

—We Endorse the Proposed Constitution—

It will come as no surprise to readers of The Independent Record that this newspaper endorses the new Montana Constitution and urges its approval by the voters on Tuesday.

The Independent Record was among the earliest advocates of constitutional reform in Montana, and among the first to maintain that a convention was the only sensible way to achieve that reform. The 1889 document is so hopelessly archaic, so completely stifling to effective, responsive state and local government that reform through piecemeal amendment is out of the question.

A convention was called, by an overwhelming vote of the people. It has offered Montanans a new Constitution of which they can be proud.

We are not entirely satisfied with the proposed new charter. It does not go as far as we would have liked. It goes farther than others would have liked. It was, after all, a product of compromise among 100 delegates of differing points of view, nearly all of whom were sincerely dedicated to their convictions and dedicated to writing a document that will carry Montana forward rather than keeping it glued to the past.

The new Constitution must be considered in its entire context and compared to the old one in its entire context. It is in making this comparison that we recommend the new document. It is infinitely better than the old one. Looking at it from a narrower viewpoint, three articles alone make it worthy of passage.

The legislative article is magnificent. It brings the Legislature closer to the people and more responsive to their desires, with single-member districts, annual sessions, open committee meetings, recorded votes, ability to call itself into session. These features also make the Legislature less dependent upon lobbyists and less subject to their pressure, and they make it a strong counter-balance to the executive branch which already has been greatly strengthened by the reorganization amendment to the present constitution which has been retained in the proposed new one.

The local government article removes many of the state restraints that have crippled the ability of Montana's cities and counties to decide their own destinies. It allows local voters to determine the kind of local government they want.

The amendatory article is an immense safeguard against governmental abuse or excess. The present restriction of only three amendments on any general election ballot is removed, and the people can propose amendments or even a constitutional convention through the initiative process. This article alone deflates the principle objections raised against the new Constitution.

Those objections are mainly to the article on revenue and finance—to the removal of the two-mill limit on the statewide real property levy, the removal of the debt limit and the changes made in the highway anti-diversion provision.

Fears expressed about the revenue and finance article may be honest, but they are far-fetched and have been mercilessly exploited by those selfish interests who find advantage in a government that is unable to function.

What those interests fear more than removal of the two-mill levy is the new provision for statewide equalization of property appraisal because they may be taxed at fair value on their vast holdings, just as the average taxpayer is on his home.

Objections to the highway revenue

anti-diversion provision are just plain silly. The proposed new section would permit some fuel-tax revenue to be used for other purposes by a three-fifths vote of the Legislature. Considering the strength of the highway lobby, Montana's desperate need for improved roads and the huge margin by which the voters adopted the anti-diversion amendment in 1956, it is most unlikely that many legislators would be willing to commit political suicide by voting to divert that money. It must be recognized, however, that a constitution is for the future as well as the present, and there could come a day when Montana doesn't need all that money to build and maintain roads and might wish to spend some of it on human resources.

But let's assume that some Legislature does abuse the revenue and finance provisions. It wouldn't be hard to get a constitutional amendment on the ballot to correct those abuses.

So what, really, is there to fear about the proposed new Constitution? Nothing. Many complaints have been voiced, some of them sincere, some of them spurious, some of them outright lies. All of them have been answered admir-

ably by the delegates who support their document—and that includes all but a handful of the 100—and by others who believe Montanans deserve a better government than is possible under its present constitution.

It is ironic that some of those who are most vocal in their opposition to the new Constitution are the same persons who deplore the increasing federal encroachment upon state and local government. Yet, the reason for that encroachment is largely because most state constitutions, as Montana's present one, so restrict the ability of states, cities, counties and school districts to function, to help themselves, that they must turn to Big Brother in Washington for a assistance—and with it the inevitable federal controls, red tape and bureaucratic waste.

What will the new Constitution accomplish for Montana if it is adopted by the voters on Tuesday? It will remove from the present constitution a lot of statutory garbage that imposes 19th century solutions on 20th century problems.

It will preserve all the individual rights enumerated in the old constitution and adds some important new ones—the right to

know, the right to privacy, the right to participate in government, the right to a clean environment.

It will provide for a more open, more accessible government, more responsible and more responsive to the needs and aspirations of the people.

It will provide for a better selection of judges and higher quality justice of the peace courts.

It will preserve nearly all state elective offices.

It will give the people a greater voice in determining the structure of their local governments.

It will provide a solid foundation for tax reform.

It will create separate boards of education and university regents so that all levels of education can receive equal attention and consideration.

It will protect all present water rights and prevent unclaimed water from being appropriated by other states.

It will be easier to amend and allow amendment by initiative of the people.

Montanans deserve that kind of government. They can get it by voting FOR the proposed 1972 Constitution.

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Constitution Side Issues

The main thing to remember about the three constitutional side issues on Tuesday's ballot is that they are dead if the new Constitution fails to pass. So . . .

—If you prefer a unicameral (one-house) legislature, you should vote FOR the new Constitution.

—If you believe the legislature should be able to authorize gambling in Montana, you should vote FOR the new Constitution.

—If you are against the death penalty, you should vote FOR the new Constitution.

Of course, if you prefer the present two-house legislative system, are against gambling and for the death penalty you should still vote FOR the new Constitution but AGAINST the three side issues.

The new Constitution as written retains the bicameral legislature, retains the present constitutional ban against all forms of gambling and lotteries and authorizes the death penalty in that it makes reference to "capital offenses."

The Independent Record has mixed feelings on all three issues.

While it must be acknowledged that having a two-house legislature may offer a better screening process for legislation, that's about all that can be said for it under today's realities.

The idea of two chambers was that one should represent people (the House) and the other should represent geographical areas, or counties, regardless of population (the Senate). The U.S. Supreme Court, in its historic one-man, one-vote decision, changed all

that, so now both houses must represent people, and the House and Senate districts have been apportioned to do just that.

As for two houses doing a better job of weeding out bad legislation, it may be good in theory, but it hasn't worked that way. It has, in fact, resulted in a horrendous glut of legislation. And it has resulted in the hypocrisy of a member of one house introducing a bill to please or reward a friend or campaign contributor or special interest, then running over to the other house to get it killed.

Although a unicameral legislature probably would serve Montana better, legislative reforms in the new Constitution certainly will assure that a bicameral assembly can function more effectively than at present. These reforms include, among others, annual sessions, single-member districts for both houses and limiting the size of the houses (40-50 senators, 80-100 representatives).

The gambling issue presents something of a dilemma for The Independent Record. This newspaper remains steadfastly opposed to legalized gambling in any form in Montana, whether it is church bingo, state-operated lottery or wide-open gambling taxed by the state. Nevertheless, it is reasonable to ask whether gambling is really a constitutional or a legislative issue. We are living in an age of rapidly changing morals and values, and a constitution should be flexible enough to adapt to change. That's what is wrong with the old one—it is inflexible and unable to cope with

20th century realities. Perhaps the time will come when legal gambling will be morally acceptable to most Montanans.

One point should be made clear, however. Despite the often-heard assertions by its proponents, legal gambling will not cure Montana's financial ills. It will only add to them.

Montana, unlike Nevada, is far removed from major metropolitan areas from where thousands of out-of-staters will pour in daily to blow their money on craps, cards, roulette and one-armed bandits. Most of the gambling revenue would come from Montanans, and most likely those least able to afford it. It would add to welfare and law-enforcement problems—and expenses.

Capital punishment raises the same question: Should it be a constitutional or a legislative issue. But in this case, it's a constitutional matter either way. The new Constitution, if it passes, will either allow the death penalty or forbid it, depending on how the vote turns out on the side issues.

The Independent Record recommends a vote against the death penalty. But it is probably a moot point anyway. It hasn't been used in Montana for nearly 30 years and, besides, there's a good possibility the U.S. Supreme Court will declare it unconstitutional. So it seems hardly worthwhile at this juncture to get into the moral and emotional arguments this issue generates.

With or without the side issues, the new Constitution is a commendable document and altogether worthy of approval June 6.



Businessman Assesses the Two Mill Levy

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This is a businessman's view of the elimination of the two mill levy limitation in Montana's proposed new constitution.

Montana's 1889 Constitution contains a limit of two mills which the state may levy on property. The framers wished to avoid excessive taxation on property, particularly that of largely mining and industrial concerns. Income taxes and sales taxes were not controlled in our old constitution because they did not exist. Counties were permitted to levy property taxes to finance cities, counties and schools.

Inequality and Pressure

It was soon found that some counties were rich because of industrial plants or productive resources. Some counties were able to support their schools adequately with low rates of taxation—others had poor

schools despite high tax rates of taxation. In addition, some county assessors were subject to political pressures from influential citizens and corporations which further aggravated the problem.

In the 1940s, the state attempted to remedy this situation with what came to be known as the School Foundation Program. Under this program, the state agreed to equalize the imbalance between rich and poor counties with state funds. It was a good idea except that the state could never come up with enough money to implement the program. The inequities and discrimination against children continued.

In 1971, the Supreme Court of California put an abrupt halt to this evil. In *Serrano vs. Priest* they ruled that discrimination against children, due to the wealth discrepancy in school districts violated the 14th Amendment to the U.S. Constitution and voided the procedure in that state. Other states quickly followed the lead of Califor-

nia and outlawed the financing of schools at the county level. Now a case has been filed in the U.S. Supreme Court to make the ruling nationwide. There is no question but that local taxation for schools will be held unconstitutional. But what is Montana to do



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with its 82 year old two mill limitation on state level property taxation? It has several alternatives.

The State's Alternatives

1. It can eliminate the two mill limit as proposed in our new constitution and tax

property on an equal basis at the state level. If this were done, all local school taxes would be eliminated.

2. It could convene the legislature and enact an 8 per cent sales tax. This is the amount of sales tax required to make up local levies. But, of course we might still have the two mill levy.

3. It could increase its income tax by two and one-half times, although our present income tax is one of the highest in the nation and we might still have the two mill levy.

These are the unpleasant alternatives available to Montana if it does not eliminate its ancient two mill levy limitation.

So the question for Montana is not whether the two mills is eliminated, but when. Some argue that we could eliminate the limitation for schools only. This is half measure. Suits are now being filed in some states which are used in the school cases. The death knell of the two mill levy is now being sounded. Your Constitutional Conven-

tion faced the problem squarely and did away with it.

It frees the legislature to appraise, assess and equalize property taxes at the state level and provides for Boards of Appeal. Property taxes will not go up. Taxes on property are regressive taxes. The Montana Legislature is known to be hostile to any kind of regressive taxation. The new constitution provides a modern, responsive legislature with annual sessions. Any increase in the state property tax level will be quickly stopped by the voters. And please remember that all local school taxes will disappear.

No Montana voter should oppose the new constitution because of the elimination of the two mill levy limitation. The new constitution contains other great reforms. To oppose it just to salvage for a year or so an outmoded tax limitation which will be declared void by the U.S. Supreme Court would be foolish indeed.