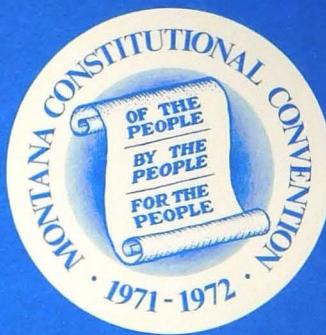


Montana Constitutional Convention Memorandums



***Prepared By:
Montana
Constitutional
Convention
Commission***

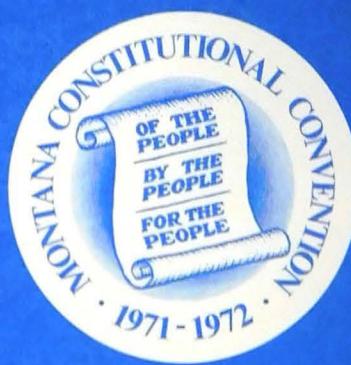
MEMORANDUM NUMBER 1

SUPPLEMENT

Memorandum on
Constitutional
Convention
Rules

MEMORANDUM NUMBER 2

Montana Constitutional Convention Memorandums

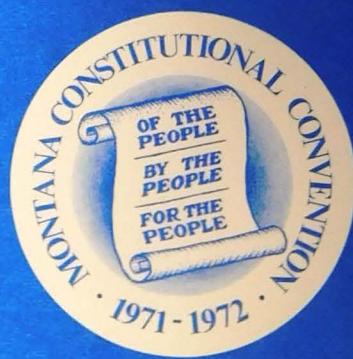


*Prepared By:
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Constitutional
Amendments
1889-1971

MEMORANDUM NUMBER 3

Montana Constitutional Convention Memorandums



*Prepared By:
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A Collection of
Readings on
Recent
Constitutional
Revision
Activities in the
Fifty States
1967-1970

KFM
9400
M63

Montana
Constitutional
Convention

MEMORANDUM NUMBER 4

Montana Constitutional Convention Memorandums



*Prepared By:
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Sources of the
Montana
Constitution

MONTANA CONSTITUTIONAL CONVENTION

1971-1972

SOURCES OF THE MONTANA STATE CONSTITUTION

PREPARED BY

ELBERT F. ALLEN

CONSTITUTIONAL CONVENTION RESEARCH MEMORANDUM NO. 4

PREPARED BY

MONTANA CONSTITUTIONAL CONVENTION COMMISSION

WILLIAM J. CONN
RAYMOND DOWNS

CHARLES J. HORN
WILLIAM J. KELLY

ROBERT J. KELLY
WILLIAM J. KELLY

PREFACE

The delegates to the 1971-1972 Montana Constitutional Convention will need historical, legal and comparative information about the Montana Constitution. Recognizing this need, the 1971 Legislative Assembly created the Constitutional Convention Commission and directed it to assemble and prepare essential information for the Convention.

To fulfill this responsibility, the Constitutional Convention Commission is preparing a series of research reports under the general title of Constitutional Convention Studies. In addition to the series of research reports the Commission has authorized the reprinting of certain documents for the use of Convention delegates.

This memorandum republishes an analysis of the sources of the Montana Constitution prepared by Elbert F. Allen in 1910 for the Montana Historical Society. The essay is reprinted as originally written without any additions, changes or corrections. As Allen indicates in his introductory comments, he did not attempt to write a comprehensive analysis of the sources of the Montana Constitution. The Commission's research will undoubtedly add to the knowledge regarding the sources of the individual sections of the Constitution of 1889. The sources of each section, where factually determined, will be indicated in other studies of the Commission.

The discovery of the proceedings of the 1884 Constitutional Convention in 1969 by the Secretary of State's Office will facilitate the delineation of sources of the Montana Constitution, since, as Allen notes, the Convention of 1889 basically reworked the Constitution of 1884 during the Convention of 1889.

The reprinting of this analysis by Elbert F. Allen is respectfully submitted to the people of Montana and their delegates to the 1971-1972 Montana Constitutional Convention.

ALEXANDER BLEWETT

CHAIRMAN

SOURCES OF THE MONTANA STATE CONSTITUTION

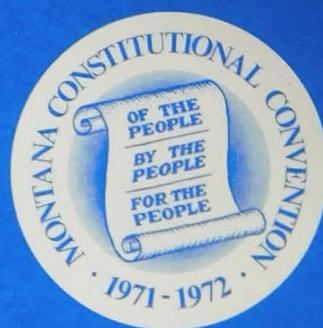
Article nineteen, Miscellaneous Subjects and Future Amendments, is taken from both Cali. and Colo. Sec. 1 is from Cali. Art. 20, Sec. 3, except Cali. provides only for that part of the oath to support the constitution. The part relating to the means used to secure election was proposed by Hon. Jos. K. Toole. "So help me God" was proposed by Mr. C. H. Loud. Sec. 2, 4, and 9, are the same as Colo. Art. 18, Sec. 2 and 1, and Art. 19, Sec. 2. Sec. 3 and 8 are similar to Colo. Art. 18, Sec. 6 and Art. 19, Sec. 1. Sec. 5 is the same as Cal. Art. 20, Sec. 9. For Sec. 6 and 7 we find no source.

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Memorandum

MEMORANDUM NUMBER 5

Montana Constitutional Convention Memorandums

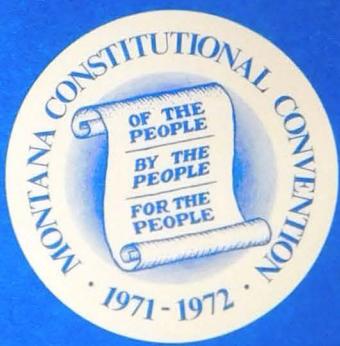


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**Index to
Proceedings and
Debates of the
1889 Montana
Constitutional
Convention**

MEMORANDUM NUMBER 6

Montana Constitutional Convention Memorandums



*Prepared By:
Montana
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Convention
Commission*

The Constitutions
of the
Northwest
States

MONTANA CONSTITUTIONAL CONVENTION

1971-1972

THE CONSTITUTION OF THE NORTHWEST STATES

BY JOHN D. HICKS

CONSTITUTIONAL CONVENTION RESEARCH MEMORANDUM NO. 6

PREPARED BY

MONTANA CONSTITUTIONAL CONVENTION COMMISSION

The delegates to the 1971-1972 Montana Constitutional Convention will need historical, legal and comparative information about the Montana Constitution. Recognizing this need, the 1971 Legislative Assembly created the Constitutional Convention Commission and directed it to assemble and prepare essential information for the Convention.

To fulfill this responsibility, the Constitutional Convention Commission is preparing a series of research reports under the general title of Constitutional Convention Studies. In addition to the series of research reports, the Commission has authorized the reprinting of certain documents for the use of Convention delegates.

This Memorandum republishes an analysis by John D. Hicks of the constitutional conventions which met in the Northwest states of North and South Dakota, Washington, Idaho, Montana and Wyoming in the summer of 1889. The study, originally prepared in 1916 as a doctoral dissertation, was later published by the University of Nebraska in University Studies, Vol. XXIII, Nos. 1-2 (January-April 1923).

This study, which places the 1889 Montana Convention in a regional and national perspective, was written before the 1921 publication of the Proceedings and Debates of the Montana Constitutional Convention of 1889 and is therefore not as comprehensive in its coverage of the Montana Convention as it is of the other Northwest conventions.

This essay is one of a limited number of scholarly works on Montana's constitutional heritage. Two early articles by Francis Newton Thorpe, a noted constitutional authority, discussed the 1889 constitutions of the Northwest states: "Recent Constitution Making in the United States," Annals of the American Academy of Political and Social Science, Vol. II (September 1891), pp. 145-201 and "Washington and Montana: Have They Made A Mistake In Their Constitutions?" Century Magazine (February, 1890) pp. 504-508.

A comprehensive analysis of the Constitutional Convention of 1889, drawing heavily on the published proceedings, press accounts, biographical material and comparison with the 1884 Constitution, is provided in John Welling Smurr, "A Critical Study of the Montana Constitutional Convention of 1889," (unpublished Master's thesis, Department of History, University of Montana, 1951). Dr. Smurr later authored a two-part study, "The Montana Tax 'Conspiracy' of 1889" in Montana, The Magazine of Western History, Vol. 5 (Spring and Summer, 1955). One of his conclusions was that a

community of interest rather than a dark conspiracy determined the preferential tax treatment given the mining industry in the 1889 convention. Recently Brian E. Cockhill in "An Economic Analysis of Montana's Constitution," (unpublished Master's thesis, Department of History, University of Montana, 1968), subjected convention voting to computer analysis without overturning Smurr's basic conclusion. Margery H. Brown, a member of the Constitutional Convention Commission, has written an excellent summary of Montana's constitutional history: "Metamorphosis and Revision: Writing Montana's Constitution," Montana, The Magazine of Western History, Vol. 20 (October, 1970) pp. 2-17.

Recognizing that a thorough understanding of the Convention of 1889 will facilitate the deliberations of the 1971-1972 Constitutional Convention Commission respectfully submits the reprinting of this thoughtful study by John D. Hicks to the people of Montana and their delegates to the 1971-1972 Montana Constitutional Convention.

ALEXANDER BLEWETT

CHAIRMAN

THE CONSTITUTION OF THE NORTHWEST STATES

BY JOHN D. HICKS

This study if reprinted from: University of Nebraska
University Studies, Vol. XXIII, Nos. 1-2 (January-April 1923).

*Montana
Constitutional
Convention
Memorandums*



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Commission*

Selected
Bibliography

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SELECTED BIBLIOGRAPHY

BIBLIOGRAPHIES

There are two excellent selected bibliographies on state constitutional revision:

A Selected Bibliography on State Constitution Revision, compiled by Balfour J. Halevy and Libby H. Guth. Prepared by Legislative Drafting Research Fund, Columbia University. 177 pages, mimeographed (1963, with 1967 supplement). \$3.00 each from National Municipal League, Carl H. Pforzheimer Building, 47 East 68th Street, New York, New York 10021.

Selected Bibliography on State Constitutional Revision, January, 1966. Prepared by Albert L. Sturm, Director and the Staff of the Institution of Governmental Research, Florida State University, Tallahassee, Florida.

Montana

The Commission suggests the following material as a basis for any study of the Montana constitution:

Constitution of the State of Montana (as amended through the 1970 General Election). Available from the Secretary of State, Helena, Montana. Price \$1.00 each. The Constitution, with annotations, is printed in Vol. 1, Part 1, of the Revised Codes of Montana, 1947. The Montana Digest, "Constitutional Law"; Report and Official Opinions of the Attorney General; and Shepard's Montana Citations can be consulted for interpretations by the attorney general and judicial construction of constitutional provisions.

The Montana Constitution, Montana Legislative Council, Report No. 25, October 1968. Reprint available from the Montana Constitutional Convention Commission, State Capitol, Helena, Montana. No charge.

Modernizing Local Government, 1966. Committee for Economic Development, 711 Fifth Avenue, New York 10022. \$1.00 each.

Modernizing State Government, 1966. Committee for Economic Development, 711 Fifth Avenue, New York 10022. \$1.00 each.

Terry Sanford. Storm Over the States. New York: McGraw-Hill Book Company, 1967.

The following publications can be obtained from the National Municipal League, Carl H. Pforzheimer Building, 47 East 68th Street, New York, New York 10021. Special discounts are available for candidates.

Model State Constitutions, 128 pages, sixth edition (1963, 1968 revision), \$2.50.

Salient Issues of Constitutional Revision, edited by John P. Wheeler, Jr., 172 pages (1961), \$3.00.

The Constitutional Convention--A Manual on Its Planning, Organization and Operation, prepared by John P. Wheeler, Jr., 78 pages (1961), \$2.50.

How to Study a State Constitution, by Charlotte Irvine and Edward M. Kresky, 26 pages (1962), \$1.00.

State Constitutions: The Shape of the Document, by Robert B. Dishman, 58 pages (1968), \$2.50.

State Constitutions: Reapportionment, by Gordon E. Baker, 70 pages (1960), \$2.00

State Constitutions: The Structure of Administration, by Ferrel Heady, 50 pages (1961), \$1.50.

The Drafting of State Constitutions: Working Papers for a Manual, by Frank P. Grad, 305 pages, mimeographed (1967), \$3.00.

A New York Constitution Meeting Today's Needs and Tomorrow's Challenges, by Jack B. Weinstein. An unofficial draft constitution with rejected 309 pages, mimeographed (1967), \$3.00.

A Selective Bibliography on State Constitutional Revision, compiled by Balfour J. Halevy and Libby H. Guth. Prepared by Legislative Drafting Research Fund, Columbia University. 177 pages, mimeographed (1963, with 1967 supplement), \$3.00.

State Constitutions: Dead Hand of the Past, by James Nathan Miller. Reprinted from National Civic Review, 8 pages (1968) (special rates for quantities), \$.25.

The State Constitution: Its Function and Form for Our Time, by Frank P. Grad. Reprinted from Virginia Law Review, 45 pages (1968), \$1.00.

Constitutional Revision in Pennsylvania: The Dual Tactic of Amendment and Limited Convention, by George D. Wolf, 72 pages (1969), \$2.50.

Magnificent Failure: The Maryland Constitutional Convention of 1967-1968, by John P. Wheeler, Jr., and Melissa Kinsey, 256 pages (1970), \$5.00.

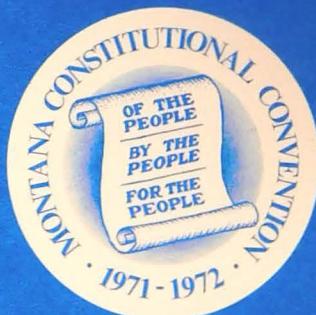
The Politics of the Rhode Island Constitutional Convention, by Elmer E. Cornwell, Jr., and Jay S. Goodman, 96 pages (1969), \$2.50.

Thirty Years of State Constitution-Making: 1938-1968, by Albert L. Sturm (in preparation), \$2.50.

The Process of Constitutional Revision in New Jersey: 1940-1947, by Richard J. Connors, 219 pages (1971), \$4.00.

Studies are planned on Alaska, Arkansas, Hawaii, Illinois, Missouri, New Mexico and New York.

Montana Constitutional Convention Memorandums

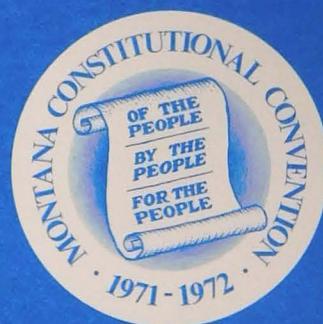


*Prepared By:
Montana
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Commission*

Memorandum on
Convention
Preparation
Including
Preparatory
Research, Public
Information
Programs and
Convention
Arrangements

MEMORANDUM NUMBER 9

Montana Constitutional Convention Memorandums

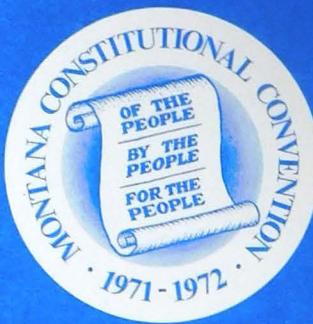


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**Selected Readings
on the
Organization of
Constitutional
Conventions**

MEMORANDUM NUMBER 10

*Montana
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*Prepared By:
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Legislative
Reapportionment

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MONTANA CONSTITUTIONAL CONVENTION

1971-1972

LEGISLATIVE REAPPORTIONMENT

BY ELLIS WALDRON

CONSTITUTIONAL CONVENTION MEMORANDUM NO. 10

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