

of the Hoobler Undercarriage and such a device was not under consideration when the legislature last dealt with this subject.

Thus it might appear reasonable for the legislature to modify existing law in view of this unforeseen circumstance.

OFFICIAL OPINION NO. 52

July 10, 1952.

Honorable William A. Woodworth,
State Representative,
Jasper & Newton Counties,
Rensselaer, Indiana.

Dear Sir:

I have your request for an Official Opinion which reads in part as follows:

"I respectfully request an opinion on the construction of certain sections, hereinafter designated, of the following entitled act AN ACT CONCERNING MUNICIPAL CORPORATIONS being Chapter 129 of the Acts of the General Assembly for the year 1905.

"If all members of the City Council unanimously consent to vote on the adoption of the ordinance at the meeting at which it is introduced, must there be a unanimous affirmative vote of the Council for the ordinance in order that it pass; or is a majority vote of the members-elect sufficient?"

Section 48, Chap. 129, Acts of 1905, same being Burns' 48-1402 provides "General Procedure in Adoption of Ordinances." Pertinent parts of that section read as follows:

"A majority of all the members-elect shall constitute a quorum. *It shall require a majority vote of all the members-elect to pass an ordinance.* Whenever, in this act, it is required that any ordinance or resolution shall be passed or other action of the council taken by a two-thirds vote, such requirement shall be construed to

OPINION 52

mean a two-thirds vote of all the members-elect. All meetings of the common council shall be public."

Section 52 of Chap. 129 of the Acts of 1905, same being Burns' 48-1406, provides further procedure in the adoption of city ordinances. The pertinent provision in that section reads as follows:

"No ordinance shall be passed on the same day, or at the same meeting, that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all the members-elect of the council."

In 12 C. J. S. 803 "Municipal Corporations," Section 419, general procedure in suspending rules or consenting to the adoption of an ordinance on the day introduced is discussed. It is clear from the discussion in *Corpus Juris Secundum* that the vote for suspension or consent to adopt is independent of the vote on adoption. Similarly, the wording of Indiana Statutes indicates that the unanimous consent is to the consideration or adoption on the same day the ordinance was introduced and the only requirement as to adoption is that a majority of the members of the council vote for the adoption.

Therefore, in answer to your question, a majority vote of the members-elect is sufficient to pass an ordinance even if the procedure followed is a single reading by unanimous consent of at least two-thirds of the members-elect.