park and Recreation Board and a Human Relations Board. Mrs. Gallagher carried on her fight for the first of these by inducing two prominent businessmen to appear at the August 20 hearing in support of her position. The two were W. Dale Clark, an Omaha National Bank official, and A. F. Jacobson, President of the Northwestern Bell Telephone Company and Chairman of the Mayor's City-Wide Planning Committee, and both were reluctant to become involved in the controversy.

²Sorensen to Owen W. Cotton, August 10, 1956, Sorensen Papers.

³Minutes, August 27, 1956, Fogarty Papers.

On the day of their testimony, Sorensen wrote to a selected group of delegates that Clark and Jacobson had both phoned him and "indicated their embarrassment at Mrs. Gallagher's insistence that they appear today in her behalf. They did not want to appear, but for personal reasons felt they had to." Sorensen, as usual, was not without a plan:

Now, then, in order to get the proper story in the press and radio, we should bring out these things through questions to Clark and/or Jacobson:

Do they know why Commissions were appointed in the first place?

Is "Park and Recreation" different than other commissions?

Has Park and Recreation Commission met to discuss Charter provisions? (The answer is "No!")

Doesn't City Government belong in City Hall if we have responsible City Officials?⁴

Such questions were unnecessary, however, for the two witnesses testified in such an equivocal and half-hearted manner that it was difficult to tell whether they were calling for the Commission's retention or respectfully presiding over its interment. Jacobson emphasized that he was speaking only for himself and not for the Mayor's Planning Committee. Commission members were dedicated citizens, he said, who had given much valuable service to the city free of charge, but if the delegates felt that that body had served its purpose, the people should accept their judgment. Clark said that

⁴Sorensen to Maenner, August 20, 1956, Maenner Papers. Sorensen's emphasis.

the Commission had done a good job in the past and that recreation was important, but he did not present a forceful argument for its retention.⁵

While Mrs. Gallagher later denied that she had had any intention of withholding her support from the Charter on this or any other issue, at least one delegate feared this possibility and took steps to arrange a compromise. In a letter to eight delegates Quinlan made what he called "an appeal designed to produce one more vote for the Charter." He had been working with Sorensen's blessings, he wrote, toward a solution of the Park and Recreation problem. It was not a personal problem, he emphasized, but a problem of gaining or losing the support of "one of our most esteemed Delegates." After watching the Democratic and Republican National Conventions reach compromises on the civil rights issue, he continued, he was convinced that the Charter Convention could reach one on the Park and Recreation Commission. His proposal called for the establishment of a permanent Park and Recreation Board that would be limited strictly to advisory powers. It would have no "administrative authority, financial control, contractual power, or property rights," Quinlan emphasized. Its duties would consist of making recommendations to the Mayor, Planning Director, Personnel Board, and Parks, Recreation, and Public Property Director.

⁵Minutes, August 20, 1956, Maenner Papers.

"If it is acceptable to you, I am reasonably confident it will be acceptable to our dissident Delegate."⁶ Quinlan was more than "reasonably confident," for the previous day he had had lunch with Mrs. Gallagher and received her assurance that she would accept the compromise.⁷ On August 25 Quinlan formally brought his proposed redraft before the Convention, and the delegates approved it with only Cavanaugh dissenting.⁸ "I think it is a good compromise," Mrs. Gallagher told the World-Herald. "I think it would work."⁹ In reality, she was less than enthusiastic about a Park and Recreation Board with only advisory powers, but she was convinced that it was the most she could get from her fellow delegates.¹⁰

The Human Relations Board, which was empowered to investigate alleged ethnic discrimination in the city and to make recommendations to the Mayor and Council on human relations matters, had been proposed at the June hearings by an Urban League representative, but the Convention had given it little consideration in writing the first draft. At the

⁶ Interview with Gallagher; Quinlan to Sorensen, Trustin, Dodge, Drew, Jacobberger, LeMar, Maenner, Scott, and Anderson, August 23, 1956, Fogarty Papers.

⁷ Interview with Quinlan.

⁸ Minutes, August 25, 1956, Fogarty Papers.

⁹ Evening World-Herald, August 25, 1956.

¹⁰ Interview with Gallagher.

second round of hearings the League's Executive Secretary, George R. Robinson, repeated the request, offering a proposed draft for a Charter provision establishing such a Board. With a few minor changes in wording, the Convention used Robinson's draft in establishing the Board.¹¹

There were several possible explanations for the Convention's acceptance of this Board after failing to include it in the first draft. There is no doubt that the majority of the delegates, two of whom were former Urban League presidents, shared a sincere concern about discrimination against minority groups. Two delegates said that they had encountered sufficient evidence of racial discrimination during the hearings to convince them that Negroes were treated unfairly in Omaha.¹² On the other hand, the Convention had clearly established its policy on appointive commissions, and the establishment of a new appointive board could be considered a violation of this policy. It is possible that one violation of this principle, the Park and Recreation Board, opened the door to the second. It is also possible that the desire to win the votes of Omaha's Negro population for the Charter had some influence on the

¹¹Minutes, August 23, 1956, Maenner Papers; George R. Robinson, "Suggested Wording for Establishment of Human Relations Commission," Fogarty Papers. The delegates were careful to avoid the use of the word "commission" because of the connotation that word had obtained through the appointive commissions.

¹²Interviews with Cooper and Drew.

delegates. One delegate recalled that some of the Convention members were cynical about the Board and considered it a "sop" to the Negro community.¹³

Another civil rights provision that the Convention added after the publication of the first draft was a clause requiring that all contracts let by the city specifically prohibit the contractor from discriminating on the basis of race or religion. As was the case with the Human Relations Board, the individual votes were not recorded, but the vote was eight to five, and the Omaha Star, a Negro weekly, reported that Drew, Cavanaugh, Maenner, and Quinlan were known to oppose it.¹⁴ The opposition to this provision was based on the belief that the Charter could add no protection to minority groups that was not already provided by the state and federal Constitutions. The Charter was not the proper vehicle for such provisions, some delegates felt, and should not be "cluttered up" with them.¹⁵

Another change which the delegates made in the first draft, the addition of a taxpayers' complaint office, was first suggested on August 23 by Joseph Baburek, a south Omahan who represented no group or organization. Baburek was fearful that with the city's department heads no longer

¹³Interview with Cooper.

¹⁴Omaha Star, August 31, 1956.

¹⁵Interviews with Quinlan and Drew.

electd, the citizens would have no place to lodge complaints about Omaha's administration.¹⁶ Quinlan opposed the idea, saying that it would be putting "minutia" in the Charter, but Anderson told the delegates that it was a common method of meeting the charge that the strong-mayor form of government would take the government away from the people.¹⁷ Certainly it was inconsistent with the principle of limiting the Charter to a basic framework of government, and its inclusion probably represented what the delegates considered a small concession that might alleviate some fears and win some votes for the Charter, while doing no real harm.

In reconsidering the Personnel Department section of the first draft, the delegates were torn between their desire to write what they considered a "streamlined" Charter and their fear of losing the support of Omaha's policemen and firemen. There were three aspects of the first draft which these two employee groups found distasteful. First, the proposed Charter provided for a single Civil Service Department, eliminating the separate Police and Fire Civil Service Departments. Second, the Charter provided for no employee representation on the Personnel Board, and third, it eliminated the specific provisions which spelled out

¹⁶Minutes, August 23, 1956.

¹⁷Minutes, August 25, 1956.

such things as working hours and mandatory retirement age.¹⁸ On this latter point, the delegates reasoned that since the Charter was to be a permanent document and would require a vote of the people to be amended, it should not include provisions that might become outdated with the passage of time.

On August 20, Utley and Anderson met with Firemen's Union representatives and explained that the delegates desired to protect the gains which the Fire Department had made, but they also wanted to enable future City Councils to make further improvements without a vote of the people. The union representatives feared that the Councils' changes would not always be improvements in the eyes of the firemen. The existing Charter, for example, specified their retirement age at fifty-five, but the Council could raise this as well as lower it. Utley and Anderson replied that the Charter was intended to last for many years, and that with longer life spans, sometime all parties might agree that the age should be raised. When the union men were not convinced, Utley and Anderson invited them to appear before the Convention to express their concerns.¹⁹

¹⁸More precisely, the Convention reduced these provisions, along with over a hundred other "legislative" sections, to the status of ordinances. "First Draft of the Proposed Home Rule Charter of the City of Omaha, 1956," Evening World-Herald, August 16, 1956.

¹⁹"Charter Convention News Release," August 20, 1956, Maenner Papers.

A week later, Arthur Oliveras, Firemen's Union President, testified at a Convention hearing and listed six requests, the most important of which were employee representation on the Personnel Board and a mandatory retirement age of fifty-five. He also asked for the right of employees to appeal decisions of the Personnel Board to the District Court, and Fogarty assured him that employees had that right without a Charter provision.²⁰

Police Union representatives had similar criticisms of the first draft. Testifying before the Convention, they asked for a provision guaranteeing that pension benefits would not be "worsened" by future Council action. They also wanted the retention of the Police Civil Service Commission, conceding that it could exist as a subsidiary body to the new Personnel Board. Finally, they presented a list of twelve personnel rules and regulations which they felt should have Charter status rather than being reduced to ordinances.²¹

On September 3, a special committee on personnel, chaired by LeMar, met to consider these and other proposed revisions. This committee recommended only two substantive changes, both of which the Convention adopted. First, the

²⁰Minutes, August 27, 1956.

²¹Minutes, August 28, 1956, Fogarty Papers; "Changes in First Draft of Proposed Charter Requested by Police Representatives," Fogarty Papers; Walter J. Devere to Charter Convention, August 28, 1956, Maenner Papers.

delegates limited the Mayor's power to appoint the Personnel Director, requiring him to select that cabinet member from a list of three to five candidates which the Personnel Board would recommend. Next, they gave the Personnel Board the power to administer oaths and subpoena witnesses and records.²²

Two days later the Convention members met to make the final revisions in the first draft and made a concession to the policemen. They added a section entitled "Police Personnel Provisions" which gave Charter status to a forty-hour week for policemen with time and a half for overtime. This measure also insured policemen of a thirty-minute lunch break and guaranteed that they would not have to report for work more than thirty minutes before their tours of duty began. Finally, the new section permitted the Police Civil Service Commission to continue in existence "until the Personnel Board established by this charter has been duly constituted and organized."²³ No official record exists of this meeting, but a letter from Sorensen to two delegates who left the meeting early sheds some light on the thinking of the delegates, or at least of their chairman:

²² Minutes of Special Committee on Personnel Meeting, September 3, 1956, Sorensen Papers.

²³ The Home Rule Charter of the City of Omaha - 1956, sec. 6.08.

If the Police requests had been written into the Charter completely, it would mean a vote of the people to change detailed provisions at some future time. Under our program a council can make decisions based on changing conditions, and I suspect we all agree that the administration of City Government is better equipped to decide about future working conditions of City employees than is the public.

Further, I think there is another aspect to this program and that is a sense of fairness to the Fire and Civilian employees who have not enjoyed the advantages which the Police have been able to secure from the public and from the council in the past.

These decisions were unanimous, he wrote, "except of course with the regular 'no' vote from friend Cavanaugh."²⁴

Also at this meeting, the delegates made a minor concession to those who had opposed the relatively low Councilmen's salaries, raising the figure from \$2,400 to \$3,000 per year.²⁵

On September 11, four days before the expiration of the 120-day limit, the Convention met for the last time to approve or reject the final draft. The chairman read a letter from delegate Louis Kavan, who had been in the hospital since July 17, authorizing Sorensen to cast his vote in favor of the Charter. Quinlan's motion that the Charter be submitted to the people of Omaha carried with only Cavanaugh dissenting. The south Omahan then read a prepared statement in which he charged his fellow delegates

²⁴Sorensen to Trustin and Jacobberger, September 6, 1956, Sorensen Papers.

²⁵Morning World-Herald, September 6, 1956.

with disregarding the views of Omaha's citizens. As Cavanaugh said,

after the numerous public hearings held by this convention I came to the conclusion that the citizens of Omaha had NO desire to change their form of government, almost without exception every individual or organization which has appeared before us presented only suggestions which would streamline our present system.

In our executive sessions it was evident to me that this group was proceeding to write a charter with an utter disregard for the views which all of these citizens had expressed to this body. Instead they reached their own personal conclusions as to the kind of government the people of Omaha should have.

The people of Omaha in the recent past defeated the proposed City Manager form of government. Now this convention proposes a similar form of government with minor variations and under a different name. It does not make any difference whether you call this plan the Strong Mayor Plan or the Omaha Plan. I am sure the people of Omaha will recognize the philosophy of this proposed charter.²⁶

Cavanaugh's opposition to the Charter was based primarily on two factors. First, he felt that the city's employees, particularly the policemen and firemen, had been treated unfairly by being deprived of representation on the Personnel Board and by having their previous civil service protections reduced to ordinance status. Second, and probably more important, he was convinced that the only way the citizens could retain the reins of their government was to elect its administrators. His contention that the

²⁶Minutes, September 11, 1956, Fogarty Papers; Copy of Cavanaugh's statement, John J. Cavanaugh Papers, Home of John J. Cavanaugh, Omaha, Nebraska.

proposed Charter represented a city-manager plan "with minor variations and under a different name" was based on the belief that each of the appointed cabinet members would be an individual city manager and not responsible to the people.²⁷

In addition to Cavanaugh, three other delegates had voted on July 3 to adopt a revised commission form: Trustin, O'Connor, and Kavan. Trustin immediately overcame his misgivings about the strong-mayor form and supported the new Charter wholeheartedly. O'Connor, who was a tavern owner and former packing house worker, had no strong feelings about any aspect of the Charter and took almost no part in the Convention, aside from attending the meetings. He was clearly awed by his association with the men of wealth and influence on the Convention and was willing to bow to their judgment.²⁸

Even though Kavan's letter authorizing Sorensen to cast his vote for the Charter praised that document warmly and extensively, it is possible that he was less than enthusiastic about the decisions that the Convention had

²⁷Personal interview by the author with John J. Cavanaugh, owner, Cavanaugh Insurance Agency, at his home, February 21, 1969.

²⁸Interview with O'Connor. The observation on O'Connor's minimal role in the Convention is the author's, based on the minutes of the meetings, the tape recordings of the public hearings, and interviews with the delegates. Scott and Maenner recalled that he slept through many of the sessions.

made. Not surprisingly, Cavanaugh was of this opinion. He said that he had visited Kavan in the hospital in early September and found him weak and under heavy sedation. Kavan told him that he did not like the strong-mayor form, but was going to go along with it because he felt that opposition would be useless. "Why fight them?" he asked. "It wouldn't do any good."²⁹ Actually, Kavan's letter of authorization was written by Sorensen. On September 6, the Chairman wrote to Kavan, in part,

Lou, the attached is self-explanatory. . . . We are going to have a specific vote for the publicity people on Tuesday, September 11, 4:00 p.m. I think, for the record, I should have you give me a letter of authority to cast your vote, and accordingly I have included two suggested letters. Sign the one that suits you best and return it to me in the enclosed envelope.

The two attached letters were similar in tone, one being somewhat longer and more detailed in its praise of the Charter.³⁰ Kavan apparently signed and returned both letters, for both were used later in the campaign for adoption of the Charter.

Regardless of the degree of Kavan's enthusiasm for the Charter, however, there is no doubt that nearly all of the delegates were extremely proud of their work and looked forward to the opportunity to sell their product to the voters of Omaha.

²⁹Interview with Cavanaugh.

³⁰Sorensen to Kavan, September 6, 1956, Sorensen Papers.

CHAPTER VIII

THE CAMPAIGN FOR ADOPTION

Sorensen did not wait until the Charter was written to concern himself with the task of getting the voters to accept it. Throughout the summer he produced a steady stream of press releases and memoranda designed to pave the way toward adoption of the Convention's work. On June 30, for example, each of the delegates received a memorandum from their chairman entitled "Development of Community Acceptance for Work of the Convention." Under no circumstances, he wrote, should they comment publicly on the details of the Convention's deliberations or give the impression that they were trying to sell a document that was not yet written. They could, however, develop a "reservoir of good will," and he outlined areas that they could properly discuss before civic groups and organizations. They should emphasize the "caliber and integrity" of the Convention members, the amount of time spent on the project, the fact that the members were independent and had "no axe to grind," and the fact that the Convention was listening to all points of view before it made any decisions.¹

¹Sorensen to delegates, June 30, 1956, Fogarty Papers.

In early August, Sorensen began to assemble a group of prominent Omaha businessmen who would form the nucleus of the campaign organization. He met with nine of these men, none of whom were delegates, in the office of W. B. Millard, President of the Omaha National Bank, to discuss campaign strategy and organization. Attending this meeting, in addition to Sorensen and Millard, were W. Dale Clark, Chairman of the Board of the Omaha National Bank, Daniel J. Monen, Vice-President of the same firm, Morris E. Jacobs, President of the advertising agency of Sozell and Jacobs, Ellsworth Moser, President of the United States National Bank, Lloyd H. Mattson, President of Industrial Chemical Laboratories, John F. Merriam, President of Northern Natural Gas Company, M. Cooper Smith, Manager of J. C. Penny Company, and Frank P. Fogarty, General Manager of television station WOW. At this meeting Jacobs made what Sorensen called a "ten-strike suggestion:" having Presidents Reinert and Bail of Creighton and Omaha Universities act as co-chairmen of a "Citizens for Better Government Committee," which would urge Omahans to vote for the new Charter. A short time later, Sorensen wrote to those who attended the meeting that Reinert had agreed to accept the office but that Bail hesitated to take a public stand on the issue in his official capacity as President of the University. Instead he suggested that the proposed committee be officially

neutral, "urging all good citizens to study the Charter and vote their convictions." Sorensen felt, however, that Bail would "cooperate." He also reported that Mattson had agreed to raise an advertising budget and that Jacobs had assigned John O. Bozell and Kenneth D. James of his firm to do some planning, adding that he had "briefed them." The "key members" of the Convention, Sorensen reported in a classic understatement, "will follow my lead, I'm sure in selling the Charter."²

On September 18, the Charter proponents officially began their campaign with a Chamber of Commerce luncheon meeting to which all of the delegates and 400 of Omaha's "top business leaders" were invited. Bail and Reinert announced that they would head the Citizens Information Committee on the Home Rule Charter. They both praised the Convention members but stopped short of giving the Charter an outright endorsement. Their job, they said, would be to urge citizens to read the Charter, understand it, and vote intelligently. The role of this committee as an impartial information organization, however, was dubious. Mattson, the treasurer of the Citizens Information Committee, announced that it had hired the advertising agency of Bozell and Jacobs and would need to raise at least \$25,000

²Sorensen to Clark, Millard, Monon, Jacobs, Moser, Mattson, Merriam, Smith, and Fogarty, August 10, 1956, Sorensen Papers.

for its activities. Envelopes distributed for contributions and pledges brought \$7,000 toward this goal.³

Possibly because of Bail's reluctance to endorse the Charter officially, another organization was formed in early October called the Citizens' Committee for Ratification of the Home Rule Charter. This group made no pretense of impartiality and sought bipartisan political support for the Charter. Its Co-Chairmen were James F. Green, a former Democratic Senatorial candidate, and Einar Viren, who was prominent in Republican circles and who had unsuccessfully run for a seat on the Convention. In 1950 Green had headed an organization formed to oppose the city-manager plan, and Viren had worked for its adoption. Actually, both the Citizens Information Committee and the Citizens Committee for Ratification were merely "front" organizations with Sorensen and the advertising agency of Hozell and Jacobs doing the real campaign planning.⁴

Opponents of the Charter made an attempt to mobilize their forces in late September when sixty-five persons including Cavanaugh, Commissioner Hanson, and John C. Barrett

³Sorensen to delegates, September 14, 1956, Cooper Papers; "Excerpts from a Speech by the Very Rev. Carl M. Reinert, Luncheon Meeting, Tuesday, September 18," Maenner Papers; "Excerpts from a Speech by Dr. Milo Bail, Luncheon Meeting, Tuesday, September 18," Ibid.; Evening World-Herald, September 18, 19, 1956; Sorensen to A. F. Jacobson, October 26, 1956, Sorensen Papers.

⁴Evening World-Herald, October 4, 1956; Interview with Sorensen.

of the Q Street Merchants held a luncheon meeting to form an anti-Charter group.⁵ No cohesive campaign organization resulted from this meeting, however, and the opposition to the Charter consisted largely of individuals working on their own, poorly financed, and without an advertising agency.⁶

The proposed Charter had the support of the World-Herald, Omaha's only daily newspaper, and all five of the city's weeklies. Beginning in late August, the World-Herald's editorial columns carried frequent endorsements of the Charter and attacks upon its opponents. "Somehow," the paper opined, "the task of writing a basic document for the government of Omaha in years to come has caught the imagination of all associated with it, and in their enthusiasm they have been not only willing but eager to work long hours. Their only reward will be the satisfaction of doing a good job for their fellow citizens."⁷ In addition to praising the merits of the Charter, the paper attempted to cast its opponents in an unfavorable light. Opposition, the World-Herald predicted, would come only from politicians, who feared that the Charter would cost them their jobs, some

⁵Evening World-Herald, September 28, 1956.

⁶Interview with Cavanaugh.

⁷Evening World-Herald, August 27, 1956. It was the opinion of at least one delegate that the World-Herald "oversold" the Charter. Interview with Quinlan.

city employees, who felt that they would be safer without any change, and small clubs and pressure groups. The existing form of government, which "splinters authority," was ideal for them, according to the World-Herald.⁸ In addition to editorial support, the World-Herald published a nine-part series of articles ostensibly explaining the provisions of the proposed Charter. Actually, the articles were editorial in nature since they contained nothing but praise for the document.⁹ The series carried the byline of Hollis Limprecht, a World-Herald staff member, but he wrote them in collaboration with Wayne Anderson.¹⁰

The Omaha Star, a Negro weekly, took no official editorial position on the Charter issue, but its news columns clearly conveyed a strong bias in favor of ratification, largely based on the Charter's anti-discrimination clauses and the Human Relations Board. The Star carried a series of "Progress Reports" under Sorensen's byline, and its news reports naturally reflected the fact that the Charter had the support of both the NAACP and the Urban League.¹¹ Omaha's four other weeklies, the Benson Times,

⁸Evening World-Herald, September 11, 1956.

⁹World-Herald (Morning and Evening editions), September 31-October 8, 1956.

¹⁰Anderson to Sorensen, October 1, 1956, Sorensen Papers.

¹¹Omaha Star, July 13-November 2, 1956.

the North Omaha Booster, the South Omaha Sun, and the Dundee and West Omaha Sun, were all published by the same firm and carried nearly identical editorials supporting the Charter.¹²

None of the City Commissioners took public stands in favor of the Charter, although Mayor Rosenblatt clearly favored ratification. Swigart and Spellman professed official neutrality but were cool toward it, and Boesen made no comment on it. The other three, Milner, Hanson, and Simon, all opposed it and campaigned against it with varying degrees of vehemence. Simon claimed that the delegates were "confused" because they had had to work under the restrictive time limit and that the proposed Charter would result in "boss rule." He also felt that the delegates had been unduly influenced by the "imported experts" who lacked knowledge of local conditions.¹³ Commissioner Hanson not only charged that the strong-mayor plan would result in "boss rule" but claimed that it had been "fed" to the delegates by "subtle, master-minded manipulation of propaganda." When he had appeared before the Convention, he said, "even then the atmosphere was saturated with strong mayor."

From that moment on, my intuition kept telling me that something was going on that has never appeared on the surface.

¹²North Omaha Booster, October 5, November 2, 1956; Benson Times, October 4, November 1, 1956; South Omaha Sun, October 4, November 1, 1956.

¹³Evening World-Herald, August 22, September 14, 1956.

That something was most cunningly and effectively master-minded outside of the Charter Convention, either by some individual or by some group that is scheming to get a stronghold on the government of Omaha.¹⁴

Sorensen replied that Hanson's charges were "absurd and ridiculous." He was certain, he said, that "the people of Omaha would like to meet the 'subtle, master-minded genius' who could brainwash Rachael Gallagher, Wray Scott, Harold LeMar, Tom Quinlan, Harry Trustin, or in fact any of the convention members." The Commissioner's remarks, he continued, were an "insult to the intelligence of the people of Omaha." Hanson, he said, had made a "fervent plea" for the city-manager plan, even though the voters had rejected it only six years before. Thus, Hanson had no faith in the "sound judgment" of the people of Omaha. Finally, Sorensen asserted, Omaha had had boss rule under the commission form and other cities had had it under the city-manager plan.¹⁵

The World-Herald called Hanson's speech "a beautiful example of the conspiratorial mind at work. If something is done with which the possessor of such a mind disagrees -- 'they' did it. Always some nameless, disembodied 'they' who can't talk back." It was not surprising, the paper continued, that Hanson, who was President of the Small Property Owners' Association, would oppose the Charter, since pressure groups

¹⁴Ibid., September 13, 1956.

¹⁵Ibid.

"such as his landlords' organization" had fared well under the commission form.¹⁶

Hanson continued this line of attack, however, and he repeated the charge in a speech before the Douglas County Women's Club, adding that the power of the mayor under the proposed Charter would establish a "little Soviet system" in Omaha. Co-Chairmen Green and Viren of the Citizens Committee for Ratification issued a joint statement calling his charge "idiotic." The proposal to hold a Charter Convention, they pointed out, was presented by Swigart at a Council meeting that Hanson attended. Their statement defended the system of checks and balances in the Charter which, they said, was similar to that of the federal government.¹⁷

Rosenblatt's public statements were generally favorable to the Charter but stopped short of an outright endorsement. He told one audience that the delegates had done a "tremendous" amount of work on the document, and he urged families to study and discuss it together.¹⁸ In taking this approach, Rosenblatt was fulfilling the wishes of the campaign organization. In late October, Jacobs wrote to Sorensen that "everybody is in accord that the Mayor should

¹⁶Ibid., September 14, 1956.

¹⁷Ibid., October 5, 1956.

¹⁸Ibid., September 19, 1956.

not make a public statement endorsing the Charter, but should keep on working as he has been working."¹⁹

Two groups from which the Charter proponents expected opposition from were the city's policemen and firemen. In a speech to the Chamber of Commerce Sorensen cited the fact that the Convention had rejected the greater part of the police requests as proof of the delegates' independence. They had not changed their thinking "one iota," he told the businessmen, even though they realized that the policemen might "go on the streets of Omaha and fight this Charter."²⁰ While police and fire representatives had denounced the Charter at the second round of public hearings, however, Sorensen had reason to believe that there was much support for it among the rank and file. In mid-October a group of police officers called on him privately to assure him that most of their group actually intended to vote for ratification, saying that "a few loud individuals think they speak for the men. They don't!" The policemen told him that morale in the Department was at an all-time low because of a recent ticket-fixing scandal in which City Councilmen had been involved, and the majority of the policemen would look forward to a complete change of government. Furthermore,

¹⁹Jacobs to Sorensen, October 23, 1956, Sorensen Papers. Jacobs's emphasis.

²⁰"Speech by A. V. Sorensen," September 18, 1956, Sorensen Papers.

"the present City Council hasn't done anything for the Police Department. They are concerned with one thing--and one thing only--re-election. It's time for a change." Sorensen passed this information on to the members of a speakers bureau which he had established, adding that "I knew you will be pleased as I was to get this confidential report."²¹

The basic campaign approach, as planned by Sorensen and the advertising firm of Bozell and Jacobs, consisted primarily of three techniques: advertisements in the news media, distribution of literature, and speeches to civic groups, union meetings, and other organizations. Between October 7 and November 6 Charter proponents sponsored 70 television "spots," 325 radio "spots," 9 television programs, and 43 radio programs.²² In most of the longer programs the delegates themselves appeared. In a five-minute radio speech, for example, Sorensen told listeners that Omaha had progressed since 1912 in every way except city government. "You vote for the President of the United States; you elect your Senator and congressional representative. But under the present form of government you don't know who is going to be mayor until the seven councilmen get together behind closed doors and elect him!"²³

²¹Sorensen to All Speakers, October 17, 1956, Ibid.

²²Bozell to Sorensen, October 12, 1956, Ibid.

²³Sorensen, "Five-Minute Radio Speech," Maenner Papers.

The campaign literature which Bozell and Jacobs produced and distributed included automobile bumper stickers, lapel pins, and small cards, all urging citizens to vote "yes" on the new Charter. In addition, the firm distributed copies of a six-page brochure to every home in Omaha--some 80,000 residences.²⁴ The brochure consisted of a point-by-point comparison of the old and new charters, pictures of the fourteen delegates, excluding Cavanaugh, a message from Sorensen, and quotations from city-government experts praising the proposed charter.²⁵

The most effective selling device, in Sorensen's opinion, was the 300 speeches given by members of the speakers bureau. This group consisted of thirteen delegates, excluding Cavanaugh and Kavan, nine prominent businessmen, George R. Robinson of the Urban League, and the Co-Chairmen of the Citizens' Committee for Ratification.²⁶ The most active speaker was Howard Drew, who made ninety-four speeches in fifty-one days.²⁷ More typical was

²⁴Sorensen to Mrs. Katherine Hudson, April 2, 1957, Sorensen Papers.

²⁵Citizens' Committee for Ratification, "Vote YES for Omaha's NEW Home Rule Charter," Cooper Papers.

²⁶Sorensen to Mrs. Katherine Hudson, April 2, 1957, Sorensen Papers; Kenneth James to Sorensen, November 12, 1956, Ibid.

²⁷Interview with Drew.

John Maenner, who addressed nine groups with an average attendance of thirty-nine.²⁸

Sorensen and Kenneth James, the twenty-four-year-old account executive whom Bosell and Jacobs had assigned to the campaign, kept a steady stream of information and ideas for public addresses flowing to the speakers. The basic document on which many of the speeches were based was a nine-page "Suggested Talk Outline" which Sorensen had written and distributed to the speakers. He supplemented this with a five-page "complete and factual description of the arguments against a would-be boss under the proposed new Charter."²⁹ The chairman also kept speakers informed on arguments that the opposition presented and made suggestions for combatting them. In a report on one of Cavanaugh's speeches he quoted the dissident delegate as saying that there should be a change in Omaha's city government and that "separation of the administrative and legislative powers is not only proper but good." His whole case, Sorensen continued, "rests on the statement: 'I don't like the way the charter is written. I don't think it gives Omaha representative government.'" Sorensen suggested that Harry Trustin had offered the best answer to this charge: "Under the proposed charter we elect

²⁸Record of speeches given by Maenner in support of Charter, Maenner Papers.

²⁹Sorensen, "Suggested Talk Outline Reference Material," Sorensen Papers; Sorensen, "There Can Be No City Boss or Dictator Under the New City Charter," Ibid.

8 instead of 7 and we elect our mayor directly." In summary, the Chairman concluded, "everyone agrees a change is in order. Fourteen people agreed on the change as reflected in the proposed charter. One person wants a different kind of a change and wants to have another Charter Convention and do it all over again."³⁰

The total cost of the sales effort was \$24,649, all of it supplied by Omaha businessmen. Seven thousand dollars of this sum was raised at the Chamber of Commerce kick-off meeting, and a finance committee composed of Sorensen, Wray Scott, Lloyd Mattson, and Daniel Monen raised the balance through letters to a list of 135 Omaha businessmen that Sorensen had compiled. A letter to one of these read, in part,

Our Committee felt a very minimum of \$25,000 was needed. The question became, "What to do"? Should we gear our selling effort to the money on hand or should we go all out and have a little faith in some good citizens coming to our rescue when it was all over?

With property taxes at the breaking point, with City Government inefficient and outmoded, we decided it was necessary to take the bold step-----to contract for radio and television time, to arrange for educational publicity and to do everything we could to sell the people of Omaha on the importance of modernizing our City Government by approving the new Charter.

The following men came to our rescue and each pledged up to \$1,000 towards the required \$25,000 so that we could proceed with some confidence:

³⁰Sorensen to All Speakers, October 15, 1956, Maenner Papers.

The list of "guarantors" included fifteen names, and four more were added later, so the group was certainly able to "proceed with some confidence." However, it was not fair to expect them to stand the entire cost, the letter continued, and the recipient was asked to contribute from \$25 to \$500, according to the quota figure that Sorensen had assigned. "Bob Millard, Wray Scott, Dan Monen and myself have agreed to-----some way, some how-----see it through."³¹

While opposition to the Charter was generally unorganized and sporadic, the opponent who attracted the most support was Cavanaugh. This was partly because, as the lone dissenter on the Convention, he was a natural gathering point for those who disapproved of the Convention's work and partly because he was the only delegate from south Omaha; that part of the city could look upon him as one of their own, not only geographically but economically and socially. In addition, he was a man of considerable personal charm and affability, and though a newcomer to politics, he had a natural speaking ability. Yet he had no campaign organization, no advertising agency, and little source of finances. His only paid television speech resulted when a group of men in a south-Omaha tavern witnessed a televised speech by a Charter proponent. One

³¹Sorensen to A. F. Jacobson, October 26, 1956; Sorensen to Lloyd Mattson, January 9, 1957; "Special List - Omaha Business Leaders," Sorensen Papers.

of them suggested that "Jack" should have an opportunity to tell his side of the story, and after some discussion a hat was passed for contributions. The men supplemented this by collecting from door to door in south Omaha until they had accumulated the necessary \$300 to buy the television time.³²

His speech, he told the television audience, was sponsored by friends who were "starved for information" on the Charter. He then posed the question around which the campaign really centered: did Omahans want efficient and economical government, or did they want representative and directly responsible government? The new form of government, he said, was really a city-manager form with seven managers instead of one, and the arguments to the contrary were "sugar coatings." Cavanaugh told the audience that they were "being sold the sizzle instead of the steak." He then called attention to the riots and revolutions in Hungary and Poland. "Do you suppose they're looking for the sizzle? They're looking for the steak, ladies and gentlemen. They're looking for representation in their government. They're not looking for economy and efficiency."³³

Cavanaugh rejected the claim that the election of Councilmen would render the new government democratic on two grounds. First, the Mayor could veto ordinances, and although

³²Interview with Cavanaugh.

³³"Television Speech, Jack Cavanaugh, Monday, October 29, 1956," Sorensen Papers.

the Council could over-ride the veto with a vote of five members, the Mayor would need only three of the seven Councilmen on his side to make a veto stand. Second, the low salaries of the Councilmen would mean that only independently wealthy individuals could seek election to that body. Cavanaugh stated his objections, however, in terms that were considerably stronger than the facts warranted. "Do you realize," he asked, "that the Mayor's the man who will be in sole control and who will dictate the policies and send the legislation to the Council for approval, with limited powers of disapproval?" Adoption of the proposed Charter, he claimed, would be the first step on the road to dictatorship. "We give up our liberties a little at a time. The stroke of a pen can take them away, but it takes bullets to get them back." He claimed that improvements and economies were possible under the present form of government, but "you don't have to sacrifice your representation to get them." The south-Omaha insurance salesman and former fireman ended his speech on a note of demagogery:

You know, one night I was against one of the proponents of this new government, and he held up this sheet and he said, "The integrity of these people is built into this contract, into this new Charter." He's right, ladies and gentlemen. Their integrity is built into it. But our integrity, yours and mine, they left out.³⁴

³⁴Ibid.

Cavanaugh carried the dictatorship theme even farther in a pamphlet which he signed but which was written by a south-Omaha friend whom he declined to identify. "America was founded on the Democratic principle of keeping government close to the people," it said.

Yet the new Charter, while admittedly offering some few improvements over our present set-up, asks us to surrender our basic rights by placing our City Government in the hands of one man. IT DIDN'T WORK IN EUROPE . . . IT WON'T WORK IN OMAHA, NEBRASKA, U. S. A.³⁵

Cavanaugh realized, of course, that this was over-stating the case, but many of his south-Omaha friends urged him to use even stronger terms, and he was continually forced to exert a moderating influence on them. He credited this to the fact that south-Omaha had a high proportion of immigrants and second-generation Americans from totalitarian countries who were particularly sensitive about any move that seemed to them to be taking the government away from the people. He was particularly embarrassed on one occasion when he addressed the South Omaha Italian-American Club. After he spoke for one minute, he recalled, his interpreter spoke for five, waving his arms, stamping his feet, and bringing his hand across his neck to symbolize a throat being cut.³⁶

³⁵Cavanaugh, "Don't Let Your LIBERTIES Escape Through These LOOPHOLES in the Proposed New City Charter!" Cavanaugh Papers. Cavanaugh's emphasis.

³⁶Interview with Cavanaugh.

Although Cavanaugh was clearly outmanned by his opposition in both campaign organization and finances-- he spent a total of \$1,504, nearly all of it coming from south Omahans--the Charter advocates were careful not to underestimate his vote-getting ability.³⁷ One attempt by Kenneth James to embarrass Cavanaugh could well have discredited the entire Charter movement if Cavanaugh had wanted to capitalize on it. James wrote a letter to several of the delegates informing them that KMTV television had scheduled a half-hour program to tell both sides of the Charter story. Floyd M. Kalber, the station's news director, was to moderate the show, and Sorensen and Cavanaugh were to answer questions phoned in by viewers. James's plan was to "load" the telephone switchboard at KMTV with "planted" questions designed to accomplish two things.

First, we want to make sure the right kind of questions are asked in behalf of our cause.

Secondly, and very frankly, we want to make sure Cavanaugh is asked questions like: "Why are you one against 15 [sic] who feel the Charter is a sensible, business-like document that will provide the best type of government for Omaha?"

We rely on you to contact some of your friends and make sure these questions are asked. It is extremely important that this is done.

Following was a list of sixteen questions, such as, "Do you believe--as Mr. Arthur Jennings Hanson does--that there is

³⁷ Ibid.

actually someone in Omaha who could brain-wash the 14 citizens on the Charter Convention?" and "Do you actually think your opinion is as sound as the people you oppose? Are you as qualified as they?" Most of the questions which James suggested were simply statements put into question form: "Don't you agree there ought to be a place in City Hall where the taxpayer can go to handle his complaints?"

"The important thing," James continued, "is to get that guy answering questions like these. If we do, he will be plenty busy squirming out of them." The letter ended with a P. S.: "I hope you clearly understand, we want your friends to make these calls, not you."³⁸

James was underestimating both the intelligence of Kalber and the sense of fair play of at least two of the delegates. Jacobberger immediately called the Cavanaugh home and read the letter to Mrs. Cavanaugh, offering to give it to her husband to read on the air. She phoned the television studio, where Kalber was briefing Cavanaugh on the forthcoming program, and Kalber assured them that such attempts at "loading" switchboards were commonplace. He had prepared a list of questions representing both sides of the issue and would make certain that both sides

³⁸James to Delegates, October 23, 1956, Maenner Papers. James's emphasis.

would be presented fairly, with nothing done to embarrass anyone.³⁹

Jacobberger was not the only delegate who objected to James's tactics. Wray Scott sent him a hasty reply in which he accused him of using "circus" techniques and telling him to "save the postage and the paper both." If the Charter was worthy of ratification on its own merits, he wrote, then it was not necessary to "steep to such tricks as jamming switch boards with questions and trying to embarrass the opposition. Their job is embarrassing enough without us trying to gang up on them." Scott claimed that the best way to win votes was to "just tell the people of Omaha the facts and let them decide. . . . We don't have to get the boys in to see the painted lady."⁴⁰

In view of the overwhelming support which Omaha's business community and the World-Herald gave to the Charter, Sorensen found it difficult to understand why Cavanaugh's position would attract any significant number of votes.

³⁹Interview with Jacobberger; interview with Cavanaugh. Sorensen recalled that the delegates considered James's plan underhanded and wanted no part of it. It was Cavanaugh's impression that, during the television program, Sorensen demonstrated considerable anxiety about the possibility of the scheme being publicized. "He was white as a sheet and shaking like a leaf," Cavanaugh recalled. Interview with Sorensen; interview with Cavanaugh.

⁴⁰Scott to James, October 24, 1956, Cooper Papers.

He later wrote to a friend in New Orleans that he was "amazed at the amount of opposition that can develop as a result of a very few people being opposed to an issue."⁴¹ His feeling that citizens would naturally follow the lead of prominent businessmen was exemplified in a suggestion that he made to John Bozell. A World-Herald staff member had given him the idea confidentially, he wrote, and he thought it was a good one: run a full-page ad in the World-Herald listing prominent Omahans who were supporting the Charter, and offer to pay for a similar ad listing Charter opponents.⁴² Bozell never followed through on this suggestion, perhaps because he recognized a basic weakness in Sorensen's thinking. Such an ad would not only emphasize the fact that Charter advocates had a great deal more money to spend than their opponents and highlight the "David versus Goliath" nature of the contest, but it would further alienate those readers who were not inclined to believe that what was good for business was good for Omaha.

Sorensen was also on shaky ground in associating the Charter with conservative politics. He was in the habit of distributing as Charter-promotion literature copies of Human Events, an ultra-conservative national newsletter, and calling attention to articles that he thought were

⁴¹Sorensen to James E. Fitzmorris, December 6, 1956, Sorensen Papers.

⁴²Sorensen to Bozell, October 16, 1956, Ibid.

related to the Charter. One such article called for greater business participation in politics, claiming that "leftists" had gained control of all levels of American government because businessmen had been too busy to fight for conservative principles.⁴³ Ephraim L. Marks, an Omaha attorney who had received a copy of Human Events from Sorensen, recognized the weakness of that approach. In a letter to Sorensen, Marks asserted that "deliberately commingling issues relating to the New Deal-Fair Deal, etc. with a matter of purely local concern" would hurt, rather than help the Charter cause. He felt that many important segments of the community, particularly organized labor, were "bound to resent the fact that you are, by implication at least, equating support of the new City Charter with opposition to the New Deal. . . ." Marks also criticized the fact that Charter advocates seemed to be relying solely on the business community for support, rather than taking the "communal approach." It was proper and necessary to enlist the aid of business in the campaign, but "it strikes me that the composition of your committee, as I scan the list in the newspaper, would appear to be heavily weighted with business men to the exclusion of labor and minority groups of all kinds." Sorensen did not think that these points were serious enough to warrant a personal

⁴³Sorensen to Cooper, undated, with August 18, 1956 issue of Human Events attached, Cooper Papers.

reply, for he instructed his secretary to "call him, thank him for his letter, and tell him I appreciate his thoughtfulness and I surely do recognize his knowledge of local conditions which perhaps I deal with too lightly."⁴⁴

Shortly before the November 6 election James Green asserted to friends that the outcome could be predicted by observing the returns from two polling places: Brownell Hall, which was located in a wealthy west-Omaha section of the city, and Railroad Avenue, in the stockyards section of south-Omaha. He claimed that the Charter could lose by a vote of 40 per cent to 60 per cent at Railroad Avenue but still achieve ratification if it won by a five to one margin at Brownell Hall. The results at these two precincts were just as he predicted, and the Charter carried by a vote of 57,791 to 45,855, or a margin of 56 per cent to 44 per cent.⁴⁵ The three south-Omaha wards cast 20,790 ballots and went against the Charter by 63 per cent to 37 per cent. The three wards in the western part of the city, however, voted for ratification by the same percentage but cast nearly twice as many votes (40,671).⁴⁶ The heavily Negro

⁴⁴Ephraim L. Marks to Sorenson, September 17, 1956, with notations by Sorenson to his secretary, Sorenson Papers. By "committee," Marks may have been referring to the Citizens' Committee for Ratification or to the Convention itself.

⁴⁵John O. Bozell to Delegates, November 12, 1956, Maenner Papers; Evening World-Herald, November 7, 1956.

⁴⁶Bozell to Delegates, November 12, 1956, with copy of official election returns attached.

near northside voted for the Charter by about the same percentage that the issue won city-wide, 3,455 to 2,835.⁴⁷ The remainder of the city approved the Charter by a margin of 57 per cent to 43 per cent.

The new Charter went into effect on May 27, 1957, nearly three years after Warren Swigart introduced the resolution calling for a Charter Convention. The process had required four elections and had cost the city nearly \$100,000.⁴⁸ The document by itself could not have been expected to solve all of Omaha's governmental problems, but it did accomplish at least three basic changes that could reasonably be expected to make it easier for future officials to give Omaha better government. First, it removed nearly all of the legislation from the Charter, making it possible for future Councils to legislate without continually being faced with restrictive Charter provisions. Second, it separated the city's governmental functions so that the same group of individuals would no longer make and administer the laws. Third, and perhaps most important, it greatly expanded the potential power

⁴⁷George R. Robinson to Sorenson, November 11, 1956, Sorenson Papers. The identification of "Negro" precincts is Robinson's.

⁴⁸E. J. Hewitt, Finance Director, to City Council, September 26, 1958, Swigart Papers. About \$36,000 of this sum was for the expenses of the Convention itself. The remainder represented the share of election costs that had been prorated to the Convention.

of the Mayor. The fact that Omaha voters adopted a "strong-mayor" form of government did not necessarily mean that they would have a strong mayor, but nonetheless the potential for strong executive leadership was present in the new Charter.

If the elective process could be described as an expression of the voice of the people, then it is appropriate to ask just what the people of Omaha said on November 6, 1956. Several possible answers to this question present themselves. They may have been simply expressing dissatisfaction with their present form of government and their desire for a change. They may have been expressing confidence in Omaha's business leaders, who fashioned the document and devoted so much time, effort, and money toward securing its adoption. It is also possible that, in granting future mayors expanded powers to accomplish good or evil, they were asserting their confidence in their own ability to choose honest and capable leaders. In this sense, then, they were saying that they believed in democracy.

APPENDIX

BIOGRAPHICAL DATA ON DELEGATES TO THE OMAHA CITY CHARTER CONVENTION OF 1956

- John J. Cavanaugh, 35, Owner, Cavanaugh Insurance Agency, High School.
- Samuel V. Cooper, 34, attorney at law, former Assistant City Prosecutor, University of Omaha, Creighton University Law School.
- N. Phillips Dodge II, 45, President, N. P. Dodge Company (real estate), Candidate for State Legislature in 1952, former Board Chairman, Metropolitan Utilities District, former President, Omaha Urban League, Harvard University.
- Howard Drew, 39, Vice-President, Byron Reed Company (real estate), active in numerous civic, charitable, and professional organizations, two years University of Nebraska.
- Mrs. Rachael K. Gallagher, former Chairman, Park and Recreation Commission, Smith College.
- Mrs. Rose Graham, 46, President, City-County Health Board, active in League of Women Voters, Candidate for School Board, 1950, and County Board, 1954, High School.
- H. Fred Jacobberger, 43, Vice-President, Kimball Laundry and Dry Cleaners, Director, Metropolitan Utilities District, former member, Park and Recreation Commission, former President, Omaha Urban League, Creighton University.
- Louis Kavan, 62, Executive Secretary, Omaha Food Retailers Association, School Board member, former City Commissioner, High School.

- Harold D. LeMar, 64, attorney at law, Vice-President, Peterson Baking Company, Director, Metropolitan Utilities District, former President, Chamber of Commerce, former County Judge, Pennington County, South Dakota, University of Nebraska Law School.
- John R. Maenner, 51, Vice-President, T. H. Maenner Company (real estate), University of Omaha.
- Thomas J. O'Connor, 62, Owner, O'Connor's Tavern, High School.
- Thomas C. Quinlan, 47, attorney at law, former Deputy County Attorney, former Acting County Judge, former Assistant United States Attorney, Creighton University Law School.
- Wray M. Scott, 54, President, Wray M. Scott Company (plumbing), Member, Mayor's City-Wide Planning Committee and Omaha Industrial Foundation, High School.
- A. V. Sorensen, 51, Board Chairman, Midwest Equipment Company (electrical supplies), President, Chamber of Commerce, former Chairman, Mayor's City-Wide Planning Committee, Member, Omaha Industrial Foundation, Director, Omaha Transit Company, High School.
- Harry Trustin, 62, President, Porter-Trustin Company (building supplies), former City Commissioner, former City Engineer, Executive Committee, Missouri Valley Association, Past President, B'nai B'rith, Member, National Jewish Welfare Board and Omaha Urban League, Armour Institute of Technology.

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- Omaha Star, 1956.
A Negro weekly which was favorable toward the proposed new Charter in 1956 but did not officially endorse it.
- Omaha World-Herald, Morning, Evening, Saturday, and Sunday Editions, 1911-1912, 1950, 1954-1956.
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- North Omaha Booster, 1956.
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- Cooper, Samuel V., attorney at law, at his office, Omaha, Nebraska, December 18, 1968.

- Dodge, N. Phillips, II, Chairman of the Board, N. P. Dodge Company, at his office, Omaha, Nebraska, February 27, 1969.
- Drew, Howard, Vice-President, Byron Reed Company, at his office, Omaha, Nebraska, January 3, 1969.
- Gallagher, Mrs. Rachael, at her home, Omaha, Nebraska, January 3, 1969.
- Jacobberger, H. Fred, Vice-President, Kimball Laundry and Dry Cleaners, at his office, Omaha, Nebraska, January 2, 1969.
- Maenner, John R., President, T. H. Maenner Company, at his office, Omaha, Nebraska, December 19, 1968.
- O'Connor, Thomas J., Retired Owner, O'Connor's Tavern, at his home, Omaha, Nebraska, January 8, 1969.
- Quinlan, Thomas C., attorney at law, at his office, Omaha, Nebraska, December 17, 1968.
- Scott, Wray M., Owner, Wray M. Scott Company, at his office, Omaha, Nebraska, December 18, 1968.
- Sorensen, Alexander V., Mayor of the City of Omaha, at his office, January 10, 1969.
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- Trustin, Harry, President, Porter-Trustin Company, at his office, November 18, 1968.
- Utley, William T., Dean of the College of Continuing Studies, University of Nebraska at Omaha, at his office, March 10, 1969.

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