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THE

BIG

Decision

"On OUR CONSTITUTION"

A thing moderately
good is not so good as
it ought to be. Moder-
ation in temper is al-
ways a virtue; but mod-
eration in principle is
always a vice.

Thomas Paine

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Montana Farm Bureau President Speaks Out on Proposed Constitution

I had hoped the proposed constitution for Montana would be a document that I could support but there are too many changes from the old constitution that are detrimental to agriculture.



Bernard Harkness

The proposed constitution confirms existing water rights, then claims all water in the State as a property of the State and the Legislature has the control, administration and regulation of water rights with a centralized record system. Quite different from our present system.

Article 16 in the "Declaration of Rights" opens up the possibility of third party suits. The proposed constitution states "That the State and each person shall maintain and improve a clean and healthful environment." This provision directs the legislature to enact laws that allow class action suits. Although the present constitution does not prohibit such legislation it becomes a requirement under the proposed constitution. This opens up the possibility of third party suits relative to environment and makes it a duty to inform on other persons and be a state spy. The amount of harrassment this can cause agriculture can not be calculated.

The proposed constitution eliminates the requirement that taxes be collected uniformly and eliminates the statewide limit of the 2 mill property tax levy, making it possible for the Legislature to establish a statewide property tax as high as it wishes to provide the funds for any purpose it wishes. Agriculture pays a large share of the property tax and is particularly vulnerable when only about 18% of the population is involved in agriculture and is a diminishing influence in the legislature. The state is required under the new constitution to appraise, assess and equalize the valuation of all taxable property which would require a large force of appraisers and supervisors at the state level and for all practical purposes eliminates the county assessor and the local tax appraising machinery or it could lead to a double set of tax appraisers.

The proposed constitution requires the Legislature to be a continuous body every year with not more than 60 legislative days per year but any legislature can increase the limit of the next session. This would require fulltime employment of legislative personnel and cause state boards, bureaus and agencies to hire still more employees to handle the yearly state budgets. The increased costs would be considerable.

There are several other points that should be brought to the attention of the voters of the State but the four issues I have named above are detrimental to the interests of agriculture and will burden the agricultural producer.

PURPOSES OF A CONSTITUTION

A basic tenet of Constitutional Government in our American system is set forth in the Tenth Amendment to the Federal Constitution:



"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people."

Following the Civil War and by ratification of three-fourths of the then state legislatures, the Fourteenth Amendment was passed prohibiting any state from making or enforcing - - -

"any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny any person within its jurisdiction the equal protection of the laws."

We look in the Constitution of the United States for grants of legislative power, but look in the Constitution of the State to ascertain if any limitations have been imposed upon the complete power with which the state legislature was vested in its creation as reserved by the Tenth Amendment, but limited by the Fourteenth Amendment.

State Constitutions measure and limit powers of the executive, judiciary, and legislature, but they do not and should not measure or limit the rights of the governed. All power not limited or surrendered belongs to the individual citizen.

The basis of all our written constitutional forms of government is dependent on the consent of the citizens. It is the people, voting in a free election, that can grant or remove any powers given to either the federal or state government.

The purpose of constitutions should be to protect people from government - whether local, state, or federal.

If you compare our present State Constitution, you will find that the new proposed Montana Constitution has provisions that enlarge the powers of our local and state government, such as for example, the removal of the debt limit of five per centum of assessed value of taxable property as now provided in Article XIII, Sections 5 and 6, and the right of the people to vote on levies for state purposes in excess of two mills, as now provided in Article XIII, Section 5.

The power to tax is a dangerous power. Should the individual citizen give the State Legislature an unlimited power to tax?

There is no clear indication in the proposed constitution as to what are the changes from the existing constitution. Whether, on the subject of removal of debt limitation, the proposal might be

held to be deceptive and misleading is a matter that could very well be the subject of court litigation.

The new proposals will expose all home owners and farm owners to further taxes by the Montana Legislature. This will tend to divide the people.

In voting on the proposed new constitution the citizens will be required to vote on the whole document. If there be any part of it that a citizen does not want he will need to vote against even though he might approve of some of the changes.

Stability of our government is established by the constitution. Changes require a thorough study of all citizens. The proposals take the limits off the state legislature. If approved the people will suffer more laws and more government and much greater costs. Who will pay for it?

Critical Comments

ARTICLE II - DECLARATION OF RIGHTS

Section 3. INALIENABLE RIGHTS

All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

The reference to a "clean and healthful environment" is a new provision. This provision should be read in light of Article IX, Environment. It's impact is beyond imagination. Does this mean that it will be a duty and a requirement for citizens to report one another for any environmental offense?

Section 16. THE ADMINISTRATION OF JUSTICE.

Courts of justice shall be open to every person, and speedy remedy afforded for every injury of person, property, or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as to fellow employees and his immediate employer who hired him if such immediate employer provides coverage under the Workmen's Compensation Laws of this state. Right and justice shall be administered without sale, denial, or delay.

Third party suits would be possible under this provision. If applied literally, it would entitle an injured employee of any per-

son or corporation to bring an action against any third party for damages who is not a fellow servant or the immediate employer of the injured employee who hired him and extends workmen's compensation coverage to him. For example, a contractor acting as the prime contractor, would be vulnerable to suit from an injured employee of a sub-contractor. This provision could result in a flood of court litigations.

Section 18. STATE SUBJECT TO SUIT.

The state, counties, cities, towns, and all other local governmental entities shall have no immunity from suit for injury to a person or property. This provision shall apply only to causes of action arising after July 1, 1973.

* * * * *

The full impact of sovereign immunity in this section can not be determined except by litigation and subsequent court opinions. With no reference relative to legislative limitations, the extent to which this provision could affect school trustees, city councilmen, and other state and local governmental entities is impossible to calculate. The fact that individuals have redress for injury caused by governmental action is not necessarily bad. This section does, however, pose the question as to whether individuals would be willing to serve in a public position if they are to be subjected to law suits. Even though public officials may be protected by insurance, the personal harassment of such court action could be a deterrent for some people to seek public office.

ARTICLE V - THE LEGISLATURE

Section 6. SESSIONS.

The legislature shall be a continuous body for two-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular session of not more than 60 legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members.

* * * * *

This section requires the legislature to be a continuous body which meets for not more than 60 days each year but the sessions be extended by previous legislatures. So in reality there are no limitations after the first session on the length of legislative sessions should the proposed constitution be adopted. This could lead to professional legislators, additional legislative staff and increased cost of state government. It is impossible to calculate

accurately the type of persons that would be attracted to the legislature should they become dependent upon public office for their livelihood.

ARTICLE VIII - REVENUE & FINANCE

Section 6. HIGHWAY REVENUE NON-DIVERSION.

(1) Revenue from gross vehicle weight fees and excise and license taxes (except general sales and use taxes) on gasoline, fuel, and other energy sources used to propel vehicles on public highways shall be used as authorized by the legislature, after deduction of statutory refunds and adjustments, solely for:

(a) Payment of obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges.

(b) Payment of county, city, and town obligations on streets, roads, and bridges.

(c) enforcement of highway safety, driver education, tourist promotion, and administrative collection costs.

(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.

* * * * *

HIGHWAY REVENUE BOND DIVERSION: This provides revenue for the highway fund from gross vehicle weight fees and excise and license taxes on gasoline, fuel and other energy sources used to propel vehicles on public highways. The present constitution restricts the use of these funds for highway construction. The proposed constitution would allow the legislature, by a 3/5 vote, to divert these funds for other purposes. The entire trust fund could be used for welfare, public education or to balance the State budget. This would eliminate matching funds for the federal highway system and endanger the state's highway building program.

Section 8. STATE DEBT.

No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the electors voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenue.

* * * * *

This proposal allows the legislature to create a state debt by 2/3 vote. Presently only the people can bond the state for a sum over \$100,000. There would be no limit on the bonded indebtedness

that the legislature could create. This is a further surrender of the power of the people.

Section 10. LOCAL GOVERNMENT DEBT.

The legislature shall by law limit debts of counties, cities, towns, and all other local governmental entities.

The present constitution ^{*****} has ~~not~~ limits for cities, counties and schools. The proposed constitution allows the legislature to limit the debts of counties, cities and towns and all other government entities. These limits could be changed arbitrarily from session to session, which could affect the cost of local debt.

GENERAL COMMENTS ON REVENUE & FINANCE

There are two significant limiting provisions in the present constitution that have been deleted. One is the state 2 mill limit on property. With this limit eliminated under the proposed constitution the state legislature could tax property for state purposes.

There are no fundamental safeguards for the property owner and the extent to which property may be taxed by the legislature. It should be mentioned that if the state legislature should decide to broaden the tax base by way of a statewide property tax, all property owners would be affected.

The second provision is in regards to the net proceeds tax. The legislature is allowed, under the proposed constitution, to divert the net proceeds tax, which is a property tax on the production of copper, oil, gas, coal and other minerals, from the counties and cities now receiving them. Where would the net proceeds tax be directed? The legislature would be allowed to continue to levy such a tax, however it could be diverted to the state for any purpose. This would leave the counties and school districts the problem of increasing other property taxes to make up the loss. By deleting the 2 mill levy on property and by diverting the net proceeds revenue to the state, local property owners could expect an increase in taxes.

ARTICLE IX - ENVIRONMENT AND NATURAL RESOURCES

Section 1. PROTECTION AND IMPROVEMENT.

(1) The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.

(2) The legislature shall provide for the administration and enforcement of this duty.

(3) The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

* * * * *

The above sub-sections on environment directs the state legislature to provide for class action. The present constitution allows the state legislature to adopt such legislation, however the above provisions direct the state legislature. The effects of such legislation would allow an individual to bring action against an industry or another individual even though he may not be directly affected. "Future generations" creates an ambiguity. Should it be for the 10th or 20th generation?

Section 3. WATER RIGHTS.

(4) The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.

* * * * *

This section directs the state legislature to establish a centralized record system which is not inconsistent with what is presently being organized. The provision does, however, direct the legislature to take the initiative to establish a system of centralized records and directs the legislature to administer, control and regulate water rights. The effects of the directives provided in this section are difficult to ascertain at this time. The direction taken by the legislature would depend upon the political makeup and atmosphere of the legislature.

ARTICLE X - EDUCATION & PUBLIC LANDS

Section 1. EDUCATIONAL GOALS AND DUTIES

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

* * * * *

Convention delegates appear to have drawn a distinction between the American Indian and other residents of Montana. In effect this cements discrimination into the constitution and gives rise to racial distinctions. The American Indian is a part of Montana society and should be recognized as such without promulgating and perpetuating discrimination.

Section 7. NON-DISCRIMINATION IN EDUCATION.

No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.

* * * * *

The first portion of this section is not different from the present constitution. The reference to political beliefs is new. This opens the way for an individual of a foreign ideology to teach or attend any of the public educational institutions in the State of Montana. Does this mean that the State will accept those who advocate the overthrow of our government by force and violence?

Section 9. BOARDS OF EDUCATION.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, shall supervise and coordinate other public educational institutions assigned by law.

This section of the proposed constitution provides for two Boards of Education. The Board of Regents, of higher education, would have full power, responsibility and authority to supervise, coordinate, manage and control the Montana University System. The duties of the second Board, the Board of Public Education, are left to the legislature. The board of Regents will likely become the status Board since it has been given full power under the new constitution. Although the legislature will have a check on the Board through appropriations, the Board is given full power in contrast to the Board of Public Education, whose duties are set by the legislature.

ARTICLE XII - DEPARTMENTS AND INSTITUTIONS

Section 1. AGRICULTURE

(2) Special levies may be made on livestock and on agricultural commodities for disease control and indemnification, predator control, and livestock and commodity inspection, protection, research, and promotion. Revenue derived shall be used solely for the purposes of the levies.

* * * * *

This provision opens the gate to a tax on every commodity in the State of Montana. Control by the producers could be eliminated and it could become a political slush fund. A constitution is to limit government, not turn government loose upon the people. There is no limit on the amount of the levy. The existing constitution has a limit of 4 mills.

Section 3. INSTITUTIONS AND ASSISTANCE.

(1) The state shall establish and support institutions and facilities as the public good may require, including homes which may be necessary and desirable for the care of veterans.

This provision directs the legislature to establish institutions and facilities for the public good which could lead to state

supported welfare programs and institutions. Under our present system the counties are primarily responsible for welfare. This provision would put the state in to the welfare business.

ARTICLE XI - LOCAL GOVERNMENT

Section 5. SELF-GOVERNMENT CHARTERS.

(1) The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, revise, or abandon a self - government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body.

Section 6. SELF-GOVERNMENT POWERS.

A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter. This grant of self-government powers may be extended to other local government units through optional forms of government provided for in section 3.

A local government unit or combination of units would be given superior power to the constitution or the state legislature. Any form of government could be established on the local level with the approval of a majority of those voting on the question. The only limit on the form of local government would be the imagination of its citizens. What other types of government units are being anticipated?

Section 9. VOTER REVIEW OF LOCAL GOVERNMENT.

(1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.

(2) The legislature shall require a review procedure once every ten years after the first election.

This section would require a local government to review its form of government and submit this form and an alternative form to the electors every ten years. Even though a particular form of government is functioning properly and is acceptable it would be required that the qualified electors be required to vote on an alternative form. This could lead to additional cost of local government and of holding elections.

ARTICLE XIII - CONSUMER COUNSEL - GENERAL PROVISIONS

Section 2. CONSUMER COUNSEL.

The legislature shall provide for an office of consumer counsel which shall have the duty of representing consumer interests in hearing before the public service commission or any other successor agency. The legislature shall provide for the funding of the office of consumer counsel by a special tax on the net income or gross revenues of regulated companies.

First it is questionable whether such a counsel is needed when there presently exists private institutions or organizations representing the various interests in the State. It would establish another governmental agency, to be supported by the taxpayers and subject to political control. It is unclear as to which companies would be taxed to support such counsel, as there are several regulated companies in the State of Montana.

The following testimonials are from a group of concerned citizens that want to admonish you to take a critical look at the Proposed Constitution before voting on June 6th, 1972.

Testimonials

In view of the immediacy of the problem they want to use this method to convey their thoughts to you in hopes that you will review the proposed document carefully before you vote.

Right To Know Section Challenged

I object very strongly to the right-to-know section in the proposed Bill of Rights.

This section says "No person shall be deprived of the right to examine documents or to observe the deliberations of all public or agencies of state government and its subdivision except in cases in which the demand of individual privacy exceeds the merits of public disclosure."



Why do I object to this section so strongly?

I object to the wording of the section which says that people can have the right-to-know in regard to government agencies and public bodies unless individual privacy should be more important.

Mrs. Donna Brown

I think the wording is arbitrary, undefinable, a contradiction to the concept of "rights," a possible infringement of freedom of the press, and unjust in its application.

What, really, do the words "except in cases in which the demand of individual privacy exceeds the merits of public disclosure" mean?

Do they apply to private citizens and public officials alike?

Who is to determine when the demand of individual privacy exceeds the merits of public disclosure? The agency in question? The legislature? An appointed group? The courts?

What do I mean when I say the section is a contradiction to the concept of "rights?"

A Bill of Rights is a citizen's protection against the government.

Rights are firm, absolute concepts that are not subject to a legislature's whims. Obviously, the right-to-know section is not a firm, absolute concept.

I think the section is unjust in its application because arbitrary laws always bring injustice.

If someone's individual privacy is great enough (according to someone's standard) then that person will not have his name and story printed.

But what about the person whose individual privacy is not quite great enough (according to someone's standard)? His name will be printed.

You have an unjust situation.

In the newspaper world you are faced with this problem at all times.

Someone is always telling you his case is special and it shouldn't appear in the paper. And it is special--to him. But, in justice to the other persons who haven't come forth and pleaded their special causes you treat people alike according to a firm standard. And since you as a newspaper person are not God you print all names that appear on a public record and this becomes your standard--treat people equally.

I also think the right-to-know section is a possible infringement of freedom of the press because I think when constitutional conventions or legislatures or our Congress try to enlarge our present definition of freedom of the press then it is possible the rights of the public to be informed might be limited.

I do not think a right-to-know section is vital to the Constitution--even one written as it should be.

A strong freedom of the press guarantee is all that is necessary to a constitution.

There are many reasons I will vote against the new constitution, but the fact that the right-to-know section is worded as it is, is reason enough for me to cast a negative vote.

Third Party Suit Dangerous Weapon

Article II, Section 16 of the proposed Constitution forms a part of the Declaration of Rights and contains the following new language: "The Administration of Justice". "Courts of Justice shall be open to every person, and speedy remedy afforded for every injury or person, property or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as to fellow employees and his immediate employer provides coverage under the Workmen's Compensation laws of this state. Right and justice shall be administered without sale, denial or delay."



In effect this provision would entitle an injured workman to first collect under his workmen's compensation coverage, if such coverage is provided by his immediate employer, and second, he could in addition sue or bring an action against the third party if negligence by that party can be proven. This is commonly called third party suits in workmen's compensation cases.

This defeats the basic principle of workmen's compensation. In my opinion it has no place in a constitution. As background information, the Supreme Court of the State of Montana, in two separate decisions, ruled that such third party suits could not be instituted. The wording contained in Section 16 of the proposed Constitution is an obvious attempt to negate these Supreme Court Decisions.

At the 1971 session of the Legislature one segment of the legal profession, I call them ambulance chasers, attempted to pass a bill which would have accomplished this third party suit concept but it was killed. Now this punitive language has been slipped into the Constitution where it definitely does not belong. The consequences in adopting such a provision could cause very serious problems for agriculture and business. I would caution you to carefully consider this proposal in voting for or against the Constitution on June 6th

School Board Member Concerned

I am concerned about Section 18 of the "Declaration of Rights". This section poses some serious questions for public officials. There needs to be some study as to the degree that public officials will be subject to suit. There are no limits provided in this section and no reference made to the legislative limits.



Robert Bernhardt

For example, as a school trustee, how will this provision affect me and other trustees? Even though we carry liability insurance it appears our board could be open to suits beyond the limits of our liability insurance. If so, it could lead to greater costs for the taxpayer. And what about my personal possessions? Will they too be subject to loss?

I believe we need to take a critical look at this particular section and be real sure of its implications.

State Journalist Unimpressed With New Constitution

There are several things in the proposed new constitution that could hurt Montana and Montanans. Take the gasoline tax for exam-

ple. The way it is today the gasoline tax you and I pay goes to build and maintain roads, which is fair because the users of the roads are paying for them. Not so under the proposed new constitution as it would make possible the diversion of gasoline taxes paid by motorists and truckers to other purposes such as the welfare or University System. Welfare and University System need proper support but not from gasoline money that is paid by highways users to build and maintain their highways.



Ken Byerly

The voter has option on the next point that I want to make but it also is part of what will be voted on. It is the proposed unicameral or one house legislature which some advocates have tried to sell as a utopian panacea for Montana that will automatically solve most of our legislative problems.

They point to Nebraska's one house legislature, which is the only one in the nation, as an example to support their claims. It's no such thing. The fact is that there is great dissatisfaction among many of Nebraska's leading citizens with their one house system. For example, advocates in Montana claim that Nebraska's one house system lessens the effectiveness of lobbyists but at its recent session there, there were five lobbyists in Lincoln for every member of the legislature. You can be sure they wouldn't be there if they didn't think they could further their causes. Advocates of the one house legislature also claim that it gives more time for deliberation and there is less need for rush in the closing sessions. Not true, as Nebraska's unicameral legislature acted on 135 measures in the final three days of its most recent session and 75 on the final day alone.

It's claim that a unicameral legislature will attract more able men to serve the people, which troubles me as it sounds like we haven't had many fine legislators in Montana through the years. The truth is that we have had many able, dedicated ones who have served Montana and Montanans extremely well. It's apparent that Nebraska's governor, J. J. Exon, a democrat, isn't pleased with many members of his one house legislature. He said the legislature in its recent session and I quote "abandoned the interest of the average Nebraskan with a host of spending measures. To say that I am displeased with the lack of physical responsibility by the majority of the legislature would be the understatement of the year," the governor said. He used the term "juvenile" in describing it.

Nebraska's democratic governor also got strong support from a Republican in his displeasure with the unicameral legislature. A. L. Ender, Chairman of the Buffalo County Republican Central Committee, for example, said the legislators and I quote "seemed almost childish in their lack of knowledge of economics and taxes." It doesn't sound to me like a unicameral legislature has better legislators.

Enders said the unicameral legislature, and this is another key point, has no checks and balances except the governor's veto.

It seems, he added, that we have outgrown the one house legislature in Nebraska.

Frankly many things in the proposed new constitution for Montana scare me and badly so.

We have the power now to amend the present constitution if and when needed and have frequently done so through the years. This seems like the best way to travel in protecting Montana and Montanans instead of saddling us with the many dangers that are in the proposed new constitution.

Highway Funds Threatened

In discussing the proposed new Montana Constitution I think it only right to recognize the dedication and honest effort put forth by our convention delegates. It is unfortunate that subject and time priorities did not allow them the necessary far reaching effects of some of their conclusions. Delay in passage of this new constitution would allow our citizens to study and thoroughly understand all the implications of this document. Good portions could then be amended into our present constitution, and the change would be gradual instead of a dangerous leap into the unknown and the untried.



Robert F. Dye

One section of the new Constitution which I feel is particularly damaging to rural people is the section on highway funding. Under our present constitution highway funds cannot be used for any other purpose. This restriction was passed in 1956 with a 3 1/2 to 1 margin by the voters of Montana. In the new constitution the legislature can by a 3/5 vote draw on highway funds for any purpose. This provision was placed in the main body of the document in spite of the many organizations and individuals who appeared before its committees asking that it be a side issue, so the people could again vote to safeguard their highway funds. Timing of such a provision is particularly bad also, as the Federal Government has announced that as the interstate system is completed more matching funds will become available for primary and secondary roads. This of course is what you and I have been waiting for; however, if Montana spends its share of matching moneys on other things such as welfare, general government or any other of a myriad of things, we will not be able to match the federal and our primary and secondary programs will come to a stand still.

It is the opinion of many people that our gas tax is the only tax we get back directly in better roads and highways. The more you use the roads the more you pay--if you don't use them you don't pay. What could be fairer?

Farm to market roads are the lifeblood of our economy and I for one will not vote for a document that will seriously jeopardize or at the least dilute our important roads program.

Business & Homeowners Unprotected

While there are many legitimate objections to the proposed Montana constitution I want to discuss two of prime interest to Montana people. One is the mandatory annual legislative sessions provision written into the document. The other is certain provisions in the revenue section. If the people of Montana pass the proposed constitution we will have annual sessions of the Montana legislature.



S. Keith Anderson
now they are hired every two years for the duration of the session.

Unfortunately legislatures tend to cave in to the lobbyists who constantly promote additional public expenditures. Instead of the tax and expenditures increases currently being granted every two years these increases will occur every year. Annual sessions themselves will cost an additional \$1,000,000 a year and maybe more. In addition annual sessions will bring about full time legislative employees whereas now they are hired every two years for the duration of the session.

Annual sessions will cause a sharp increase in state employees. As budget making would literally be a full time occupation for state agencies, bureaus, departments and institutions, rather than occurring every two years. Unfortunately the end result of annual sessions would mean a lowering of the quality of our people serving in the legislature. Many people simply would not be able to leave their business every year for extended legislative sessions. Whatever problems we have in our legislature today, can, in my opinion, be solved by extending the sessions beyond 60 days.

There are many serious objections to the Revenue and Finance Article VIII, as far as the business community and homeowner is concerned. The new Article eliminates county Boards of Equalization, the State Board of Equalization and provides the state is required to appraise, assess and equalize the valuation of all taxable property. This means that a large force of appraisers and supervisors would have to be hired and paid for by the State to do the job that is currently being performed locally. The Montana legislature would have to establish an entirely new bureaucracy to handle assessment equalization and appeal procedures. The new Article eliminates any limit on property taxation, like striking the 2 mill limitation in the current constitution.

This means the 6 mill tax for support of the University System would not have to be voted on by the people and the legislature could impose any number of mills on property for support of the University System. The legislature could levy a property tax of any amount for support of the public schools on statewide basis.

If there was an emasse over revenue the legislature could simply impose a statewide property tax to balance the state's general fund under the proposed constitution.

ERRATUM

The series number printed in this volume is incorrect. *The Montana State Constitution* should be listed as Number **33** in the series Reference Guides to the State Constitutions of the United States.

Another dangerous proposal is the legislature can create state debt by 2/3 vote, eliminating your right to vote on bond issues. While the present constitution has debt limits for counties, cities and schools the proposed constitution has no such limitations but allows the legislature to establish debt limits. No property owner could possibly feel safe with bond limitations established by the legislature subject to change each year with annual sessions.

Under the present constitution highway gas taxes and other user funds cannot be diverted from highway purposes. The proposed constitution provides that with 3/5 vote of the legislature gas taxes can be diverted. In other words if the legislature needed \$5,000,000 to balance the state's general fund the gas tax could be increased by this amount or that amount could be diverted by 60% vote of the legislature.

Another Article that is extremely important is the removal of the prohibition against state aid to local government. Under the present constitution state collected taxes, income taxes and others, can not be appropriated to the counties and cities in Montana. Under the new constitution an appropriation can be made and this could turn into a subsidy of inefficiency or subsidy for those cities and counties which refuse to assume their own burdens of self-government.

The proposed constitution takes the wraps off the property tax and puts it in control of the legislature. I am sure that I do not have to point out to homeowners and to business people that it is extremely important to have safeguards in our constitution in regard to bonding and property tax limitations.

State Senator Fearful of Increased Costs

I am vitally concerned about some of the provisions in the new proposed Constitution. Of primary concern is the fact that state and local government debt limits have been removed. There are limitations in our present Constitution beyond which the voters must decide the limits of indebtedness. In the new proposal the voters would have no direct vote. The legislature would set the limits on the county debt and there is no debt limit for the state.



Sen. Carroll Graham

Another point is that the present Constitution has a two-mill limitation on state property tax for general government. Under the new Constitution there would be no limit. Already a proposal has been suggested by a member of the state legislature that a 12-mill property tax be levied for welfare.

Finally, I feel the present bicameral -- 2 house system, is vital to Montana. It provides the necessary checks and balances

for good government.

I urge every citizen to very carefully read the new Constitution before voting on June 6th.

Quality Education is Prime Concern

Section one of our present constitution states in a rather short and simple manner - "It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public free, common schools."



This has served us well. We have come from one-room schools in 1889 to a rather sophisticated and refined elementary, secondary, vocational and higher educational system. I would wonder if the statement of idealistic goals as presented in the proposed constitution will guarantee genuine improvement. Action, as in the past, will speak louder than words.

Mrs. Marjorie King

Recent court decisions in other states have caused some to question the manner in which Montana distributes funds to public schools. The wording in sub-section 3, of the proposed Educational Goals and Duties reflects the desire to assure equitable distribution of monies. May I point out that the present constitution has not limited or restricted the legislature in setting up our foundation program which is designed with the explicit goal of equalizing the cost of education in the various districts and counties of the state.

The biggest single change in the entire Education article deals with the Board of Education. Presently our constitution provides for a single Board of Education consisting of the Governor, Attorney General and State Superintendent of Public Instruction plus 8 members appointed by the governor. The new constitution would provide instead for two boards - one a board of regents for the Montana University system - the other a Board of Public Education. These boards would meet jointly on occasion for specific planning and coordination. The Governor, Attorney General and State Supt. would no longer be voting members of either board. They would serve in an advisory capacity. This would remove, to a degree, the game of partisan politics from the arena of education and this is good. However, in spite of some improvements, I find I can not agree with the concept of two boards. I do not believe education starts or stops with some magic marker. The line between elem-secondary education and higher education should be less distinct in today's society than it has ever been. Closer ties between teacher-education institutions and elementary-secondary schools need to be cultivated. Vocational education must span the entire spectrum of elem., secondary, junior college, university and adult education. There is no mention in this new proposal of vocational education or the board by which it will be supervised.

I am well aware of the weaknesses and the criticisms leveled at the present eight member single board system. I am confident a single board, however, working through committees can best cope with the varying problems in education without losing the cohesiveness which I feel one board offers. There can be no vying for power or status with a single board. Lobbying interests for specific areas of education have to face a board concerned with ALL education.

Because I reside in the smallest county in Montana, I would like to voice a serious concern of our people which deals with the proposed article on local government. We feel the Co. manager form of government in Petroleum Co. is very effective and efficient. In view of the ambiguous wording contained in Article XI, we fear county lines might be erased arbitrarily.

I urge you to vote but I offer you these words of caution. Change is not always progress - and what of the word progress - we always must know, progress toward what??

Time element questioned

Our constitution is a document of fundamental importance. It is more than just the original 1889 wording, it is also the amendments made since then and many court decisions interpreting it. Consequently its replacement should only be undertaken after serious deliberation and debate by the voters.



Gerald Neely

The proponents of the new draft have a heavy burden of showing the necessity of replacement. The voters will have had a copy of the proposed document only 30 days and will not have a copy of the current constitution.

Constructive criticism, a public weighing of the good and the bad, is meaningless and unproductive because there will be no opportunity to correct bad judgment or plain error.

The convention did not submit its proposed changes to the public in a meaningful way, such as, by subdividing them for separate acceptance or rejection on a reasonable basis. Rather the voter is presented with a take it or leave it proposition with a few side issues that are basically unimportant in terms of the fundamental changes proposed in the main body of the new document. Each person in Montana has to make an objective analysis of the good and the bad. If the public viewing of the good and the bad has a tendency to create an unfavorable attitude towards the proposed document, the fault lies with the way in which the stage was set for the vote, not with the people that wish to discuss the matter openly.

This memorandum was prepared by the Bureau
from Bureau to cooperation with some other organi-
zations and individuals who are concerned about some
aspects of the proposed legislation.

BE SURE

BEFORE



VOTE

JUNE 6, 1972