

Ailing Legislature No Sure Cure for

The Montana Standard, Wednesday, Jan. 26, 1972

Holman pushes gambling option

Standard State Bureau

HELENA — A Silver Bow County commissioner Tuesday appealed for constitutional help in getting a local option to license gambling, a move he said could "save Butte."

Commissioner Earl "SI" Holman told the Constitutional Convention local government committee that gambling could be "the saviour of our state and make this a better place than Nevada."

Holman was directed to the convention's general government committee, which is studying gambling, but not before the local government committee members listened to his plea.

"We have had gambling there (in Butte) for years," he said. "If we licensed gambling, it would mean quite a saving to Butte."

"I think it would save Butte, Montana," he said. "The way it is now, we are sort of in dire circumstances. We've got to do something in Butte or we'll be bankrupt."

Witnesses at a Constitutional Convention hearing agreed Monday on a diagnosis—that the legislative system is ailing—but reached no consensus on a cure.

Thirteen witnesses, most favoring unicameralism, testified for more than five hours before the convention's Legislative Committee.

While the unicameralism vs. The other opponent, Mrs. Rosemary C. Boschert, Billings, said eliminating one house would make it difficult for interested citizens to participate in the legislative process.

Dr. Lawrence K. Pettit, chairman of MSU's government section, said he knew of "no persuasive argument against unicameralism" since the Reynolds vs. Sims decision of the U.S. Supreme Court in 1964.

That decision required states to apportion both houses on the basis of population. Before that, states imitated the federal system, having one house based on population and the other on geography.

Pettit also favored single-member legislative districts, which would allow each citizen to vote for one representative instead of as many as 12 as Billings and Great Falls residents do.

The MSU professor, and several other witnesses urged that the new constitution provide for a commission to reapportion the legislature every 10 years. The legislature currently attempts to redistrict the state.

As Jean Anderson, Billings, representing the League of Women Voters, said of the legislative reapportionment: "As you know, in the past that has not been a spectacularly successful venture."

Pettit saw only one disadvantage with unicameralism. "The only thing wrong with unicameralism is that it is novel and people might fear it," he

bicameralism debate took up most of the discussions. proposals for other legislative reforms were offered.

Endorsing the adoption of a one-house legislature were a Montana State University political scientist, several students, a delegate from the YMCA's recent Youth Con-Con, officers of the League of Women Voters, a Helena man who has

said. "This might jeopardize passage of a new constitution."

A University of Montana student, Bob Buzzas, Helena, citing statistics, argued that Montana's strong two-party system had been detrimental in the often-deadlocked legislature, where one party has controlled one house and the other the second chamber.

Carl Rostad, Helena, told the committee two-thirds of the delegates to the YMCA's recent Youth Con-Con favored a unicameral legislature.

A Helena man, Howard Banks, said watching the last two legislatures convinced him of the need for unicameralism.

The League of Women Voters also favors a one-house body because legislators would become more accountable, its officers said.

A Fish Bowl

"A unicameral legislature becomes a fish bowl closely followed by the public and the press," Diane Schladweller, Bozeman, said.

Mrs. Boschert urged delegates to retain the two-house body but to institute other legislative reforms.

"Bicameralism is a safeguard for people to avoid hasty and harsh legislation," she said, adding that one house could block a bad bill.

"City governments are sad failures today," Mrs. Boschert said. "I live in Billings and I cannot tell anyone our unicameral body (city council) is responsive."

As to the argument that unicameralism would be less costly, she said only 5 per cent of the state's budget now goes to the legislature anyway. Regardless of what kind of legislature is adopted, she said it was imperative that more money be spent on legislative reforms.

Her main argument, however, was that the speedier passage of a bill through one house would cut down on the time and opportunities that interested citizens could act—either by testifying at hearings or communicating with their representatives.

Brown, who covered the Nebraska legislature from 1941 to

watched the last two legislatures and a representative of Montana Common Cause.

Two persons opposed creating a unicameral legislature.

One witness, Byron Brown, Dillon, said he was a newspaper reporter who covered the Nebraska legislature in the 1940s. It is the only state that has gone to the one-house system.

1946, said unicameralism was passed there under similar circumstances. Citizens were upset with the performance of their legislature.

Easy Touch

"In Nebraska, the power blocks, lobbies and special interest groups have one of the easiest touches I have ever seen," he said. "Nebraska then had 43 legislators. With 43, all you have to do is control 22 people and you control the state."

Consequently, the opportunities of corruption are greater in a one-chamber legislature.

Brown did propose annual sessions and open meetings, including conference committees, for the legislature.

John Layne, Helena, testified for the Montana Citizens Conference on the State Legislature.

Alternative Plans

His group is offering alternative plans for either a unicameral or bicameral system but wants to reduce the size of the legislature, elect legislators from single member districts and provide for annual sessions.

Rep. Robert Watt, D-Missoula, offered a proposal requiring legislators to submit financial statements and have a six-member nonpartisan commission determine conflicts of interest on various votes. He also called for using school districts for reapportionment.

Francis Mitchell, Helena, said Montana members of Common Cause, a national citizens lobby, favor a unicameral legislature, single-member districts, annual sessions and recorded votes at all stages of the legislative process.

"You can stop the shell game by taking away one of the shells," he said of unicameralism.

"Bicameralism has reduced the most important check of all, the people's check," said Mitchell who has been a lobbyist at other legislative sessions.

Only if we give the people access to their government can we trust it.

Great Falls Tribune

Wednesday, Jan. 26, 1972

Council, Audit Functions Get Con Con Frown

Tribune Capitol Bureau

HELENA — The Constitutional Convention's Legislative Committee, by an informal vote Tuesday, indicated that it will not support provision for a Legislative Council and legislative audit functions in a new constitution.

The committee, generally, agreed that these legislative home-work functions should continue as statutory provisions.

Delegate Arlyne Reichert, D-Great Falls, pointed out that it was a 1968 study by the Legislative Council that led to the eventual calling of the Constitutional Convention.

Delegate Mae Nan Robinson, R-Missoula, said that of the 966 bills introduced during the 1971 legislature that 850 had been prepared by the Legislative Council.

Mrs. Reichert said that one legislator, however, had complained to her about the quality of the council's bill drafting work.

Constitution Hearings Set

The chief justice of the Montana Supreme Court and a district judge who is not seeking reelection will speak to members of the Constitution Convention Judiciary Committee Wednesday.

Chief Justice James Harrison Sr. will testify at 2 p.m. at the studio in the Industrial Accident Board headquarters at 815 Front St. His appearance will be taped for state archives. Later in the day, delegates

will hear from District Court Judge Robert S. Keiser, Kalspell, who recently announced he will return to the private practice of law. Keller, who recently called for appointing judges, will speak at 4 p.m. in Room 413 of the Capitol.

Other public hearings and topics scheduled are: Judiciary Committee—Tuesday 1 p.m., Senate Chambers; Montana Plan proponents—Thursday, 3 p.m., Room 413;

district courts: Friday, 2 p.m., Room 413, justices of the peace courts; Feb. 1, 2 p.m., Room 413, county attorneys; Feb. 2, 2 p.m., Room 413, clerks of court.

Natural Resources and Agriculture Committee—Tuesday, 10 a.m. and 1:30 p.m., Room 402, minerals; Wednesday, 10:30 a.m. and 1:58 p.m., Room 402, land; Thursday, 10:30 a.m., Room 402, air; Thursday, 1:30

p.m., Room 402, joint hearing on public lands with Education and Public Lands Committee.

The Bill of Rights Committee has changed the hearing on discrimination: the right to bear arms, Article III, Section 13; and miscellaneous provisions, Sections 9, 11, 25, 28-31.

The hearing, originally scheduled for 10 a.m. Friday, will be at 10:30 a.m. Saturday in Room 301 of the Capitol.

Falls Delegate's Petition Eyes 75-100 Members

Unicameral Plan Dropped in Con Con Hopper

HELENA (AP) — A proposal that would establish a unicameral legislature of 75 to 100 members was introduced Tuesday at the Montana Constitutional Convention.

It bore 39 signatures in addition to that of its principal sponsor, Arlyne E. Reichert, D-Great Falls.

The proposal also calls for single-member districts and annual sessions, but Mrs. Reichert pointed out that signers did not necessarily agree with these provisions. All favor the concept of unicameralism, she said.

A proposal introduced by Virginia H. Blend, D-Great Falls,

would forbid earmarking of state funds unless required for state participation in federal programs. Another proposal submitted by Mrs. Blend would prohibit real or personal property taxes from being used to finance public welfare.

A plan introduced by Don E. Belcher, D-Roundup, could clear the way for legalized gambling. It would remove the present constitutional ban.

However, gambling would continue to be outlawed unless the legislature approved or people supported it through initiative or referendum.

Lyman W. Choate, R-Miles City, sponsored a proposal that would simply remove the con-

stitutional language outlawing lotteries.

Indigents would be guaranteed right to counsel under a plan introduced by Jerome J. Cate, D-Billings, and others.

A proposal submitted by Arnold W. Jacobsen, R-Whitefish, would allow board of county commissioners to expand up to seven members, who would be elected from single-member districts.

Former legislator Miles Romney, D-Hamilton, called for the legislature to convene the first Monday in February instead of the first Monday in January.

Charles H. Mahoney, I-Cleary, introduced a measure that would require a majority rath-

er than two-thirds of the legislators to approve a constitutional amendment, increase the number of amendments that could be submitted to voters from three to six and set guidelines for citizens proposing amendments by initiative.

A proposals submitted by Chet Blaylock, D-Laurel, and others would allow legislators to override a governor's veto after they have adjourned. They would vote by registered mail.

C. B. McNeil, R-Polson, sponsored two measures saying it is the right and duty of the state and each citizen to provide for a quality environment.

As Touchy Parochial School Aid Issue Surfaces

Priest Recommends First Amendment Wording

to Con Con

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — The touchy question of state aid to private schools surfaced Tuesday when a Roman Catholic priest recommended that constitutional convention delegates replace the existing state provision for religious freedom with language from the First Amendment to the U.S. Constitution.

The Rev. James H. Provost, Helena, representing the Montana Catholic Conference, said at a public hearing that he did not foresee any state aid coming.

"Do you advocate any state aid to nonpublic schools?" asked Marshall Murray, R-Kalspell.

"No, I do not," Provost answered.

The question arose when delegate Bob Campbell, D-Missoula, noted that the Catholic

Conference also favored removing another provision that outlaws state aid to public schools.

Provost said his group wanted Article XI, section one, repealed and the Montana Bill of Rights changed because it feared the loss of federal aid in the future.

Parochial schools now receive some federal aid in the form of hot-lunch programs and library books, he said. But it is possible the federal government might give the states the money to distribute, Provost said. He feared that under existing constitutional language these private schools would be unable to receive the aid they currently acquire.

Campbell pointed out that

adopting the religious freedom provision in the U.S. Constitution would bring with it some of the recent U.S. Supreme Court decisions that allow indirect aid to nonpublic schools.

However, Provost said under the decisions he said it would be impossible for any direct federal funds to trickle down to private schools.

"Wouldn't state aid to private schools be an entanglement of church and state?" Campbell asked.

Said Provost: "The federal Supreme Court said it is. We have to abide by it."

Donald Foster, I-Lewistown, asked if removing the provision would not allow state funds to be sent to private schools.

"I rather doubt it, personally, because there is not enough money for present state purposes," his priest said.

He said he favored changing the bill of rights because the existing "section on religious freedom was wordy and confusing and possibly anti-Mormon with its reference to banning polygamy."

Constitution Should Clear Way for the Future, Says Exec

Municipalities Want Piece of State Income Tax Action

HELENA (AP) — Montana's League of Cities and Towns proposed today that the constitutional convention clear the way for future sharing of state income taxes with municipalities.

Presenting the plan to the Revenue and Finance Committee was Dan K. Mizner, the league's executive officer, who made it plain the cities are not trying to cut in on the present 25 per cent of income taxes which go to public schools.

He suggested the delegates provide that income taxes may be graduated and progressive

and shall be distributed to the public schools and to state government as now but with the addition of municipalities.

In reply to a question, Mizner said the league would prefer to give full discretion in the use of income taxes to the legislature but to avoid any trouble with school boards recommends restricting the use to schools, municipalities and state government.

He guessed that if the 25 per cent ceiling for schools is removed, the legislature might increase the amount to 35 per cent.

Mizner told the committee headed by ex-legislator Sterling Rygg, Kallispell, the state cannot now levy a statewide tax for distribution back to local governments. He then told how the legislature has managed to get around the restriction.

For example, lawmakers appropriated \$3 million to the Highway Commission which gives it back to cities and counties on the basis of mileage of streets and roads.

He also told of a \$4 million appropriation to the State Board of Health for aid to com-

munities trying to improve their sewage-disposal facilities.

He said part of the reason that the cost of city government is rising is due to requirements by federal and state governments, including environmental obligations.

Among proposals backed by cities and towns:

—Permit local governments to share directly in gasoline-tax money for streets, roads and bridges.

—Authorize municipalities to assess service charges to tax-exempt property for utilities

School Boards Seeking to Eliminate Superintendent From Election Rolls

By JOHN KUGLIN Tribune Capital Bureau

HELENA — The state school boards lobby Tuesday told a Constitutional Convention Committee that the state superintendent of public instruction should no longer be elected by the voters.

Chadwick Smith, Helena, a lobbyist for the Montana School Board Association, told the Convention's Education and Public Lands Committee that the recommendation was "no reflection on anyone now in office or who has been in office."

Though the association favors having the state superintendent appointed by a state board of education, Smith said that the appointment could be made directly by the governor under the concept of executive reorganization.

It would make no difference if a governor were a Democrat or a Republican, Smith said, because the chief executive would be under an obligation to appoint a qualified state superintendent.

The present board of education would be reduced to 10 members, by making the state superintendent the board's employe as its executive officer. The governor and attorney general would remain as ex-officio board members and eight members would continue to be appointed by the governor.

In reply to a question from

Convention First Vice President John Toole, R-Missoula, Smith said that the governor should be a board member because he should be fully informed on education matters. The attorney general should remain a board member, Smith said, because of the many complicated legal questions involving education issues.

Smith listed some of the usually-voiced arguments for appointing instead of electing the state superintendent.

Public Instruction Supt. Dolores Colburg has not yet indicated if she prefers her position to remain an elective job. If the convention did recommend making the position appointive, and this were ratified by the voters, there would still probably be an election next November to choose a state superintendent for a four-year term.

Mrs. Colburg has not revealed whether she will file for re-election.

Mrs. Colburg will appear Feb. 2 before a joint meeting of the Education and Executive Branch committees to discuss the status of the superintendent's office.

Smith said that the association — which he said represents 30 per cent of the state's school boards with 96 per cent of the pupil enrollment — opposes separate boards to control higher education and element-

ary-secondary schools.

The strongest argument against a two-board system, Smith said, is intense competition which would develop for state education funds.

Former Helena public schools superintendent C. R. Anderson, Dillon, said that the state school superintendent should be appointed by an elected board of education.

Committee member Dan Harrington, D-Butte, questioned how "making the superintendent subservient to a board instead of being elected by the people is going to help education?"

Though the state superintendent should be appointed, he should continue as one of the four members of the State Land Board, Smith said. Other members of this constitutional board are the secretary of state, attorney general and governor.

The association wants to change the present constitutional provision that says the public schools shall be open to all children between the ages of six and 21 years old. Instead, the association wants public schools open to persons of school age as provided by law.

The association is also interested in some changes in school financing formulas, due to recent court decisions in California and Texas which have declared local property taxes levied by school districts to be unconstitutional.

and such services as police and fire protection.

—Allow the legislature to increase the debt limit for governmental subdivisions above the present 5 per cent of the value of taxable property "to protect the public health and welfare and to purchase or construct public utilities which shall be owned and controlled by the municipality."

On the subject of present tax limits, Mizner said the league wants "the legislature to reserve certain taxing powers for setting realistic limits for cities and towns to tax property."

Bar President Testifies for Court Reform

Tribune Capitol Bureau

HELENA — The president of the Montana Bar Association testified Tuesday in support of the judicial reform plan proposed by the Citizens for Court Improvement.

Bill Bellingham of Billings told the Constitutional Convention

Judiciary Committee that the so-called Montana Plan should go to the voters for their approval, rather than being stopped by "a few defenders of the faith who claim to represent the voters."

One of the features of the plan is appointment of judges by the governor from a slate of nominations drawn up by a council of judges, lawyers and laymen.

Bellingham suggested it is "shear inconsistency" for op-

ponents of appointment to say judges should be elected by a vote of the people "and then fight efforts to put the Montana Plan before the people."

He said the objection that appointment would take judicial selection away from the people is an argument based on emotionalism, adding that people today have very little say about the selection of judges anyway.

Another common objection, he said, is that "we'd like to keep judges responsible to the people." But, he said, "as a practical matter, judges should be responsive to the law and the law responsive to the people through the legislature." Many lawyers and laymen don't want a strong judiciary, he said, "and the reasons are the same for both: a strong judiciary wouldn't be responsive to pressure, it wouldn't be responsive to political patronage, it wouldn't be responsive to individuals, particularly individual lawyers."

Bellingham also applauded the citizens' proposal to take justices of the peace out of the court system, saying "I think it's a crime — the present system."

Capital Punishment Issue Left Hanging by Con Con

Tribune Capitol Bureau
HELENA — A majority of the members of the Constitutional Convention's Bill of Rights Committee appear to be deathly afraid of submitting a proposal to the voters to outlaw capital punishment.

Committee Chairman Wade Dahood, R-Anaconda, said during an informal session of the committee Tuesday that he was opposed to the death penalty "because I don't think it deters crime."

Dahood, however, reminded that the constitutional provisions drafted by the convention must be acceptable to the voters when it is submitted to them for ratification.

"We want to do something constructive. We don't want to do too much and have failure," he said. Dahood suggested that the press should conduct a poll on the issue.

Committee member Robert Campbell, D-Missoula, suggested polling constituents on whether they would support a provision to outlaw the death penalty.

Campbell is one of six sponsors of a delegate proposal which has been submitted to prohibit the death penalty.

Committee member Chet Blaylock, D-Laurel, said that though he opposed the death penalty that the legislature had never passed bills introduced over the years to outlaw capital punishment. "Any of us can run for the state legislature on this platform," he said.

Committee member George

James, D-Libby, wondered about the "rights of the victim." He questioned whether persons convicted of committing major crimes should be turned loose and told "Don't do it again."

Committee member Donald Foster, I-Lewistown, thought the committee should proceed cautiously in the area of outlawing capital punishment.

Committee member Rachel Mansfield, D-Geyser, mentioned opposition already forming against abolishing the justice of the peace system protections in the present constitution. She also thought the committee should proceed cautiously.

In all, seven of the 11 committee members urged proceeding with caution on the death penalty issue.

HELENA (AP) — Atty. Gen. Robert L. Woodahl, who previously called for an appointed attorney general, and Secretary of State Frank Murray both urged a Constitutional Convention committee Tuesday to retain their jobs as elected officials.

In September, Woodahl had recommended at a Billings meeting that the governor have the right to appoint his own attorney general. At that time, Woodahl was considered a possible candidate for the Republican gubernatorial nomination. He has since decided to seek re-election as attorney general.

Woodahl told members of the Executive Committee his comments, and thus the change of mind, "had not been influenced by any political decision I may have made."

The attorney general, who has disagreed publicly with Democratic Gov. Forrest H. Anderson occasionally, outlined the arguments for an appointed and an elected attorney general.

Woodahl Switches

Position on Appointment

"The primary argument for an elective attorney general is that he is an attorney for all of the people and should be chosen by them," Woodahl said. "He is the governor's adviser but not exclusively; the governor is merely one among many clients."

The attorney general also has "important administrative and legal functions, such as programs in consumer protection and environmental control," he said.

"In executing these functions, an attorney general is acting as an advocate for the people, not as agent of the executive branch," he said.

In addition, the attorney general often acts as counsel for the legislative branch of government and has some respon-

sibility toward the judicial branch, he said.

"Thus," the attorney general said, "he should not be responsible to any single branch of government but can serve to strengthen checks and balances within the system."

"I don't believe the powers of the chief executive should be hamstrung, but I just feel the attorney general should fulfill the watchdog role," Woodahl said.

The attorney general said Anderson had called on his office for legal advice about a half-dozen times the past three years. But said the governor and other officials often asked for opinions at meetings.

Woodahl also called again for ending the practice of having state agencies retain their own lawyers. He favors having the state attorneys under jurisdiction of the attorney general.

Murray, who has been secretary of state since 1957, also was opposed to converting his office to an appointive one.

"I bitterly oppose any Hitler laws or Mussolini laws that would allow one man to appoint other officials," he said.

Blasting fellow Democrat Anderson, the secretary of state said executive reorganization, backed by the governor and passed by the 1971 legislature, had resulted in "the present fiasco." He referred to the replacement the chief engineer of the highway department with the brother-in-law of the Chairman of the Montana Highway Commission.

County Dads Not Urging For Constitutional Mention

Tribune Capitol Bureau
HELENA—The Montana Association of County Commissioners Tuesday came out in favor of not mentioning county offices in the constitution — somewhat at variance with the position of the other county officials.

Association president Earl Daley of Naahua and lobbyist dean Zinnecker of Helena presented a number of proposed constitutional changes to the Constitutional Convention's Local Government Committee, including language that would permit home rule and consolidation.

Zinnecker said the legislature should retain authority in such areas as maximum indebtedness, taxation, and salaries of local officials and should impose general guidelines because "you wouldn't want to move from one county to another and find the laws as different as from one state to another."

Katie Payne of Missoula, who is also an advocate of removing county offices from the constitution, asked, "Do you really think county officials would be less secure if taken out of the constitution?" Zinnecker replied that some would feel some insecurity at first, but that they would get over it.

County officials are also pro-

vided as elective officials in the statutes, and Mrs. Payne's contention is that taking them out of the constitution wouldn't necessarily mean they would no longer be elected.

Noting that city officials are not mentioned in the constitution, Mrs. Payne asked, "Do you feel they are any different than county officials?" Zinnecker replied, "No."

Meanwhile, citizen suggestions continue to come in by the number from county officials around the state who not only want to remain in the constitution, but

who want the constitution changed to permit them to receive their raises without having to wait until the following term of office. Some 150 such suggestions have been processed by the Chief Clerk's office already with some of the court house gang submitting several suggestions in one statement and others submitting as many as half a dozen separate suggestions.

When asked why the marked difference in philosophy between the commissioners and other county officials, one court house lobbyist told the Tribune the commissioners are trying to be the boss, and that putting things on a legislative level would give them room to manipulate.

"If state officials were appointed, who would they be responsible to—only one man," Murray said. "If I were appointed and told by the governor not to file certain corporation papers, what could I do?"

Murray said the role of the

Board of Examiners, on which he serves, had deteriorated under the Anderson Administration.

"We used to meet every other day," he said. "Now we meet once a month for 30 minutes because of the laziness of one man—Forrest Anderson."

"Whoever is governor would put some relative in the office even though there are nepotism laws," Murray said. "A person like Frank Murray who was an orphan in Twin Bridges

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Poll Shows Con Con Judiciary Committee Favors Montana Plan

BY FRANK ADAMS
Tribune Capitol Bureau

HELENA—A poll of the Constitutional Convention Judiciary committee reveals strong support for the judicial reform proposal of the Montana Citizens Conference for Court Improvement — the so-called "Montana Plan." It also shows no support for retention of justice of the peace courts as constitutional officers.

The poll, taken by committee chairman David Holland of Butte, shows five members in favor of the Montana Plan with 10 per cent or fewer changes, and three members in favor of the present judicial article with 10 per cent or fewer changes.

Although no support was found for retaining mention of justice of the peace in the constitution, five members favored "leaving the inferior court system to legislative implementation," and only one member favored adoption of a magistrate system as in the Montana Plan. This would perhaps indicate that the members do not view deletion of justices of the peace from the constitution as a move to abolish them.

Holland, a leading opponent of the plan, emphasized to the

Tribune that the poll represents "just tentative thinking. We were casting through the committee to see what the thinking is."

He says he expects a minority and a majority report from the committee, and that he hopes to have a rough draft ready next week.

The poll results were a

surprise to many, including some committee members. There have been complaints the committee was stacked in opposition to the Montana Plan.

Committee members favoring most of the plan are: Catherine Pemberton, Broadus; Ben Berg, Bozeman; Jean Bowman, Billings; Rod Hanson, Fairfield; and Magon Melvin, Bozeman.

Those favoring most of the present article are Holland, the Eskildsen of Malta and John Schiltz of Billings. Cedor Arroyo Shelby was not present for the poll.

Only Mrs. Pamba indicated support of the plan in its entirety. She is a member of the Citizens Conference and helped develop the plan. A

For discipline and removal of judges, only one favors retention of impeachment and six favor stronger supervision of the judiciary with a disciplinary commission or disciplinary court.

Seven favor a centralized administration of the state court system vested in the Supreme

Court, five favor retaining constitutional officers; two favor deleting the county attorneys' office from the constitution.

Nine favor granting the Supreme Court the power to make rules in all civil and criminal cases relating to practice, procedure, pleading, evidence, and judicial

administration as proposed in the Montana Plan, but five favor granting the Supreme Court rule-making power subject to legislative approval and four favor leaving the rule-making power in the legislature.

Four members favor granting the Supreme Court power to redistrict and assign judges as proposed by the Montana Plan.

breakdown of other poll findings shows only two members, Eskildsen and Schiltz, favor the present judicial article with archaic language eliminated, three favor an appointive Supreme Court, four an elected Supreme Court, three favor appointive district court judges, and two favor elected district court judges.

'Courthouse Gang' Rips Proposal Elimination

Tribune Capitol Bureau

HELENA — County officials, labeled the "courthouse gang" several Constitutional Convention delegates, Wednesday ganged up on a proposal they regard as a threat to their jobs.

The proposal, made Tuesday by the Montana Association of County Commissioners, would not list any county officials in the constitution. The present constitution provides for not only county commissioners, but for other elected officials — a sheriff, assessor, treasurer, county attorney, clerk and recorder, clerk of court, county school superintendent, surveyor, coroner and public administrator.

Opal Eggert, a lobbyist for elected county officials other than county commissioners, told the convention's local government committee Wednesday that "eliminating the right of the citizen to elect his or her local government officials is taking government officials out of their local rights in having a say in local government."

Mrs. Eggert attacked proposals by delegate Katie Payne, R-Missoula, which would repeal the section providing for the election of the long list of county officials and create a charter form of county government.

Mrs. Eggert said that "the counties now have the right to change their form of government in the present constitution. What better, more flexible plan could be devised?"

Mrs. Eggert urged deletion of the present constitutional provision against a county treasurer serving more than one consecutive term, saying he is "one

of many local government officials handling money, but is the only one restricted to one term."

Cascade County Treasurer George L. Schroeder, told the committee he was "proud of the record I made in Cascade County to get the number of votes I received in the last election."

Mrs. Payne told Schroeder that her proposals did not remove statutory provisions now on the books for the listed county officials.

Delegate Virginia Blend, D-Great Falls, asked Schroeder if county treasurers should be required to be certified public accountants.

"No," he replied, explaining "where would the smaller counties get someone who would work for the meager salary he would get as a CPA."

Three county school superintendents, Robert F. Herrig of Lincoln County, Margaret Brown of Gallatin and Harry Aximann addressed both the local government and education committees.

"Our state must not eliminate the right of the people to speak through balloting. An elected official is answerable to the people," Mrs. Brown said. Herrig described himself as an "ombudsman" serving as a bridge between sometimes disagreeing education factions.

Control over county education should be vested locally, he said, instead of in a "topheavy bureaucracy at the capitol far removed from the local area."

Herrig deplored the assumption of many powers by school districts which should be vested in the county superintendents.

Gambling 'Would Save Butte'

INDEPENDENT RECORD
State Bureau

A Silver Bow County commissioner Tuesday appealed for constitutional help in getting a local option to license gambling, a move he said could "save Butte."

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Nevada."

Holman was directed to the convention's General Government Committee, which is studying gambling, but not before, the delegates heard his plea.

"We have had gambling there (in Butte) for years," he said: "If we licensed gambling, it would mean quite a saving to Butte."

"I think it would save Butte, Montana," he said. "The way it is now, we are sort of in dire

circumstances. We've got to do something in Butte or we'll be bankrupt."

Con Con Commission Useful, Impartial, Economical, Chairman Tells Rotary

Alex Blewett, chairman of the Montana Constitutional Convention Commission, stressed the political impartiality and diversity of occupations of commission members Wednesday at the Great Falls Rotary Club meeting.

"For all intents and purposes, the commission becomes nonexistent Feb. 1 when we are required by law to report to the convention," said Blewett. "Technically, we are required to report earlier and this we have done in the form of about 15 reports."

Blewett said some commissions have been appointed entirely by the governor, some have consisted of only university professors and some have been a combination of appointments by various public bodies.

"Our legislature decided on a commission consisting of 15 members, consisting of four appointees by the governor, the Supreme Court and the state Senate and House of Representatives," Blewett said. "Our commission includes nine attorneys, businessmen, educators

and those with agricultural interests."

The commission leader said their work was divided into eight parts, including the bill of rights, suffrage and election, legislature, executive, judiciary, taxes and finance, local government and education.

"For each of these we had the assistance of staff researchers, some of whom were legally trained but most of whom were students of political science and history," Blewett added.

Stating that by statutory mandate the commission was limited to providing only statistics and facts, Blewett reported members drew on changes proposed in various constitutional conventions around the country in the last 30-40 years.

Results of the commission's work conducted from April to December last year was compiled in booklets and distributed to convention delegates and all commission members so that they have a ready resource for general constitutional information as well as methods used by other states in specialized areas.

He cited the Alaskan constitution as the best model. The

Hawaiian constitution, being one of the last ones drafted, received much study.

They followed Illinois' plan for rules and regulations and Idaho's document because of the proximity of the state and similar

to determine meanings in the national document."

Blewett warned that even if Con Con comes up with a constitution acceptable to the public, it still must be accepted by the courts.

Reporting that the commission is returning some of the \$125,451 appropriated for it; the commission has saved Con Con a considerable sum of money.

The speaker said commission members would not participate

in Con Con because he felt the impact of the commission will be found in the written reports they have submitted. However, commission members may be called upon for further service in a single instance.

Montana's Citizens Continue Barrage of Constitutional Suggestions

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — Citizen suggestions continue to flow into the Constitutional Convention on subjects ranging from rights of felons to property rights of the elderly.

George Cuff, assistant director of the Board of Pardons, urges a relaxation of "archaic" laws that are hampering Montana's correctional processes. He says, "arbitrarily and capriciously imposed conditions and disabilities must be replaced by procedural processes that cause a convicted person to lose only those rights and privileges that are related to his particular criminal offense to the extent that his exercise of a function would pose a threat to society."

Cuff says Montana's law enforcement, judicial and corrections system is geared to not only protecting the citizenry, but to restrain the attitudes of offenders to make them more acceptable for eventual return to society as productive citizens. "However," he says, "archaic laws and statutes still on the books have not kept pace with Montana's correctional processes and are the crux of many perplexing questions facing the Board of Pardons. People almost stripped of their rights of citizenship for having been convicted of criminal felony acts are asking, 'what good is it for

me to be a good citizen when society will not treat me like one?'"

He notes that the board recently adopted automatic civil

rights restoration procedures granted upon final discharge under the signatures of the governor and board officials. But he says many gray areas remain "that shade or cloud clarity concerning constitutional and civil rights of convicted felons and need clear definition so still more progress can be made."

John Savage of Great Falls suggests adoption of a community property arrangement so the survivor of a "married partnership" doesn't have to go into probate court in order to be declared sole owner of assets that were owned in joint tenancy.

"Many couples work hard during their active years so that they can live independently in their old age and not be a burden on anyone, not even public welfare," he says. "Why should our law force such people into the costs of probate court as well as large attorney fees?"

Samuel Voll of Great Falls is concerned with property rights of the elderly and retarded, who he says many times are persuaded to sign over their property and then placed in a convalescent home at taxpayers' expense while

their savings while giving no aid or comfort." Voll suggests a legal contract supervised by a responsible public official in behalf of the patient and perhaps a trust fund payable to the patient.

M. Cornelius of Helena urges more controls on government spending which he says is often wasteful. "I'm hoping and he-

lieve that our new constitution can find an answer to this leak in the dike," he says. Not content with prose, Cornelius offers some original poetry to convention president Leo Graybill, saying it "might act as a spur to any or all of your members who might need a reminder." Here's the first stanza:

The Ship of State so often falls,

When wasteful spending powers its sails.

It takes more than captains and crew—

The ship must be sound its job to do.

Maro Palmer of Billings also waxed poetic at the conclusion of a lengthy denunciation of allegedly secret court rules promulgated by the Supreme Court.

The commission on proce-

ture won't sell,

The newspapers are afraid to tell,

While their powers continue to swell,

The attorneys chuckle, and remain as grateful as hell.

The northern Cheyenne Tribal Council suggests the convention provide for an Indian advisory

committee to confer with and advise the delegates. The council recommends at least one member be named from each of the tribes in Montana.

The lion's share of suggestions (nearly half) continues to be from county officials concerned about keeping mention of their offices in the constitution.

State Chief Justice Supports Montana Plan

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — The chief justice of the Montana Supreme Court told a Constitutional Convention committee Wednesday that the Montana Plan "is the best that can be worked out."

Chief Justice James T. Harrison Sr. testified in favor of the plan, which would overhaul the state's judiciary system, before the Judiciary Committee.

The four associate justices on the Supreme Court also back the plan, he said. It would provide for appointed rather than elected judges and replaces justices of the peace with legally trained magistrates where possible.

Harrison told committee members that some district judges objected to portions of the plan, especially the section that would allow a court administrator to be hired to coordinate the courts.

The position of administrator was "very controversial," Harrison said. Under the plan, the chief justice can hire an administrator, but the section does not require an administrator.

Harrison said an administrator is not needed now but may be necessary in the future.

Another controversial section allows the Supreme Court to promulgate rules of evidence.

"This is what court reform has been doing steadily all over the nation," Harrison said. "All this does is make for a strong judiciary."

The chief justice did suggest one change in the plan and urged that associate justices be called simply justices.

Harrison also supported appointing clerks of court on both the state and district level. They presently are elected.

"The office is merely a book-keeping office," he said. "Every law office hires its own bookkeeper and own secretaries."

The chief justice said his remarks should not be interpreted as critical of Supreme Court Clerk Thomas J. Kearney.

"We've had an excellent relationship with him," Harrison said, adding he did not foresee replacing him if the plan passes.

In some district courts, however, clerks have created problems for judges, he said.

Harrison hardly touched on the controversial JP question. He said only that the chief justice would have to approve magistrates appointed by district court judges.

Under the Montana Plan, a special committee could investigate charges made against judges and recommend that senile judges retire.

In California, no hearings ever have been conducted over a judge's integrity, Harrison said. Instead, the judges resigned before a probe.

The hearings also give judges a chance to answer unwarranted charges, according to the chief justice.

"I've had letters written about me telling what, in the language of the street, an SOB I am," Harrison said. It is difficult for a judge to respond to these charges, he said.

The plan also provides that an incumbent judge would run against his record instead of an opponent.

Harrison said he hoped members of the bar would feel obligated to help the public determine whether a judge ought to be retained.

Critics of the present system point out that once a judge reaches the bench, he is there for life. It is difficult to defeat an incumbent, they say, and most usually run unopposed.

Harrison was asked by delegate Leslie "Joe" Eskildsen, D-Malta, for his opinion on a system that would allow the governor or chief justice to fill vacancies. Under the plan, no judge who was appointed could run for election.

"I don't think you could get anyone to take it if he couldn't run again," Harrison said. "You might get elderly lawyers who would serve for 1 1/2 years. All that does is give a weak aster for the time he was in."

Eskildsen said he believed all attorneys aspired to serve on the supreme court some day.

Education Board Leans Toward Appointed State Superintendent

By JOHN KUGLIN

Tribune Capitol Bureau

HELENA — The Montana Education Association and State Board of Education member Harriet Meloy Wednesday said they would support a constitutional change to provide for an appointed state superintendent of public instruction.

However, they said they would only support a change from the present constitutional elective status of the job if the entire Board of Education is elected by the voters.

And, Mrs. Meloy, Helena, said that Gov. Forrest H. Anderson, Atty. Gen. Robert Woodahl and Public Instruction Supt. Dolores Colburg would probably rather not continue as ex-officio members of the Board of Education. Mrs. Meloy, who testified before the Constitutional convention's Education Committee, said she had not discussed the issue with the three elected officials.

In addition to the three ex-officio Board of Education members, eight members are appointed by the governor.

Mrs. Meloy said that the present system under which the state superintendent acts as the executive officer of the Board of Education has operated

smoothly. However, Mrs. Meloy said she could foresee a situation where the state superintendent, as an elected official, might allow concern for being re-elected influence an education issue under consideration by the board.

Mrs. Meloy stressed that she had not yet decided whether the state superintendent should be elected or appointed, "but I'm leaning toward an elected superintendent."

Lloyd Markell, a lobbyist for the Montana Education Association, said the MEA recommends that if present constitutional provisions for an appointed Board of Education are retained that the present provisions for election of the state public instruction superintendent should also be retained. If the constitution is changed to provide for an elected Board of Education, he said, "an appointed superintendent of public instruction would be appropriate."

Markell warned that appointing the state superintendent would not remove the job from partisan politics. The appointed superintendent would still be obligated to the person who appointed him, Markell said.

The MEA and Clarice Beck, representing the American Association of University Women, supported changing present references in the constitution that define students as persons between six and 21-year-olds.

The change would permit use of state money to fund public kindergarten programs.

The MEA also opposes establishing two boards to control education. "The left hand must know what the right one is doing," Markell said.

Harry L. Artmann, Wolf Point, Roosevelt County schools superintendent, said that the County Superintendent of Schools Association strongly recommends that the state public instruction superintendent's job be retained as an elected office.

"We believe that an appointed official would have to be politically subservient to the appointee only. As an elected official he has to account for his actions to the citizens which elected him," Artmann said.

Artmann, in later testimony before the Convention's Local Falls, representing the Montana Government Committee, attacked the State Board of Education. "I don't know who they are. They're a vague figment of our imagination as far as we're concerned."

said. Artmann said that the board spent 95 per cent of its time on higher education matters.

Artmann urged creation of one Board of Education for colleges and universities and another for elementary and secondary schools. "The present board does not or will not allow their meetings to dwell on the problems in our elementary and secondary schools." In the past year, Artmann said, there have been only two directives from the state Board of Education concerning "lower" education.

Artmann urged giving county school superintendents constitutional authority to manage the financial and supervisory aspects of all schools in the county, whether rural or city. County superintendents should control and process all state and federal programs to give district superintendents more time to work on local school problems, he said.

"Let's not centralize all the power in Helena," he said.

Mrs. Keith Vance, Great Falls, representing the Montana Congress of PTA's, said the organization opposed public aid to private schools. She said the PTA opposition was not based on constitutional grounds, but on the need for a strong public school system.

Press Association Tells Convention of Stand

HELENA (AP) — Questions involving open meetings arose Tuesday at a Bill of Rights Committee hearing.

Robert E. Miller of the Montana Press Association told committee members his group was not pushing for a provision that would outlaw secret meetings even though it supported one.

And Helena publisher George Remington, chairman of the group's freedom of information committee said: "We don't want to lobby for it."

Remington said a right-to-know provision probably was unnecessary because recent U.S. Supreme Court decisions, particularly the 1971 Pentagon papers case.

After the hearing, Remington said: "We're satisfied with the present constitutional wording or even better, the wording in the First Amendment to the U.S. Constitution."

Miller said if an open-meeting provision were included, it should specifically say that meetings are open to the "public at large."

Anderson Proposes Income Tax Change

By J. D. HOLMES
AP Capital Writer

HELENA (AP) — A committee of Montana's Constitutional Convention was asked Wednesday to continue to allow the state income tax but prohibit, as Illinois and Michigan now do, the present system of graduated or progressive rates.

Making the recommendation to the Revenue and Finance Committee was S. Keith Anderson, executive vice president of the private Montana Taxpayers Association.

"The state's graduated income tax is especially burdensome when added to the

have in Montana, when coupled with the federal rates, erodes rather than protects family income."

He said it can be assumed that was part of the reason why Illinois and Michigan recently prohibited a graduated tax.

On Tuesday, the committee heard Dr. William Diehl of the University of Montana discuss public school financing.

He contended the decision of the California Supreme Court "clearly doesn't apply to Montana" because of its equalized system of financing rich and poor districts with a county-wide mill levy."

MBA President Supports Montana Plan

HELENA (AP) — A judicial reform plan proposed by the Citizens for Court Improvement has received the backing of the president of the Montana Bar Association.

Testifying at a Constitutional Convention committee hearing, Bill Bellingham of Billings said the so-called Montana Plan should go to the voters for their approval, rather than being stopped by "a few defenders of the faith who claim to represent the voters."

One of the plan's features is appointment of judges by the governor from a slate of nominations drawn up by a council of judges, lawyers and laymen. Bellingham suggested it is "sheer inconsistency" for opponents of appointment to say judges should be elected by a vote of the people "and then fight efforts to put the Montana Plan before the people."

He said the objection that appointment would take judicial selection away from the people is an argument based on emotionalism, adding that people today have little to say about the selection of judges anyway.

Government Controversy Evaporates

Missoulian State Bureau

HELENA — Two delegates with differing attitudes about local government have found that they aren't far apart on principles.

Delegates E. S. "Erv" Gysler of Fort Benton and Franklin Arness of Libby told the Missoulian State Bureau that a communications gap over a proposal by Arness nearly put the two on a confrontation course.

Arness has introduced a proposal which would make districts the basic unit of local government in Montana, although the people could retain present city and county boundaries if they wished.

The proposal apparently created shock waves in Eastern Montana, and Gysler, believing that counties could be abolished without vote of the people, started circulating a petition asking the Local Government Committee not to change the constitutional provision which requires a majority vote to consolidate.

Arness, a Libby attorney, explained that while his plan would arbitrarily make each county a district in 1980, the purpose of the time limit is to get the local residents to decide for themselves what kind of government and subdivisions they want.

Convention Gets Proposals

HELENA (AP) — A proposal that would establish a unicameral legislature of 75 to 100 members was introduced Tuesday at the Montana Constitutional Convention.

It bore 39 signatures in addition to that of its principal sponsor, Arlyne E. Reichert, D-Great Falls.

The proposal also calls for single-member districts and annual sessions, but Mrs. Reichert pointed out that signers did not necessarily agree with these provisions. All favor the concept of unicameralism, she said.

A proposal introduced by Virginia H. Blend, D-Great Falls, would forbid earmarking of state funds unless required for state participation in federal programs. Another proposal submitted by Mrs. Blend would prohibit real or personal property taxes from being used to finance public welfare.

A plan introduced by Don E. Belcher, D-Roundup, would clear the way for legalized gambling. It would remove the present constitutional ban.

However, gambling would continue to be outlawed unless the legislature approved for people supporting it through initiative or referendum.

Lyman W. Choate, R-Miles City, sponsored a proposal that would simply remove the constitutional language outlawing lotteries.

Indigents would be guaranteed right to counsel under a plan introduced by Jerome J. Cate, D-Billings, and others.

A proposal sponsored by Arnold W. Jacobsen, R-Whitefish, would allow board of county commissioners to expand up to seven members, who would be elected from single-member districts.

Former legislator Miles Romney, D-Hamilton, called for the legislature to convene the first Monday in February instead of the first Monday in January.

Charles H. Mahoney, I-Clancy, introduced a measure that would require a majority rather than two-thirds of the legislators to approve a constitutional amendment, increase the number of amendments that could be submitted to voters from three to six and set guidelines for citizens proposing amendments by initiative.

highly progressive federal income tax," Anderson told the nine-member committee headed by Sterling Hygg, R-Kalispell.

Anderson also suggested removing the present earmarking of personal income taxes and corporation license taxes for the public schools.

"The legislature would then appropriate from the general fund to the public schools on a firm dollar figure," the Montana official went on. "This would place Montana public school funding on a sound accounting and budgetary basis."

He told the committee the state collected \$42.3 million in personal income taxes in fiscal 1971-72, with \$10.6 million going to the school equalization fund. Schools also got 25 per cent of the \$9.6 million collected from corporation license taxes.

Anderson said many persons consider "the highly progressive federal income tax is in itself a deterrent to personal incentive. It penalizes success and in the business world reduces the availability of business capital."

"One of the objectives of a sound tax system is to shield basic family income," he said. "The excessively progressive state income tax, such as we

Judicial Plans Die

BISMARCK, N.D. (AP) — Three recommendations to the North Dakota Constitutional Convention that District Court judges and Supreme Court justices be selected by merit rather than elected at random were defeated Tuesday.

The recommendations came by way of proposed amendments to a report that the Judicial Functions Committee of the convention. They ranged from appointment of judges and justices to two compromise versions that would have required election, but only after appointment by a select committee and the governor.

The delegates first rejected a minority report from three of the 15 Judicial Functions Committee members. That proposal called for the governor to appoint a selections committee which would submit the names of three persons from which the governor would choose one to fill a vacancy.

After that was defeated 59-44, delegate S. F. Hoffner, Esmond, offered an amendment that provided for a selection committee to offer three candidates to the governor, who would nominate one.

'Right to Know' vs. Privacy at Issue

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Members of the Bill of Rights Committee of the Constitutional Convention tried to determine Thursday where the public's right to know ends and an individual's right to privacy begins.

Helping provoke the discussion was testimony by Daniel J. Foley, chief of the Lee Newspapers' State Bureau in Helena.

He was requested to appear before the committee and explain the pending lawsuit the *Billings Gazette* has filed

against the State Industrial Accident Board. The suit seeks access to IAB files.

"Both the open meetings and open records law are admirable in their intent but unsatisfactory in their execution," Foley said.

"Neither has the teeth to enforce the law," Foley said, adding that newspapers had certain advantages over citizens.

Reporters can write a story when kicked out of meetings illegally and the newspapers can sue, but the average citizen has neither of these safeguards, Foley said.

"There is a constant conflict between nosy reporters and bureaucratic bunglers," Foley said. "Unfortunately the secrecy keepers are winning far too often."

Foley said a right-to-know provision in the Constitution might buttress the position of those advocating an "open accountable and responsive government."

At the same time, Foley said, he is also concerned over the right to privacy, especially in an era when bugging, wiretapping, military spying and computer banks are being used.

He anticipated no problems regarding the lawyer-client relationship but said the doctor-patient relationship posed "a little tougher problem."

It seems to me that a claimant is waiving that doctor-patient right by presenting into evidence a doctor's statement

about the nature of his injury," Foley said. "the board's meetings are presumably open and these matters are discussed at that time."

Committee members also expressed concern over rights of privacy but they and Foley generally approved of a proposal Delegate Dorothy Eck, D-Bozeman, plans to introduce Friday. It says:

"No person shall be deprived of the right to examine documents or to observe the actions and deliberations of all public officials or agencies of state government and its subdivisions, except in the cases in which the demand for individual privacy exceeds the merits of public disclosure."

Asked how Mrs. Eck's proposal would be implemented if adopted, committee chairman Wade J. Dahood, R-Anaconda, said: "We all know freedom of speech (and press) doesn't mean we can say whatever we want whenever we want. The

classic example is yelling 'Fire' in a crowded theater. All liberty has restrictions.

Dahood said he believes a right-to-know provision is necessary in the Bill of Rights to make government responsible to the will of the people.

Prof Urges Religious Latitude

Tribune Capitol Bureau

HELENA — College of Great Falls history instructor Francis Raucci wants the adoption of the U.S. Constitution's religious language in a revised Montana constitution to provide latitude for growth.

The same thing has been proposed by the Montana Catholic Conference.

Raucci said an analysis of the history of the first amendment indicates a "wall of separation to protect the church, not a sword of division."

Raucci, also a lawyer, said retention of present language in the Montana Constitution "would prevent use of the federal body of law that takes into consideration growth in the other 49 states."

School teacher Chet Blaylock of Laurel told Raucci the reason Montana's founding fathers put in the constitution a prohibition against state aid to private education is because they didn't ever want it.

Raucci replied, "I don't know to what extent we are continually bound by our ancestors." He it was not right to lock the prohibition into the constitution in case the people want it someday.

He said he sensed in the history of Montana a Jacksonian Democracy of fear to cede powers to the legislature. "If that still prevails," he said, "then we should retain the sections."

State Land Income Must Continue To Aid Schools, Says Mrs. Colburg

Tribune Capitol Bureau

HELENA — State Public Instruction Supt. Dolores Colburg Thursday urged two Constitutional Convention committees not to tamper with present provisions which insure that income from state lands goes to support public schools.

The state's chief school officer told a joint meeting of the convention's Education-Public Lands Committee and Natural Resources-Agriculture Committee that Articles 11 and 17 of the Constitution, as they relate to school trust lands, "have stood the test of time remarkably well."

She said that about \$7 million dollars during the current fiscal year, derived from interest and income from school lands provides approximately 15 per cent of the available state support for schools.

Mrs. Colburg said it would not serve the public interest to eliminate the constitutional provision that provides for a State Land Board.

The board, composed of the governor, superintendent of public instruction, secretary of state and attorney general are given the power in the present constitution to direct, control, lease and sell state school lands.

Because of the responsibility vested in the board all of its members should be directly

elected by the people, she said. Mrs. Colburg said that the public instruction superintendent should continue as a member of the land board as the "only tie between the management of school lands and the use of monies derived from these lands for the state schools."

Mrs. Colburg said that the convention might consider providing constitutional provision for the use of some funds derived from school lands being used for their development. Also possible, she said, would be a provision to guarantee public access to the lands, under conditions to protect both the interests of the state and of the leasees.

Fred Johnston, Great Falls, was highly critical of opening school lands to public recreation.

Johnston, an attorney who leases some state school land for a ranching operation, accused recreationists of cutting fences, leaving gates open, scattering livestock with motor bikes, destroying buildings and shooting at water tanks.

"You have no idea the crazy things people can do when they get out in the country," he said. Johnston said the recreation problem was getting "worse and worse" if there is public access to

state leased land, he said, the leasee's rights must be protected.

Johnston said that some weight should be given to the fact that the leasee has paid something for his rights.

Natural Resources Committee chairman Louise Cross wondered about persons who pay the state for hunting or fishing licenses.

Johnston replied that license holders do not have special access right to land.

State Lands Commissioner Ted Schwinden said that Montana still retains 5.1 million acres of the original 5.8 million acres the federal government granted at the time of statehood.

The convention does not have the right to change some of the conditions on the use of state lands which were imposed at the time of statehood, he said.

Schwinden defended the action of the legislature in allowing 2 1/2 per cent of rentals from state lands to be used to preserve the lands and to increase the income-producing base.

"I can't stress strongly enough the importance of putting money back into the trust," he said.

Despite the fact that leasees post state land, Schwinden said that a recent survey in the Yellowstone drainage showed that many recreationists are using the lands, anyway.

Keep religious freedom, pastor tells ConCon

HELENA (AP) — A Seventh-day Adventist pastor recommended Thursday that Constitutional Convention delegates retain the existing section on religious freedom in the Constitution.

Pastor Norman D. Ostrander, Helena, told delegates at a Bill of Rights Committee hearing that the federal provision in the First Amendment was too broad.

"The Montana Constitution is very concise," he said. Ostrander urged the committee to retain the wall separating church and state.

"The Chinese built a wall that had the appearance of being impregnable," he said. "But it was breeched three times when gate keepers were bribed."

He said he hoped future historians would not look back and see the "wall" between church and state in Montana crossed after the Constitutional Convention.

Ostrander said his religion opposed any aid to private schools, including hot-lunch programs and transportation.

"You cannot aid a student in a parochial or private school without eventually aiding that church," he said. He said the Seventh-day Adventists which operate one high school and 10-12 grade schools around the state furnished their own transportation for students.

"If you want your child to go to a school run by a church, then you're going to have to pay the bill," he said.

While he favored retaining the present constitutional provision regarding religious freedom, Ostrander said he would have no objection to leaving out

references to polygamy, provided it was covered in statutory law.

Delegate Chet Blaylock, D-Laurel, said he regarded the reference to polygamy as "religious bigotry against Mormons on the part of our forefathers."

However, Ostrander favored retaining references against licentiousness. "I see a danger in losing all morality," he said. "Our forefathers put it in to keep the human standard high and in many areas today we've gone way beyond animalistic impulses."

Ostrander said members of his religion had taken no stand on whether reference to God should be made in the preamble to the Constitution. Speaking for himself, Ostrander said he had no objection to leaving out any reference of the Deity because he did not regard it as a necessary part of a civil constitution.

Questioned by committee members about exemption of religious property from taxation, the pastor said he believed houses of worship should continue to be exempt.

Constitution Saves On Wives

HELENA (AP) — A man can't expect to have more than one wife these days, a Constitutional Convention delegate quipped.

The question of polygamy arose during a Con Con committee hearing on religious freedom. The present Montana Constitution outlaws polygamy, but some believe the reference was the result of anti-Mormonism of the signers of the document.

Delegate George James, D-Libby, asked Pastor Norman D. Ostrander of the Seventh-day Adventist Church in Helena, about whether his group would favor removing the reference to polygamy.

Ostrander said: "Let me ask you, Mr. James, do you believe in polygamy personally?"

Replied James: "No I don't. Who can afford it these days?"

Don't legalize gambling

It's regrettable that some Montanans are thinking of ways to legalize gambling at the Constitutional Convention.

Gambling advocates point out the state needs money so desperately that legalized gambling may be the answer. They say legalized gambling would stimulate business by attracting visitors from other states. They contend legalized gambling wouldn't hurt anyone.

They are wrong. Legalized gambling would hurt many, including low-income families who need money the most. Montana had unhappy experiences with legalized gambling in the years following World War II when the so-called social clubs sprang up like mushrooms in every community of the state. It

wasn't the out-of-staters who lost the money at the slot machines, 21 tables and other gambling devices in the clubs; it was Montana housewives, business and professional men and the ordinary wage-earners.

Neighborhood grocery stores found that wage-earners tended to let their bills pile up, hoping to make a killing at the gambling places. Ministers said gambling was a key reason for many marriage problems. Law enforcement officials noted gambling attracted certain types of criminals.

Yes Montana needs more revenue. But, it doesn't need it badly enough to risk more crime and other ugly side effects that go hand in hand with gambling.

Gas tax debated

By J. D. HOLMES

HELENA (AP) — Top state revenue officials advocated removal of Montana's 15-year-old antidiversion amendment, which earmarks gasoline taxes for highway purposes, but an array of citizen groups argued Thursday it should be retained in the proposed new constitution.

Opposing continuation of the antidiversion amendment, which was enacted by the legislature in 1956 and approved by the public in November 1958, were State Revenue Director Keith Colbo and all three members of the Board of Equalization.

Among those contending that the antidiversion language be retained by the Constitutional Convention delegates was George Schotte who, as a state senator from Butte, headed the legislative interim committee that helped push the amendment through the 1955 assembly.

"The amendment is relatively new compared to the 63-year-old constitution," he told the nine-member Revenue and Finance Committee.

Schotte, who testified on behalf of the Montana Automobile Association, was chairman of five different highway interim committees under three governors before he resigned from the Montana Senate to accept a federal position in Helena.

"You will pay for good highways whether you have them or not," he said, meaning the state gasoline tax—now seven cents a gallon—will go on and probably be increased but without protective language in the constitution the money could be diverted away from road uses.

"There's no way to build Montana without a good system of highways," said Schotte, a former auto dealer, to the Con-Con committee headed by Sterling Rygg, a Kallispell auto dealer.

In stressing the importance of safeguarding gas-tax money to match federal funds, he said that in one recent fiscal year highway users paid \$20 million in gas taxes and got \$33 million in return from Washington, D. C.

In recommending removal of the antidiversion language, Colbo made it plain that neither he nor the board members who head the Department of Revenue are judging the wisdom of earmarking funds for specific purposes.

He argued, however, that elimination of the amendment "would allow the legislature to review earmarked revenue for highway uses and determine whether or not this is the best use of state money."

Statewide Welfare Levy Asked

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — Cascade County commissioners Ed Shubat and Milo Dean laid their welfare woes at the feet of the Constitutional Convention Thursday. And they offered an amendment that would take the poor fund burden off the counties and place it squarely on the shoulders of the state.

Shubat told the Public Health, Welfare, and Labor Committee that while Cascade County pays \$1.3 million to aid the indigent each year, the state and federal governments actually call the shots.

Shubat outlined a number of reasons why Cascade County's welfare burden is worse than nearly all other counties, including costs of medical and hospital care, employment offices and a large number of non-treaty Indians. In addition, he said, "during the peak employment season, ranch and farm workers use Cascade County as their base of operations, while working in the neighboring counties. Then they return during the period of unemployment and become a direct charge to Cascade County's welfare assistance program."

When Shubat acknowledged that he was in effect asking for a statewide poor fund levy, Charlie Mahoney of Clancy noted that only two other counties levy the maximum of 17 mills and a statewide levy would require all the other counties to come up in order that three might come down. (Although it's usually just three counties — Cascade, Silver Bow, and Mineral — Deer Lodge recently

joined the ranks because of the copper strike).

Ted Carkulis, state welfare director, offered a proposed amendment that would give the legislature the duty of establishing welfare programs for the indigent as it saw fit. He said the source of funding should be as flexible as possible and left to the legislature because of changing federal programs and requirements. "Some programs may be local," he said. "The state may not wish to fund Cascade County's convalescent hospital when all counties don't have one."

Referring to Shubat's statewide levy hopes, William Swanberg of Great Falls asked, "Do you think legislators from 56 counties would be likely to pass legislation that would benefit only two or three counties?"

Carkulis replied that he thought legislation could be written to benefit all counties in relation to federal programs.

The committee spent some time discussing ways of getting at the roots of welfare problems without coming to any conclusions.

Carkulis said the greatest problem in Montana is aid to dependent children (ADC) and that it would remain unsolved until someone comes up with an answer to the basic problem of family breakup and unwed parenthood.

Swanberg, an attorney, said divorce is one of the easiest things to get and "many of us

are amazed that such shabby excuses as arguments and quarrels are used for family breakup."

He asked Carkulis, "what about the professional welfare recipient?" Carkulis replied that a long-term recipient could possibly be termed a professional, but that in the ADC category the average stay is only two years. "It's not the turnover that bothers us," he said, "but the number coming to the door." That number amounts to over 400 applications every month, he said, and three-fourths are due to family breakup.

Joseph McCarvel of Anaconda said he thinks a responsibility goes with every right and that

people who get divorces should "take care of what they leave behind." But Carkulis suggested that stricter divorce laws might lead to more separations, which he termed the poor man's divorce.

There was also some discussion about putting welfare recipients to work.

It was brought out that most welfare recipients eligible to take a job would be in the county-funded indigent category, since most federally assisted categories are children, elderly, blind and disabled and mothers with children.

Swanberg expressed amazement at low salaries of state social workers (\$575 per month to start) and asked, "are any of

them on welfare?" Carkulis said, "Technically, some could be. But we discourage it because of public relations."

Ideas voiced on public lands

By DENNIS E. CURRAN
Gazette State Bureau

HELENA — State Supt. of Public Instruction Dolores Colburg Thursday recommended that the constitution continue to protect public lands for the support of public schools.

"These provisions have withstood the test of time, so well, in fact, that any proposed changes are minor," Mrs. Colburg said during testimony before a joint hearing of the convention Natural Resources and Education committees.

Testimony during the hearing generally supported keeping the present provisions dealing with public lands granted to the state for support of schools. Environmental issues also were raised, though not to the extent some had foreseen.

WHEN IT BECAME a state, Montana received federal land grants of two square miles in each 36-square mile township—a total of 5.8 million acres. The interest and income from the lands goes into a permanent school fund to support public education.

Mrs. Colburg noted that the state still has 87 per cent of the land granted and more than \$53 million in the school fund.

"In contrast, many states have disposed of lands granted to them," and don't even have the money left, she said.

Although the use of the public lands for schools is guaranteed in the federal act which enabled Montana to become a state, Mrs. Colburg warned that the constitution should still contain the guarantee because the federal act could be altered.

The state superintendent also recommended that the State Board of Land Commissioners be retained in the constitution as the manager of the school lands and that the state superintendent remain on the board.

THE CONSTITUTION now provides that 95 per cent of the yearly interest and income from the school lands be distributed to schools with the remaining five per cent going into the fund. Mrs. Colburg recommended continuation of the 95-5 formula but said the method of distribution might be altered.

State Land Commissioner Ted Schwinden also defended the provisions, though he acknowledged that some, like the land classification system, could be in the lawbooks instead of the constitution.

Favor two-house

People paying their income tax this winter and spring may be thankful we had a two-house legislature last year. A bill lowering your state income tax exemption from \$600 per person to \$10 passed the lower House but was killed in the Senate. Imagine if you had now to pay state income tax on all but \$10 of your income or if you had a family of 4 on all over \$40.

I know a good many very sincere people are advocating a unicameral legislature and on one point we all agree—the legislature should be smaller. But a single house destroys the checks and balances and makes it possi-

ble for any pressure group to push through laws, as in the case of that income tax, without much consideration.

If the system were so successful why in all these years has Nebraska been the only state to adopt it?

That a single house is easier to manipulate is shown by the news last week that President Allende, Marxist president of Chile, is seeking a one-house legislature.

I don't know why Jess Unruh of California has some here to try to set our Con Con delegates to adopt a unicameral legisla-

ture. From reading the news, I would think California politicians might concentrate on affairs at home, where the legislature meets practically all the time, a system some people want for our state.

Anyhow I do hope our Con Con delegates will consider carefully before they give a simple majority of one house the power not just to tax but to regulate our businesses large and small, labor unions, schools, road building, health services, and all the things with which government is concerned.

Mary S. Carroll
Great Falls

However, the other viewpoint was voiced by Fed Johnson, a Great Falls lawyer whose family leases school lands near Augusta and Great Falls. Johnson stressed that those who lease the lands should have rights, too.

"The recreationist is getting something for nothing because these lands were not given to the public as a whole," he said. "Because of various incidents of abuse, these lands are being closed."

Should Con Con Insist on Road Building?

Argument Erupts Over State Gas Tax Status

By J. D. HOLMES

AP Capitol Writer

HELENA (AP) — Top state revenue officials advocated removal of Montana's 15-year-old antidiversion amendment which earmarks gasoline taxes for highway purposes, but an array of citizen groups argued Thursday it should be retained in the proposed new constitution.

Opposing continuation of the antidiversion amendment, which

was enacted by the legislature in 1955 and approved by the public in November 1956, were State Revenue Director Keith Colbo and all three members of the Board of Equalization.

Among those contending that the antidiversion language be retained by the Constitutional Convention delegates was George Schotte who, as a state senator from Butte, headed the legislative interim committee that helped push the amendment through the 1955 assembly.

"The amendment is relatively new compared to the 83-year-old constitution," he told the nine-member Revenue and Finance Committee.

Schotte, who testified on behalf of the Montana Automobile Association, was chairman of five different highway interim committees under three governors before he resigned from the Montana Senate to accept a federal position in Helena.

"There's no way to build Montana without a good system of highways," said Schotte, a former auto dealer, to the Con-Con committee headed by Sterling Rygg, a Kallispell auto dealer.

In stressing the importance of safeguarding gas-tax money to match federal funds, he said that in one recent fiscal year highway users paid \$20 million in gas taxes and got \$93 million in return from Washington, D.C.

In recommending removal of the antidiversion language, Colbo made it plain that neither he nor the board members who head the Department of Revenue are judging the wisdom of earmarking funds for specific purposes.

He argued, however, that elimination of the amendment "would allow the legislature to review earmarked revenue for highway uses and determine whether or not this is the best use of state money.

At one point, Schotte told the committee members that, "whether you like it or not, the gasoline tax is a sales tax on one group of citizens."

Maurice Driscoll, a Butte delegate-educator, interrupted to say that since practically everybody has a car it actually is a generally collected sales tax.

Speaking for the Montana Highway Users Federation in particular and six other organ-

izations in general, ex-State Sen. Jack Rehberg, a lobbyist from Billings, supported the antidiversion amendment.

He presented affidavits from officials of the various groups saying they strongly resist any attempt to divert highway funds from road and street purposes.

Before taking up the antidiversion amendment, the committee heard the three members of the Board of Equalization defend the tax agency which often has been the subject of criticism.

Ray J. Wayrynen, newest member of the board and a former speaker of the House, replied to criticism that the board is not responsible to anyone for its actions.

"The State Board of Equalization is responsible to the legislature in carrying out the duties assigned by the legislature," he said.

Wayrynen said there is no conflict of interest in the board reviewing appeals from local assessments or in reviewing appeals from its own assessments. In fact, he said, appeals from board assessments are practically nonexistent.

'Constitution Should Carry' Clean Air, Water Provision

By FRANK ADAMS

Tribune Capitol Bureau

HELENA — Montana anti-pollution director Ben Wake told Constitutional Convention delegates that they might think about removing any doubt that many exist as to the Health Board's power to promulgate clean air and water standards.

"He told the Natural Resources Committee, "I've always wondered what would happen if we went to court to find out the constitutionality of the regulations. We've always wondered if it's truly unconstitutional what we've done and what practically every other department in state government has done in passing regulations."

Wake said the question has been raised by various company attorneys, although their

threats about a court test have never materialized.

He also told the committee he favors some kind of statement of environmental policy in the constitution, thinking it would encourage the legislature to environmental vigilance.

In discussing clean air, Wake said, "I want to impress on you how fragile maintenance of this resource is." He said the view of some is that they can dirty the air, the wind comes along and pretty soon the air will be clean again. But "realistically, it doesn't happen that way," he said, "particularly in the northwest part of the state where temperature inversions hang on for days, allowing pollution to build up for extended periods." He said meteorological conditions are worse in north-

west Montana than anywhere else in the country, including the Los Angeles area.

A couple of committee members expressed mild amazement to learn that air pollutants don't just disappear somewhere "out there" eventually.

Wake explained the difference between ambient air standards and emission standards, saying ambient standards such as those adopted by the federal government could lead to the nation's air becoming uniformly dirty, while Montana's emission standards are intended to keep Montana's air quality as high as it is.

"They're happy with the Federal standards in Chicago," said Wake. "They'd be happy to get air as clean as the federal standards. But we don't want it.

"Our air is cleaner already."

Touching on solid waste disposal, Wake said he thinks county commissioners are overlooking a great opportunity to make money out of things that are now being wasted — such as paper, glass, car bodies, and so forth. He said solid waste will be one of his division's top priorities in the next few years.

In elaborating on questions about city dust, Wake said he's found that some communities are putting anti-skid dirt on snowy streets that actually makes them slicker and then creates a "terrible dust problem" in the spring. He said the communities out to screen their anti-skid dirt to remove the fine material — "then they wouldn't have to haul it, they wouldn't have to pick it up, and it wouldn't create dust."

Tax-Free School Status

'Should Continue in Effect'

HELENA (AP) — A Constitutional Convention committee was asked by the Montana School Boards Association today to leave unchanged the present tax exemption of governmental subdivisions, including school districts.

Making the request to the Revenue and Finance Com-

mittee were Chadwick H. Smith, attorney for the association, and James Kenny, its executive officer.

Smith said such governmental subdivisions as counties, cities and school districts shouldn't be put in the position of trying to tax one another.

He said here probably would be no objection from the association—which speaks for dis-

tricts having 95 per cent of the state's public school students—to requiring districts to pay their share of such capital improvements as streets.

But, in such an event, Smith said, the proposed constitution should insure that such Special Improvement District-type assessments cannot be expanded to include services.

Another suggestion from the

association was to remove the legislature's present option for financing the support of schools.

Montana's 1889 constitution makes it the duty of the legislature to provide for the support of schools through "taxation or otherwise."

Smith proposed the language be changed to require the legislature to "provide a system of uniform statewide taxation."

Total Environmental Protection Possible

By DENNIS E. CURRAN
IR State Bureau

The Constitutional Convention could force Montana to leap to the forefront of what has been called "the quiet revolution in land use control."

Several states have gone beyond local zoning regulations with laws which seek to guide or limit development in accordance with environmental concerns. But through a new constitution, Montana is in a position to make land use control the fundamental law of the state.

The vehicle, already introduced by delegate Jerome Cate,

is the "public trust doctrine."

Under its philosophy, air, water, land — the total environment — would be common property held in a trust fund perpetually for all. Standards would be imposed to insure that resources would be managed properly.

In practice, an expanded public trust doctrine could place limits on property ownership, since under the theory all resources ultimately are owned by the people. Individuals with deeds to particular parcels of property would in effect become squatters with only temporary hold on the resource and the

power to use it only in accordance with the standards imposed by the people.

"Harsh" Conflict

The conflict between public and private interests understandably could be "harsh," according to a Constitutional Convention report.

An example: say the Anaconda Co wants to dig a big hole on property it owns and take out some minerals. Under a strong public trust doctrine, the people could say to Anaconda, no, you cannot do that here because digging that hole will spoil our environment and taking those irreplaceable minerals

will deprive us of something we may need 200 years from now.

The public trust concept dates back to the 19th century. President Theodore Roosevelt's National Conservation Commission, for example, advised that natural resources "be regarded as property held in trust for the nation, rather than the benefit of a few individuals who may hold them by right of discovery or purchase."

Air and water often are considered to be held in public trust; pollution control regulations are based on the theory that private property owners can be restricted from degrading the

public's air and water.

The public trust doctrine often is applied to public lands, but its broad extension to all resources still is emerging.

Wisconsin, Hawaii and Vermont are among states already regulating private land use on the basis of environmental concerns, according to a recent federal study. Now the federal government is joining the act with a proposed National Land Use Control Law.

Eminent Domain

In Montana, the constitutional provision dealing with eminent domain (the power of the state

to take private property as long as it pays a fair price) alludes to a trust concept, according to a report by Rick Applegate, Bill of Rights Committee research analyst.

Applegate says that the eminent domain power, coupled with a broad public trust doctrine, could be "the most persuasive source of legal protection of the environment."

Suggestions already have proposed a public trust for air, water, public land and wildlife, by Cate's proposal would make the entire "environmental life support system" a public trust because it is essential to the

health and welfare of the people.

"This public trust is the common property of the people of this state," the proposal says.

Cate, a Billings attorney, also proposes that each person have "an inalienable right" to enjoyment of the public trust and access to the courts to defend that right.

Cate's proposal, and the entire public trust issue, will be aired before the Natural Resources Committee in a hearing at 10:30 a.m. Saturday. The Bill of Rights Committee also is studying extension of environmental rights.

—The Independent Record, Friday, January 28, 1972

Tax Equality Needed

Great Falls Sen. P. J. Gilfeather appeared before the Constitutional Convention's Revenue and Finance Committee last Monday and called for property appraisals by a state agency rather than on the county level. Gilfeather's contention is that transferring this authority to the state level would remove many present inequities and that property values would be uniform statewide.

We tend to agree with the senator.

Cascade County Assessor Carl Setzler took strong exception to Gilfeather's proposal saying that assessing at the state level would not remove any inequities because the laws are full of loopholes and percentages are not fair. He also claimed that if county offices were abolished the whole program then would be in the hands of the politicians in Helena "and you know how they would hand out the political plums."

We think that removal of the assessing function from the county level to a state agency staffed with competent and qualified people would be a great step toward fairness.

It would not eliminate the loopholes, the legislature would have to do that, and it should.

But assessing property on a statewide basis would surely eliminate some inequities.

As to the politicians in Helena handing out political plums, we wonder if it is any better on the county level. Currently the county commissioners sit as the board of equalization in their respective counties and are governed by the State Board of Equalization. The commissioners are a lot closer to the grass roots (meaning the people who say whether they stay in office or not), than any agency in Helena, and they have been known to ignore the state board.

The chances of commissioners being partial in their decisions on assessment are just as great, if not greater, on the local level than they would be on a statewide basis. We are not saying that they are partial, however the possibility definitely exists.

The courts are clogged with equalization cases of all sorts. And it seems to us that a disgruntled home owner also has a case. Why should the owner of a \$27,000 home in Helena pay \$800 or \$1,000 a year in property taxes while the owner of a similar home in another county pays \$200 or \$300 a year less? (The tax figures are not accurate, but the case in point is).

Antidiversion Section Sparks Controversy

By J. D. HOLMES
AP Capitol Writer

HELENA (AP) — Top state revenue officials advocated removal of Montana's 15-year-old antidiversion amendment, which earmarks gasoline taxes for highway purposes, but an array of citizen groups argued Thursday it should be retained in the proposed new constitution.

Opposing continuation of the antidiversion amendment, which was enacted by the legislature in 1955 and approved by the public in November 1956, were State Revenue Director Keith Colbo and all three members of the Board of Equalization.

Among those contending that the antidiversion language be retained by the Constitutional Convention delegates was George Schotte who, as a state senator from Butte, headed the legislative interim committee that helped push the amendment through the 1955 assembly.

"The amendment is relatively new compared to the 83-year-old constitution," he told the nine-member Revenue and Finance Committee.

Schotte, who testified on behalf of the Montana Automobile Association, was chairman of five different highway interim committees under three govern-

ments before he resigned from the Montana Senate to accept a federal position in Helena.

"You will pay for good highways whether you have them or not," he said, meaning the state gasoline tax—now seven cents a gallon—will go on and probably be increased but without protective language in the constitution the money could be diverted away from road uses.

"There's no way to build Montana without a good system of highways," said Schotte, a former auto dealer, to the Con-Con committee headed by Sterling Rygg, a Kalispell auto dealer.

In stressing the importance of safeguarding gas-tax money to match federal funds, he said that in one recent fiscal year highway users paid \$20 million in gas taxes and got \$93 million in return from Washington, D.C.

In recommending removal of the antidiversion language, Colbo made it plain that neither he nor the board members who head the Department of Revenue are judging the wisdom of earmarking funds for specific purposes.

He argued, however, that elimination of the amendment "would allow the legislature to review earmarked revenue for highway uses and determine whether or not this is the best use of state money."

"The legislature may not re-evaluate nonconstitutionally earmarked funds such as fish-and-game fees, income taxes, cigarette taxes and others."

"We believe that legislative review should also be extended to highway user taxes," Colbo added.

At one point, Schotte told the committee members that, "whether you like it or not, the gasoline tax is a sales tax on one group of citizens."

Maurice Driscoll, a Butte delegate-educator, interrupted to say that since practically everybody has a car it actually is a generally collected sales tax.

Speaking for the Montana Highway Users Federation in particular and six other organizations in general, ex-State Sen. Jack Rehberg, a lobbyist from Billings, supported the antidiversion amendment.

He presented affidavits from officials of the various groups saying they strongly resist any attempt to divert highway funds from road and street purposes.

Rehberg said the other organizations urging the amendment be retained include: Montana Contractors Association, Montana Farm Bureau Federation, Montana Farmers Union, Montana Petroleum Association, Montana Motor Transport Association and Billings Chamber of Commerce.

Con-Con Polls Lawyers on Judicial Reform

Missoulian State Bureau

HELENA — The more than 1,000 lawyers licensed in Montana will be polled for their views on judicial reform, including election or appointment of judges and whether justice of the peace courts should be constitutional courts.

Sandra Muckelston, research analyst for the Judiciary Committee of the Constitutional Convention said the questionnaire was mailed to 1,033 lawyers. Replies were requested not later than Feb. 10. Miss Muckelston said it was hoped results of the poll would be ready by Feb. 12.

The lawyers are being asked: — Should supreme and district court judges be elected or appointed? Should elections be partisan, nonpartisan or uncontested elections in which the judge runs against his record?

— Should justice of the peace courts continue as constitutional courts? Should the legislature provide for an inferior court system? Should the Montana Plan for the magistrate system be adopted?

— Should clerks of district courts and the clerk of the supreme court be appointed?

— Should the supreme court have the authority to make rules and regulations for practice and procedure which would have the force of law?

— Should administration of all courts be integrated under supervision of the supreme court?

Montana Plan Inflexibility Hit

By ARTHUR HUTCHINSON
Missoulian State Bureau

HELENA — The Montana plan for judicial reform was criticized Friday by Billings attorney Charles F. "Tim" Moses as an erosion of representative government.

"What we are saying if we adopt the Montana Plan is that the legislature shall not stick its nose in the judiciary's business," Moses said. "We have abandoned representative society."

The Montana Plan developed by a citizens group calls for a two-level court system centrally administered and unified under the supreme court, which would have wide powers to assign judges, establish judicial districts and make its own rules of procedure. Judges would be appointed after screening by a justice of the peace courts but it failed because the JPs were "locked in" the present constitution.

"Now the Montana Plan seeks to lock in a new system so you can't change it," Moses said. "You may have a better system but it will be inflexible."

The Montana Plan would eliminate the JP courts and transfer their functions to district courts. The lower courts would be divisions of the general trial court staffed by magistrates appointed by

district judges.

Moses suggested the solution to providing justice in the lower courts should be left to the legislature and local nominating committee and later would run without opposition on their record.

"I'm opposed to raising a committee to constitutional status," Moses told the Judiciary Committee of the Constitutional Convention.

The attorney said he found irony in the position of the convention.

Moses said over the years there has been a great deal of effort to change or improve governments which could provide better facilities, establish decent salaries instead of a fee system, upgrade qualifications, provide training, establish uniform procedures and clarify inferior court jurisdiction.

"The constitution on judicial reform must be flexible," the lawyer said. "Don't freeze representative government out by a locking process. I believe in the legislative process and I don't want it eroded away."

Delegate Mason Melvin, Bozeman, questioned "the danger of too strong a legislature" which he felt might threaten the independence of the judiciary.

Moses conceded there was "always that danger." He said the legislature has not always been responsive to court problems but felt that "ultimately

the legislature will do the right thing."

"The legislature is the place where administrative details (of the judiciary) should be worked out," Moses said.

Committee to Get Babcock's Views

HELENA (AP) — Former Republican Gov. Tim Babcock will meet with committee members in the Governor's Reception Room in the Constitutional Convention Saturday.

Last week, Democratic Gov. Forrest H. Anderson, who defeated Babcock in 1968, testified before the committee.

Convention Lobbyists Growing

Tribune Capitol Bureau

HELENA—More Constitutional Convention lobbyists have paid their \$10 fee bringing the total as of week's end to 71.

The number includes two former legislators. One is Bud Aspegiv of Ruyard, who resigned his Democratic House seat this week to lobby on "legislative subjects, revenue and taxation, and all other subjects of interest to me as an individual." The other is Jack

Rehberg of Billings, who resigned his Republican Senate seat last June. He represents the Montana Petroleum Association and the Rocky Mountain Oil and Gas Association.

Other recent registrants are: David Smith, Helena, Montana Woolgrowers Association; Robert Durkee, Helena, Montana Tavern Association; Maurice Mulcahy, Butte, Montana Police Protective Association; Henry Popham, Missoula, Brotherhood of Locomotive Engineers; Everett Shuey, Helena, Montana Power Co.; Elton Hartzel, Missoula, American Federation of State, County and Municipal Employees; Hubert Massman and Gretchen Billings, Helena, Montana Council

of Cooperatives; R. L. Rumpy, Bozeman, Joint Council of Teamsters, No. 23, Kenneth Clark, Miles City, United Transportation Union, and D. H. Stewart, Helena, Montana Chamber of Commerce.

When to Vote May Pose Knotty Con Con Problem

HELENA (AP) — Constitutional Convention delegates might be wise to place the new document before the voters as soon as possible after the convention adjourns, a national authority on constitutional revision said Friday.

William N. Cassella Jr., execu-

tive director of National Municipal League, told convention leaders he did not want to make a specific recommendation.

However, he said the recent experiences in Illinois and Pennsylvania showed an election as

soon after the convention can be helpful. Both constitutions were approved.

"You might face the problem of losing momentum if you wait until November," Cassella said. He said the Maryland document, which voters rejected, probably would have fared better if put before citizens sooner after the convention concluded.

Cassella shied away from a specific recommendation on when to vote on the document because he did not know the political climate of Montana. Primary elections often don't result in good turnouts, he said,

but each state is different. Many Montana delegates originally believed November would be the best time for the ratification vote.

Some now agree with Cassella, who said the presidential election would likely steal the limelight from the constitution vote.

Besides scheduling a vote in November, or June, delegates could opt for a special election as Illinois did.

The cost, which President Leo Graybill Jr., D-Great Falls, estimates at more than \$300,000 and would be absorbed by the counties, could be a drawback.

Con Con Proposal Centers On Public Officials' Pay

HELENA (AP) — A nine-member commission would set salaries for elected state officials under a proposal introduced Thursday at the Constitutional Convention.

Sponsored by Jerome J. Cate, D-Billings and others, three members would be appointed by the legislature, three by the State Supreme Court and three by the governor to fix the salaries, subject to legislative approval.

Presently the legislature sets the salaries and members have been criticized for raising their own pay.

Another proposal introduced by Richard J. Champoux, D-Kalispell, and others, would

guarantee equality of educational opportunity. If passed, it would direct the legislature to pass the necessary laws to develop the program.

Mrs. Virginia Bland, D-Great Falls, sponsored a message that would set up initiative, recall and referendum procedures on the local government level.

A plan submitted by Lyle Monroe, D-Great Falls, and others, would include a provision saying individuals had a right to the basic necessities of life. These would include adequate nourishment, housing, and medical care.

Jerome Loendorf, R-Helela, introduced a proposed judicial article which differs from the so-called Montana Plan. His does not specify how judges are to be selected, but leaves the decision with the legislature.

James R. Felt, R-Billings, sponsored a local government proposal that would feature powers allocated to local government by the legislature.

A measure sponsored by John Lenthold, R-Molt, would prohibit any state funds for religious or charitable institutions.

Mike McKeon, D-Anaconda, offered a plan that calls for the state assuming all financial responsibility for free public schools.

Veterans Call For Preference In Constitution

HELENA (AP) — Constitutional Convention delegates will be asked by the newly organized Montana Veterans Council to write a veterans preference clause into the proposed constitution.

Such a clause would guarantee that the state's veterans of all wars would be given preference for jobs in state and local units of government, said the council's first president, Robert Durkee. Helena businessman and former legislator from Havre.

Durkee said the council is made up of two delegates from each of the four major veterans' organizations in Montana. They are the American Legion, Veterans of Foreign Wars, United American Veterans and World War I Barracks.

Delegates Get Ruling On Politics

HELENA (AP) — Atty. Gen. Robert L. Woodahl ruled Friday that delegates to the Constitutional Convention may serve in another public office if the term begins after the convention adjourns for the final time.

His opinion, issued at the request of Leo C. Graybill, president of the 180-delegate convention, said a delegate to the Constitutional Convention:

—May not serve in another public office during his term as delegate, which term as delegate shall last until the constitutional convention adjourns sine die.

—May serve in any public office, the term for which commences after the Constitutional Convention adjourns sine die.

Adjourning sine die means adjourning without setting a date for another meeting.

Ombudsman 'Needed' in Constitution

HELENA (AP) — The sponsor of a Constitutional Convention proposal that would guarantee the right to counsel says it would provide an ombudsman program for the poor.

Jerome J. Cate, D-Billings, said indigents now are entitled to a court-appointed lawyer if they are charged with a felony in Montana.

Some states, however, have extended the right to an attorney down to any proceeding, including misdemeanors.

The ombudsman is a public official in some foreign countries who attempts to cut the bureaucratic red tape for citizens.

Cate said his proposal, which has been referred to the Bill of Rights Committee, would include administrative hearings in which the state was the adverse party if the person was indigent.

The Billings delegate said it might take some legislation to implement if included in a new constitution.

He cited an example of how the system would work. If a man were on welfare and the welfare board decided to hold a hearing to revoke payments, the indigent would be entitled a lawyer.

Our readers' opinions

Deplores lobbying

We recently elected (hired) 100 people to rewrite the Montana Constitution. These people were elected under the assumption that they were physically and mentally competent to do the job for which they were hired.

It now seems that we have acquired a crew of physically handicapped mental incompetents. They are not only incapable of doing their own writing, and needs must hire a secretary for that menial chore, but it also becomes necessary to have a stooge or prompter, to tell them what to tell the secretary to write.

Since these stooges or prompters are paid by big interests who bought their way into the privileged positions for the magnanimous sum of ten dollars each, why then did we hire the hundred in the first place? Why not let the big interests write the constitution at their own expense, and save us taxpayers the million dollars or so we eventually will be paying?

Suggestions are O.K., but we do not need a constitution that was drafted in the hallways, rest rooms and various other places where dollars change hands so frequently, and at times quite liberally. Washington, D.C. is an excellent example of this type of operation.

J. O. BEST, Condon

Billings Man to Introduce 'Right-to-Work' Provision

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA — A "right-to-work" provision, which is sure to become one of the most controversial issues to hit the Constitutional Convention hopper, has been drafted by a Billings delegate.

R. J. Studer Sr., a Republican contractor, says he will introduce his delegate proposal as soon as he obtains the signatures of additional sponsors.

Studer predicted that hearings on his proposal would probably be scheduled next week by the Public Health, Welfare and Labor Committee. The 63-year-old Studer is a member of the committee.

However, alarmed officials of the 39,000-member Montana AFL-CIO, including Executive Secretary James Murray, were

preparing to testify on the right-to-work issue at a session of the Health, Welfare and Labor Committee scheduled Friday night.

Right-to-work laws, which are written into the constitutions of seven states, are regarded by labor unions as a major threat to their survival.

Studer's proposal would also prohibit state employees from striking.

Studer's proposal, which he said is subject to minor revision, says:

"The right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization. The right of employes by and through a labor organization to bargain collectively shall not be denied or abridged.

"Public employes shall not have the right to strike."

Because of the controversial nature of the proposal, Studer said he would suggest that it be submitted to the voters as a separate issue for placement on the ballot.

Studer said he would withhold comment on why he favored a right-to-work provision, until he collects the signatures of co-sponsors for his proposal.

In one of a series of advertisements placed in a Billings newspaper prior to the November election for Con Con delegates, R. J. Studer and Sons, Studer's Billings contracting firm, said that "it seems as though a voluntary agreement by labor, industry and business leaders to hold prices for a 90-day spell after the 'freeze' would help a lot to stabilize our economy."

Several members of the Health, Welfare and Labor Com-

mittee told the Tribune Friday that they were displeased with what they termed threatening remarks contained in a statement delivered to the committee Jan. 26 by Murry.

One statement said that "the eight-hour day has now won universal acceptance. I need not remind you that many of our union members will consider its removal as an antagonistic act."

Delegates at the North Dakota Constitutional Convention approved Wednesday, for the second time within a week, a right-to-work provision for the state's new constitution.

That proposal is designed to expand and strengthen the present section of the constitution by banning job discrimination based on race, color, sex, creed or membership or nonmembership in any labor organization or professional group.

Municipal League Advises Flexibility

Missoulian State Bureau

HELENA — Drafters of a new constitutional article for Montana local government got some advice from the National Municipal League Friday — keep it flexible and encourage local and state initiative.

"Flexibility is the greatest constant. Avoid being rigid," said William N. Casella Jr., executive director of the National Municipal League, a public-interest group which is a leading authority on local government. Casella spoke to the Constitutional Convention Local Government Committee Friday afternoon.

He explained that he is not an expert on Montana's constitution and said he would not make recommendations or try to "preach or sell a point of view." But he added that flexibility and encouragement of initiative are "hardened principles."

Casella said that the league's "model constitution" generally gives local government residual powers of home rule which would allow the local government to take action without waiting for state approval. Such a philosophy encourages local government to experiment and try new ideas, he said.

However, he also spoke favorably of an alternative theory being considered by the committee — requiring local government to take some action on its own to get increased home rule powers.

Requiring "affirmative action" gets the people involved in a fundamental decision, he said. "And I'm not sure all counties should or ever would exercise this power," he added.

Casella said that county officials might continue to be listed in the Montana constitution as long as the people have sufficient options to take them out.

"My feeling is that there should be as much opportunity for options as possible," he said. "What's best for X county may not be what's best for Y county."

Casella, himself a county official in New York, said that "in every state it would be practical to have fewer counties," but he added that some of the big jurisdictions are too big and are looking at decentralization. The key is whether the government is "viable," he said.

Ironically, Casella's county has a population of 800,000, making it slightly more populous than Montana.

Triple Source For Preamble

HELENA (AP) — Drawing inspiration from Chief Joseph, Charlie Russell and John Steinbeck, two Constitutional Convention delegates submitted Friday a proposed preamble to the new constitution.

Delegates Bob Campbell, D-Missoula, and Mae Nan Robinson, R-Missoula, said a tour of the State Historical Society Building inspired this preamble:

"We, the people of Montana, inspired with the Spirit of our Creator, gathering our strength from the grandeur of our mountains and the richness of our rolling grasslands, with a reverence for the quiet beauty of our state, with the desire to live in peace, in order to improve the quality of life and equality of opportunity for this and succeeding generations, do hereby ordain and establish this Constitution."

They said they used the "prayer of Chief Joseph and the spirit of Charlie Russell as it would be described by John Steinbeck.

Mrs. Marian S. Erdmann, R-Great Falls, submitted a proposed local government article that provides for residual powers for local units.

Dorothy Eck, D-Bozeman, and others introduced a plan that would guarantee public access and right to know except where the demand for individual privacy exceeded the merits of public disclosure.

A proposal tossed in the hop-

per by the Rev. Gene Harbaugh, D-Poplar, would allow the legislature to call for a constitutional convention or submit the question to voters. If a convention were not called in 20 years, the question of whether to hold one would go on the ballot automatically.

Margaret Warden, D-Great Falls, and others submitted a plan requiring that delegates to future constitutional conventions run on nonpartisan labels.

Thomas M. Ask, R-Roundup, and others sponsored a proposal that would lead to justices of the peace meeting qualifications set by the legislature. They also would receive monthly compensation and be elected to four-year terms.

Campbell introduced measures that would guarantee equal protection of the laws and another to outlaw discrimination in employment and selling or renting property.

Other measures would provide a new constitutional section on water rights and allow the legislature to apportion school funds as it chooses instead of by the present method, which is based on the total number of youths between the ages of six and 21.

Another proposal would repeal the section requiring county officers to reside in the county seat, while one measure would provide state compensation for victims of crimes.

Single-Member Legislative Districts Proposed

BY DANIEL J. FOLEY
IR State Bureau

Two state legislators and a political scientist urged Saturday the adoption of single-member legislative districts, so each voter would pick only one law-

maker in a unicameral assembly or one representative and one senator in a bicameral body.

The single-member concept would promote accountability by giving voters a chance to know their legislator, and it

would insure that rural areas are not represented by urban lawmakers, the proponents said.

Speaking at a Saturday night hearing of the Constitutional Convention's legislative committee were Reps. Thomas E. Towe, D-Billings, and Jack

Gunderson, D-Power, and University of Montana Prof. Ellis Waldron.

Towe said that in his home county, Yellowstone, there are 30 legislative candidates on the ballot every two years. "You don't have anything that really

represents an intelligent vote by the people," he said.

Laurel, the state's 17th largest city is predominantly Democratic, but it is in the same county as Billings, the state's largest city and a predominantly Republican one, Towe said. The result is that Laurel has had only five representatives since 1900 and has never had a senator, he said, adding, "I think that's unfair."

In an aside, Towe quipped that delegate Chet Blaylock of Laurel did a "beautiful job of undermining our case" when he was elected to the convention with the largest vote in Yellowstone county.

The case referred to is one in which Towe is challenging the Legislature's present apportionment. It has been appealed to the U.S. Supreme Court, he said.

Aside from Laurel, Billings southside is another good example of the suppression of minority representation in large multi-member districts such as Yellowstone County, Towe said. That low income area hasn't had a representative or senator since 1907, he said.

The Billings legislator also cited a poll last year of 136 Yellowstone County voters. Only two correctly identified all 18 of their legislators from a list of 50 names and the average person identified only one-third, he

said.

"If you don't even know who your legislators are, how can you know what they do when they come to Helena?" he asked.

Towe said that if the state were divided into single-member districts, there would be more districts than at present and the districts would be smaller in size. That would insure better representation in rural areas, he said.

Prof. Waldron noted that a single-member plan which he drew and Reps. Towe and Gunderson introduced in the 1971 session followed more county boundaries than the multi-member plan finally adopted, a plan which was urged by some legis-

lators who said it preserved county integrity.

The single-member plan also divided city districts from suburban-rural districts while the adopted plan did not, Waldron said.

If the use of large multi-member districts is continued, rural counties will be reshuffled into new combinations after each census, Waldron said. That would seriously diminish chances for reflection of experienced lawmakers from those areas, the political scientist said.

Waldron, Towe and Gunderson all urged the convention to establish a bipartisan commission to initiate reapportionment or act as a backup if the Legis-

ture fails.

"Legislators have demonstrated that they don't do the job very well," Waldron said. "One of the reasons they are not the best in reapportionment is because they are determining the terms of their own employment."

Taxing issues

By DON OAKLEY

There has been a spate of landmark lower court rulings in the field of public education/civil rights lately. They will be landmarks, that is, if they are ultimately affirmed by the U.S. Supreme Court and made binding up on the nation as a whole.

Four separate decisions so far have called into question the continued use of property taxes as the basis for funding public schools in response to suits charging that the system unconstitutionally discriminates against children from poor districts.

Referring to these decisions, and possibly anticipating what the Supreme Court may do, President Nixon in his State of the Union message urged Congress to provide "fair and adequate" financing for public schools on a nationwide basis in place of or as a supplement to the local property tax.

The speculation is that he is thinking of a "value added" tax which would be applied to products at every stage, from raw material through manufacture to sale—a sort of national sales tax which would ultimately be paid by the consumer.

IN ANOTHER decision which may have even wider ramifications than the Supreme Court's outlawing of segregated schools in 1954, Richmond, Va., has been ordered to merge all its local school districts, city and suburban, into one metropolitan district and to achieve complete racial balance in every school within that super district.

This decision, if upheld, would mean "no place to hide" any more for whites fleeing from the cities, say some observers. The problems of the ghetto would be dumped smack on the well-trimmed lawns of suburbia. It would be sink or swim for all of us.

Less publicized has been yet another ruling, which involves education only incidentally but which could throw a lot of state legislatures into a minor financial panic should it be validated by the Supreme Court.

In a case involving a student at a community junior college in Kansas City, Kan., a judge ruled in effect that an out-of-state student who registers to vote in the town where he goes to college becomes a resident of that town and is not subject to the additional tuition fee that most state colleges and universities impose on nonresidents of the state.

DISTRICT JUDGE William Ryan held that granting the vote to an 18-year-old ends traditional legal subservience to his parents, including the view that their home is his residence.

It is estimated that the financial loss to Kansas alone could amount to about \$5 million a year and as much as \$250 million a year for tax-supported institutions in all 50 states.

What would likely happen, of course, is that Kansas, and the other 49 states as well, if they are eventually affected, would simply have to raise tuition for all students by an amount sufficient to make up this projected loss.

Another possible result of the Kansas City ruling, having to do with the fear of many people that students will stage political "take-overs" in communities where the college population outnumbers the nonstudent population, is not as easy to foresee.

All these court decisions have one thing in common: They illustrate the snowball effect that occurs whenever we attempt to translate broad human rights into specific law. They touch upon one of the fundamental questions of civilized existence: Where do the rights of one person or group end and those of another person or group begin?

In this country, it started with the Declaration of Independence.

Newspaper Enterprise Assn.

Convention May Give Individuals More Rights

4—The Independent Record, Monday, January 31, 19

BY DENNIS E. CURRAN
IR State Bureau

Montanans could get a handful of new constitutional rights judging from activity by the Constitutional Convention Bill of Rights Committee.

After two weeks of meetings and hearings, the committee is exploring new ground with the idea of adding new protections for the citizens. There is no talk of limiting or deleting rights already in the constitution.

"As government functions and controls expand, it is necessary to expand the rights of the individual," committee chairman Wade Dahood of Anaconda said last week. "It's the function of government to serve the people so that they can enjoy life with individual dignity."

Two broad areas are discrimination and privacy, but a host of other proposals dealing with courtroom rights, young people and rights to governmental services are getting consideration.

Discrimination is vaguely prohibited by the 1889 Montana Constitution, but several delegate proposals and citizen suggestions seek more explicit language on race, color, creed, national ancestry and sex. Some call for equal rights in employment and promotions, sale and rental of property and political and civil rights.

Privacy is a right not stated in the constitution now. It could be handled with a general statement, but several specific suggestions are under study, including restrictions which would require a search warrant for electronic eavesdropping.

One of the most far-reaching proposals in the area of privacy is delegate Bob Campbell's proposed right to "individual dignity, privacy and free expression." The state would be prohibited from infringing on those rights unless it could show "compelling state interest."

Campbell's proposal would protect individuals from harassment by the state in so-called "victimless crimes" where no-

body is hurt unless the state can show a good reason.

Other new rights under study:

— Eighteen-year-old adulthood with the right to hold any

public office and grant full right to educational opportunity and will met jointly to discuss it.

rights and responsibilities at 18 instead of the present 19.

— Children's rights now are teens are considering a broad not protected under many constitutional rights of adults. The committee is being urged to draft children's provision.

— Education. Both the bill of rights and education commit-

tee. Basic necessities. Despite worry over increased state costs, several committee members want to give the people the right to "the basic necessities of life, including the right to adequate nourishment, housing and medical care."

— Right to know. The committee has expressed interest in broadly stating each citizen's access to governmental documents and deliberations as long as the right to know can be balanced with the right to privacy.

— Procedural rights. Considered are abolishment of the death penalty and a right to legal counsel for indigents in administrative or court cases in which the state is an adverse party.

— Rights of victims. Under a proposal by delegate Jerome Cate of Billings, the state would provide "reasonable" compensation for injuries to victims of crimes.

— Abolish sovereign immunity. The committee is thinking strongly of doing away with the provision which prohibits citizens from bringing lawsuits against the state.

— No gun registration. Although the committee generally leans toward staying with the present right to bear arms provision, it is being urged to prohibit constitutionally any state gun registration law or

Convention Committee Hears Gun Arguments

By THE ASSOCIATED PRESS

Gun enthusiasts appeared before the Constitutional Convention's Bill of Rights Committee Saturday, some urging a provision barring gun registration and others indicating they were satisfied with existing constitutional language.

The committee received a telegram from some 500 Billings members of the National Rifle Association, urging that the language in the present constitution remain.

Delegate Bob Campbell of Missoula indicated he couldn't see why it would be necessary to put an anti-registration provision into the constitution.

Another, Raymond Loy, Helena, suggested Montana could be a "guiding light" to the rest of the states and the nation in opposing registration by adopting such a constitutional provision.

Campbell, an attorney, differed: "We can't do anything about the federal gun control law."

"Some of the members of your profession can read into almost anything, but I think it's contrary to the intent of the Founding Fathers," said H.W.C. Newberry, Kalispell.

Newberry said Montana does not have to "lay down and play dead" to the federal government, particularly with regard to the 1968 Gun Registration Law.

Newberry and others opposing registration all voiced the fear that registration could someday lead to confiscation of guns by "totalitarian powers," as they said it has in other countries.

Committee Chairman Wade Dahood of Anaconda was not particularly convinced of the need to argue the matter. "Our committee has not received any suggestion from anyone that we should amend the constitution to take away the right to bear arms," he said.

Newberry pointed out that as far as he was concerned, the issue was over registration rather than simply retaining the present right to bear arms. He summed up his feeling about the present constitutional provision when George James of Libby asked him if he considered it adequate.

"No sir," he replied, "Positionally, absolutely, and unequivocally not!"

Alternative is sought for financing education

Gazette State Bureau

HELENA—Two Constitutional Convention committees are already searching for a new way to finance education in anticipation that the present method may be unconstitutional.

The Education and Revenue and Finance Committees will hold a joint public hearing Feb. 8 to explore what the constitution should say about funding public schools.

The educational financial schemes of most states were thrown into flux last fall by a California Supreme Court case, Serrano vs. Priest, which challenged California's school financing system. The plaintiffs argued that the quality of education varies from district to district because some districts have greater wealth and can provide better education.

THE CALIFORNIA decision was on a legal point, not the merits of the case, so the court opinion that unequal education is unconstitutional does not have the force of law. Nor does it outlaw local property taxation as means of paying for education.

But the Serrano case, plus similar cases in 24 other states, has set the stage for an eventual U.S. Supreme Court decision that could affect most states, including Montana.

The Montana constitution now requires the Legislature to "maintain a general, uniform and thorough system" of public schools. The Legislature has tried to do this, often unsuccessfully, through the state school foundation program.

CHANGING THE foundation program would not necessarily require a change in the constitution, but the education committee is exploring alternate methods of school financing anyway, not necessarily to include in the constitution but so that any new constitutional provision would not limit or outlaw new possibilities.

Last week, delegate Marjorie Cain of Libby, a member of the committee, paid her own way to Denver to attend a two-day regional conference on alternative forms of school financing.

THE COMMITTEES also plan to consult with Michael Billings, who is working on a report dealing with alternative financing plans.

State Superintendent of Public Instruction Dolores Colburg last week told the Education Committee that the convention was an opportunity to design a "just and general" distribution system.

"Montana is in a position to develop a system of educational financial support that could serve as a model for other states," she said.

Antidiversion Section Sparks Controversy

By J. D. HOLMES
AP Capitol Writer

HELENA (AP) — Top state revenue officials advocated removal of Montana's 15-year-old antidiversion amendment, which earmarks gasoline taxes for highway purposes, but an array of citizen groups argued Thursday it should be retained in the proposed new constitution.

Opposing continuation of the antidiversion amendment, which was enacted by the legislature in 1955 and approved by the public in November 1956, were State Revenue Director Keith Colbo and all three members of the Board of Equalization.

Among those contending that the antidiversion language be retained by the Constitutional Convention delegates was George Schotte who, as a state senator from Butte, headed the legislative interim committee that helped push the amendment through the 1955 assembly.

"The amendment is relatively new compared to the 23-year-old constitution," he told the nine-member Revenue and Finance Committee.

Schotte, who testified on behalf of the Montana Automobile Association, was chairman of five different highway interim committees under three govern-

ments before he resigned from the Montana Senate to accept a federal position in Helena.

"You will pay for good highways whether you have them or not," he said, meaning the state gasoline tax—now seven cents a gallon—will go on and probably be increased but without protective language in the constitution the money could be diverted away from road uses.

"There's no way to build Montana without a good system of highways," said Schotte, a former auto dealer, to the Con-Con committee headed by Sterling Rygg, a Kalispell auto dealer.

In stressing the importance of safeguarding gas-tax money to match federal funds, he said that in one recent fiscal year highway users paid \$20 million in gas taxes and got \$93 million in return from Washington, D.C.

In recommending removal of the antidiversion language, Colbo made it plain that neither he nor the board members who head the Department of Revenue are judging the wisdom of earmarking funds for specific purposes.

He argued, however, that elimination of the amendment "would allow the legislature to review earmarked revenue for highway uses and determine whether or not this is the best use of state money."

"The legislature may not re-evaluate nonconstitutionally earmarked funds such as fish-and-game fees, income taxes, cigarette taxes and others."

"We believe that legislative review should also be extended to highway user taxes," Colbo added.

At one point, Schotte told the committee members that, "whether you like it or not, the gasoline tax is a sales tax on one group of citizens."

Maurice Driscoll, a Butte delegate-educator, interrupted to say that since practically everybody has a car it actually is a generally collected sales tax.

Speaking for the Montana Highway Users Federation in particular and six other organizations in general, ex-State Sen. Jack Rehberg, a lobbyist from Billings, supported the antidiversion amendment.

He presented affidavits from officials of the various groups saying they strongly resist any attempt to divert highway funds from road and street purposes.

Rehberg said the other organizations urging the amendment be retained include: Montana Contractors Association, Montana Farm Bureau Federation, Montana Farmers Union, Montana Petroleum Association, Montana Motor Transport Association and Billings Chamber of Commerce.

Con-Con Polls Lawyers on Judicial Reform

Missoulian State Bureau

HELENA — The more than 1,000 lawyers polled in Montana will be polled for their views on judicial reform, including election or appointment of judges, and whether justice of the peace courts should be constitutional courts.

Sandra Muckelston, research analyst for the Judiciary Committee of the Constitutional Convention said the questionnaire was mailed to 1,033 lawyers. Replies were requested not later than Feb. 10. Miss Muckelston said it was hoped results of the poll would be ready by Feb. 12.

The lawyers are being asked: — Should supreme and district court judges be elected or appointed? Should elections be partisan, nonpartisan or uncontested elections in which the judge runs against his record?

— Should justice of the peace courts continue as constitutional courts? Should the legislature provide for an inferior court system? Should the Montana Plan for the magistrate system be adopted?

— Should clerks of district courts and the clerk of the supreme court be appointed?

— Should the supreme court have the authority to make rules and regulations for practice and procedure which would have the force of law?

— Should administration of all courts be integrated under supervision of the supreme court?

Montana Plan Inflexibility Hit

By ARTHUR HUTCHINSON
Missoulian State Bureau

HELENA — The Montana plan for judicial reform was criticized Friday by Billings attorney Charles F. "Tuner" Moses as an erosion of representative government.

"What we are saying if we adopt the Montana Plan is that the legislature shall not stick its nose in the judiciary's business," Moses said. "We have abandoned representative society."

The Montana Plan developed by a citizens group calls for a two-level court system centrally administered and unified under the supreme court, which would have wide powers to assign judges, establish judicial districts and make its own rules of procedure. Judges would be appointed after screening by a justice of the peace courts but it failed because the JPs were "locked in" the present constitution.

"Now the Montana Plan seeks to lock in a new system so you can't change it," Moses said. "You may have a better system but it will be inflexible."

The Montana Plan would eliminate the JP courts and transfer their functions to district courts. The lower courts would be divisions of the general trial court staffed by magistrates appointed by

district judges.

Moses suggested the solution to providing justice in the lower courts should be left to the legislature and local nominating committee and later would run without opposition on their record.

"I'm opposed to raising a committee to constitutional status," Moses told the Judiciary Committee of the Constitutional Convention.

The attorney said he found irony in the position of the convention.

Moses said over the years there has been a great deal of effort to change or improve governments which could provide better facilities, establish decent salaries instead of a fee system, upgrade qualifications, provide training, establish uniform procedures and clarify inferior court jurisdiction.

"The constitution on judicial reform must be flexible," the lawyer said. "Don't freeze representative government out by a locking process. I believe in the legislative process and I don't want it eroded away."

Delegate Mason Melvin, Bozeman, questioned "the danger of too strong a legislature" which he felt might threaten the independence of the judiciary.

Moses conceded there was "always that danger." He said the legislature has not always been responsive to court problems but felt that "ultimately

the legislature will do the right thing."

"The legislature is the place where administrative details (of the judiciary) should be worked out," Moses said.

Convention Lobbyists Growing

Tribune Capitol Bureau

HELENA—More Constitutional Convention lobbyists have paid their \$10 fee bringing the total as of week's end to 71.

The number includes two former legislators. One is Bud Aspegiv of Rudyard, who resigned his Democratic House seat this week to lobby on "legislative subjects, revenue and taxation, and all other subjects of interest to me as an individual." The other is Jack

Committee to Get Babcock's Views

HELENA (AP) — Former Republican Gov. Tim Babcock will appear before the Executive Committee of the Constitutional Convention Saturday.

Last week, Democratic Gov. Forrest H. Anderson, who defeated Babcock in 1968, testified before the committee.

Rehberg of Billings, who resigned his Republican Senate seat last June. He represents the Montana Petroleum Association and the Rocky Mountain Oil and Gas Association.

Other recent registrants are: David Smith, Helena, Montana Woolgrowers Association; Robert Durkee, Helena, Montana Tavern Association; Maurice Mulcahy, Butte, Montana Police Protective Association; Henry Popham, Missoula, Brotherhood of Locomotive Engineers; Everett Shuey, Helena Montana Power Co.; Elton Hartzel, Missoula, American Federation of State, County and Municipal Employees; Hubert Massman and Gretchen Billings, Helena, Montana Council

of Cooperatives, R. L. Rampy, Bozeman, Joint Council of Teamsters No. 23, Kenneth Clark, Miles City, United Transportation Union, and D. H. Stewart, Helena, Montana Chamber of Commerce.

Total Environmental Protection Possible

By DENNIS E. CURRAN
IR State Bureau

The Constitutional Convention could force Montana to leap to the forefront of what has been called "the quiet revolution in land use control."

Several states have gone beyond local zoning regulations with laws which seek to guide or limit development in accordance with environmental concerns. But through a new constitution, Montana is in a position to make land use control the fundamental law of the state.

The vehicle, already introduced by delegate Jerome Cate,

is the "public trust doctrine."

Under its philosophy, air, water, land — the total environment — would be common property held in a trust fund perpetually for all. Standards would be imposed to insure that resources would be managed properly.

In practice, an expanded public trust doctrine could place limits on property ownership, since under the theory all resources ultimately are owned by the people. Individuals with deeds to particular parcels of property would in effect become squatters with only temporary hold on the resource and the

power to use it only in accordance with the standards imposed by the people.

"Harsh" Conflict

The conflict between public and private interests understandably could be "harsh," according to a Constitutional Convention report.

An example: say the Anaconda Co wants to dig a big hole on property it owns and take out some minerals. Under a strong public trust doctrine, the people could say to Anaconda, no, you cannot do that here because digging that hole will spoil our environment and taking those irreplaceable minerals

will deprive us of the benefits we may need 200 years from now.

The public trust concept dates back to the 19th century. President Theodore Roosevelt's National Conservation Commission, for example, advised that natural resources "be regarded as property held in trust for the nation, rather than the benefit of a few individuals who may hold them by right of discovery or purchase."

Air and water often are considered to be held in public trust; pollution control regulations are based on the theory that private property owners can be restricted from degrading the

public's air and water.

The public trust doctrine often is applied to public lands, but its broad extension to all resources still is emerging.

Wisconsin, Hawaii and Vermont are among states already regulating private land use on the basis of environmental concerns, according to a recent federal study. Now the federal government is joining the act with a proposed National Land Use Control Law.

Eminent Domain

In Montana, the constitutional provision dealing with eminent domain (the power of the state

to take private property as it pays a fair price) alludes to a trust concept, according to a report by Rick Applegate, Bill of Rights Committee research analyst.

Applegate says that the eminent domain power, coupled with a broad public trust doctrine, could be "the most persuasive source of legal protection of the environment."

Suggestions already have proposed a public trust for air, water, public land and wildlife, by Cate's proposal would make the entire "environmental life support system" a public trust because it is essential to the

health and welfare of the people.

"This public trust is the common property of the people of this state," the proposal says.

Cate, a Billings attorney, also proposes that each person have "an inalienable right" to enjoyment of the public trust and access to the courts to defend that right.

Cate's proposal, and the entire public trust issue, will be aired before the Natural Resources Committee in a hearing at 10:30 a.m. Saturday. The Bill of Rights Committee also is studying extension of environmental rights.

4—The Independent Record, Friday, January 28, 1972

Tax Equality Needed

Great Falls Sen. P. J. Gilfeather appeared before the Constitutional Convention's Revenue and Finance Committee last Monday and called for property appraisals by a state agency rather than on the county level. Gilfeather's contention is that transferring this authority to the state level would remove many present inequities and that property values would be uniform statewide.

We tend to agree with the senator.

Cascade County Assessor Carl Setzler took strong exception to Gilfeather's proposal, saying that assessing at the state level would not remove any inequities because the laws are full of loopholes and percentages are not fair. He also claimed that if county offices were abolished the whole program then would be in the hands of the politicians in Helena "and you know how they would hand out the political plums."

We think that removal of the assessing function from the county level to a state agency staffed with competent and qualified people would be a great step toward fairness.

It would not eliminate the loopholes, the legislature would have to do that, and it should.

But assessing property on a statewide basis would surely eliminate some inequities.

As to the politicians in Helena handing out political plums, we wonder if it is any better on the county level. Currently the county commissioners sit as the board of equalization in their respective counties and are governed by the State Board of Equalization. The commissioners are a lot closer to the grass roots (meaning the people who say whether they stay in office or not), than any agency in Helena, and they have been known to ignore the state board.

The citizens would be interested in their decisions on assessment are just as great, if not greater, on the local level than they would be on a statewide basis. We are not saying that they are partial, however the possibility definitely exists.

The courts are clogged with equalization cases of all sorts. And it seems to us that a disgruntled home owner also has a case. Why should the owner of a \$27,000 home in Helena pay \$800 or \$1,000 a year in property taxes while the owner of a similar home in another county pays \$200 or \$300 a year less? (The tax figures are not accurate, but the case in point is).

School financing criticized

By DENNIS E. CURRAN
Gazette State Bureau

HELENA — Montana taxpayers and school children are being shortchanged by "gross inequities" in the supposedly equal method of financing basic education, according to a report from state Superintendent of Public Instruction Dolores Colburg.

The inequalities, which are similar to those found in court-embattled California and Texas, could force Montana to develop a new financing structure, Mrs. Colburg said.

MAIN CONCLUSIONS of the report, which was released Monday, include:

—Wealthier school districts tend to spend more per pupil on basic education programs than do poorer districts.

—Wealthier elementary districts get more state aid per pupil for support of basic programs.

—Wealthy districts pay less in district and county property taxes for their basic programs yet get more district and county revenue per pupil for basic programs.

THE REPORT IS the result of two months of research by Michael G. Billings, director of the Financial Support for Schools Program in the Public Instruction office. It is being distributed to two Constitutional Convention committees and a legislative council subcommittee, all of which are studying school financing. A second part of the report, dealing with alternative forms of school funding, will be completed in a month or six weeks, Mrs. Colburg's office said.

Montana tries to equalize aid to local districts at two levels, and its equalization program is considered superior to those of some states. But the report indicates that Montana has the same type of disparities as are found in states now locked in court battles.

LAST FALL the California Supreme Court questioned the constitutionality of that state's equalization program. A similar Texas case appears headed for the U.S. Supreme Court, and similar cases are pending in many states, according to news reports.

"While it is difficult to determine exactly what the implications of court decisions about other state structures will be for Montana, it is clear that Montana's present structure has many of the same funding anomalies that are present in California and Texas," Mrs. Colburg said in a news release Monday.

IF THE California and Texas funding structures are declared unconstitutional, Montana "almost certainly will be faced with the challenge of developing a new method for financing public schools," she said.

Last week Mrs. Colburg advised Constitutional Convention delegates to make "an arduous study" of school financing.

The report on the foundation program documents several cases where different districts have widely differing property tax rates for the same per pupil expenditure.

ANOTHER EXAMPLE cited showed that a rural Cascade County district could get \$444 per pupil with a district tax levy of 2.17 mills while the Florence-Carlton district in Ravalli County has to levy 27.25 mills to scratch together \$94 per pupil.

Wibaux High School district levies under eight mills to raise \$518 per pupil while Ronan High School district levies almost 16 mills to raise \$121 per pupil.

Daily Clipping Sheet
February 1, 1972

ELEMENTARY DISTRICTS have even greater inequities because of distribution of interest and income from the school trust fund, the report notes. "I and F" money is distributed to schools equally on a per pupil basis, regardless of whether the school needs the money.

Some schools don't have to levy a district tax because of the interest and income money, the report says.

THE REPORT also discusses a general disparity between amounts schools are spending per pupil for their basic education programs. The range per elementary pupil is \$335 to \$2,483 and per high school student is \$648 to \$2,854.

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"The result is upward pressure on district property tax levels, which in turn compounds the effects of existing (and traditional) disparities in district wealth," the report says.

Telling it like it is

A while back, The Gazette declared its intent not to use party labels while describing the activities of the ConCon delegates. Now, after an anguished reappraisal, we have concluded that such labels are necessary to convey the news to our readers.

We had hoped that if we did not tag a man a Republican or a Democrat, we could minimize the amount of partisanship that could tear apart the whole convention. The convention, we reasoned, transcends partisanship. It is an attempt to rewrite the rules of government, rather than an arena for legislative and political issues. Partisan politics do not belong in such a circumstance.

Moreover, we knew most of the delegates were sincerely committed to do whatever they believed best for Montana, and were determined in their own right to avoid partisanship as much as possible. If the press and other media were to use partisan labels while describing non- or bi-partisan activity, the press could surely be guilty of dragging the tone of debate into the mire of Democratic and Republican ideology. We believed that given a non-partisan milieu in the press, the delegates would live up to the highest standards of statesmanship.

However, there is another side of the coin emerging: a reality that has caused the state Associated Press to poll its member papers about using partisan designations. It is clear to the reporters covering

the event that partisanship has been the key organizational force at the convention. The convention is organized with a Democratic and Republican caucus, and will frequently divide along those lines.

If the press fails to "tell it like it is," we fail to let the people of Montana know the realities at Helena. We would be guilty of providing half the news rather than all of it. We would be giving people the misimpression that there is little partisanship operating in the convention.

It is not the business of newspapers to sell the convention or its product on our news pages. It is our business to provide the news, all the news, regardless of whether that news damages or assists the convention.

If The Gazette, and other newspapers, approve of the new constitution, we will do our selling and persuading on our editorial page, where opinion properly belongs. Until then, we are only in the business of providing readers with a clear survey of the infighting, issues, and caucusing that we find in Helena.

Our state bureau has been requested to use great prudence in the use of labels. It may be more meaningful in discussing an issue to say that Delegate X is a rancher and populist rather than merely to label him a Democrat. The issues will fracture along economic and ideological lines, as well as partisan ones.

Montana Studies a National First

Basic Rights Considered for Children, Youth

By J. D. HOLMES
AP Capital Writer

HELENA (AP) — Before an audience of about 50 young people, the Constitutional Commission's Bill of Rights Committee was urged Monday to start Montana on the way to becoming the first state to insure all basic human rights for children and youth.

The young people were in the Capitol to put on a Children and Youth Fair which featured booths illustrating a dozen statewide programs plus a "rock" group.

For members of the committee headed by Wade Dehood, Anacosta, the special hearing—held on one of the convention's "off" days—marked a continuation of a discussion started Saturday.

At that time, the committee was asked to recommend lan-

guage giving young people all the rights of older Montanans.

"This has been done in other cases such as race and sex," was the way Frank R. Sennett, deputy state social services director put it, when the subject first came up. "To include constitutional rights in Montana's document for children and youth is consistent with past action taken nationally and on the state level."

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BY DANIEL J. FOLEY

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Regardless of what it decides on the issue of a unicameral or bicameral assembly, the constitutional convention's legislative committee is ready to give the state lawmaking body a major overhaul.

The assembly was rated first among the states last year by the Citizens Conference on State Legislatures, a national nonpartisan group, and the committee seems ready to "correct" many of the criticisms of that group.

It's a rather diverse committee, which includes several former legislators, a couple of former lobbyists, members of citizens groups which have long been promoting legislative revision and a couple of young lawyers who have proved invaluable to members in noting the subtle, but important, differences a few words can make in drafting constitutional language.

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The other day, for example, members were discussing whether an open meeting rule should apply to both public hearings and committee meetings. Observed Miles Rodney, a former legislator: "I think it should be for meetings too. You can't tell

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"Did you ever have a dream that the whole world was a tuxedo and you were wearing brown shoes?" asked Rosemary C. Boaschert.

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In agreeing to annual sessions, the committee went along with Jean Anderson of Billings, representing the League of Women Voters, who told members that "the rapid pace of life these days really requires annual decision-making."

Among those favoring an end to the 60-

day limit was University of Montana political science Prof. Ellis Waldron, who told the committee that the 60-day limit aids the lobbyists and hurts citizens and legislators. He compared the session to a hunting expedition: "The only one they (legislators) get to talk with during the hunt are the fat cats who can spend 60 days in the woods with them."

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The committee also strongly endorsed open meetings and adequate notice of legislative hearings. The convention itself has set an example on both counts. When one committee member suggested that strict requirements on hearing notice might cause the legislature some problems, it brought a quiet rejoinder from delegate Daphne Bugbee, D-Missoula, who has represented the League of Women Voters at legislative sessions: "I think it's about time in our history for the legislature to accommodate the public, not the public to accommodate the legislature."

Those are the most significant changes agreed to thus far: annual sessions, sessions without time limit, open meetings and advance notice of hearings. In addition, the committee favors annual salaries for legislators with pay set by a commission rather than lawmakers; recording of all votes—on the floor and in committee—which change the status of any legislation; and provision for the legislature to call itself into special session by majority vote.

Convention May Give

←The Independent Record, Monday, January 31, 19

Individuals More Rights

BY DENNIS E. CURRAN
IR State Bureau

Montanans could get a handful of new constitutional rights judging from activity by the Constitutional Convention Bill of Rights Committee.

After two weeks of meetings and hearings, the committee is exploring new ground with the idea of adding new protections for the citizens. There is no talk of limiting or deleting rights already in the constitution.

"As government functions and controls expand, it is necessary to expand the rights of the individual," committee chairman Wade Dahood of Anaconda said last week. "It's the function of government to serve the people so that they can enjoy life with individual dignity."

Two broad areas are discrimination and privacy, but a host of other proposals dealing with courtroom rights, young people and rights to governmental services are getting consideration.

Discrimination is vaguely prohibited by the 1889 Montana Constitution, but several delegate proposals and citizen suggestions seek more explicit language on race, color, creed, national ancestry and sex. Some call for equal rights in employment and promotions, sale and rental of property and political and civil rights.

Privacy is a right not stated in the constitution now. It could be handled with a general statement, but several specific suggestions are under study, including restrictions which would require a search warrant for electronic eavesdropping.

One of the most far-reaching proposals in the area of privacy is delegate Bob Campbell's proposed right to "individual dignity, privacy and free expression." The state would be prohibited from infringing on those rights unless it could show "compelling state interest."

Campbell's proposal would protect individuals from harassment by the state in so-called "victimless crimes" where no-

body is hurt unless the state can show a good reason.

Other new rights under study:

— Eighteen-year-old adulthood with the right to hold any

public office and grant full right to educational opportunity and will met jointly to discuss it.

rights and responsibilities at 18 instead of the present 19.

— Children's rights now are not protected under many constitutional rights of adults. The committee is being urged to draft children's provision.

— Education. Both the bill of rights and education committee

Basic necessities. Despite worry over increased state costs, several committee members want to give the people the right to "the basic necessities of life, including the right to adequate nourishment, housing and medical care."

— Right to know. The committee has expressed interest in broadly stating each citizen's access to governmental documents and deliberations as long as the right to know can be balanced with the right to privacy.

— Procedural rights. Considered are abolishment of the death penalty and a right to legal counsel for indigents in administrative or court cases in which the state is an adverse party.

— Rights of victims. Under a proposal by delegate Jerome Cate of Billings, the state would provide "reasonable" compensation for injuries to victims of crimes.

— Abolish sovereign immunity. The committee is thinking strongly of doing away with the provision which prohibits citizens from bringing lawsuits against the state.

— No gun registration. Although the committee generally leans toward staying with the present right to bear arms provision, it is being urged to prohibit constitutionally a state gun registration law or

Convention Committee Hears Gun Arguments

By THE ASSOCIATED PRESS

Gun enthusiasts appeared before the Constitutional Convention's Bill of Rights Committee Saturday, some urging a provision barring gun registration and others indicating they were satisfied with existing constitutional language.

The committee received a telegram from some 500 Billings members of the National Rifle Association, urging that the language in the present constitution remain.

Delegate Bob Campbell of Missoula indicated he couldn't see why it would be necessary to put an anti-registration provision into the constitution.

Another, Raymond Lay, Helena, suggested Montana could be a "guiding light" to the rest of the states and the nation by opposing registration by adoption of such a constitutional provision.

Campbell, an attorney, differed. "We can't do anything about the federal gun control law."

"Some of the members of your profession can read into almost anything, but I think it's contrary to the intent of the Founding Fathers," said H.W.C. Newberry, Kalispell.

Newberry said Montana does not have to "lay down and play dead" to the federal government, particularly with regard to the 1968 Gun Registration Law.

Newberry and others opposing registration all voiced the fear that registration could someday lead to confiscation of guns by "totalitarian powers," as they said it has in other counties.

Committee Chairman Wade Dahood of Anaconda was not particularly convinced of a need to argue the matter. "Our committee has not received any suggestion from anyone that we should amend the constitution to take away the right to bear arms," he said.

Newberry pointed out that as far as he was concerned, the issue was over registration rather than simply retaining the present right to bear arms. He summed up his feeling about the present constitutional provision when George James of Libby asked him if he considered it adequate.

"No sir," he replied, "Positionally, absolutely, and unequivocally no!"

Alternative is sought for financing education

Gazette State Bureau

HELENA—Two Constitutional Convention committees are already searching for a new way to finance education in anticipation that the present method may be unconstitutional.

The Education and Revenue and Finance Committees will hold a joint public hearing Feb. 8 to explore what the constitution should say about funding public schools.

The educational financial schemes of most states were thrown into flux last fall by a California Supreme Court case, Serrano vs. Priest, which challenged California's school financing system. The plaintiffs argued that the quality of education varies from district to district because some districts have greater wealth and can provide better education.

THE CALIFORNIA decision was on a legal point, not the merits of the case, so the court opinion that unequal education is unconstitutional does not have the force of law. Nor does it outlaw local property taxation as means of paying for education.

But the Serrano case, plus similar cases in 24 other states, has set the stage for an eventual U.S. Supreme Court decision that could affect most states, including Montana.

The Montana constitution now requires the Legislature to "maintain a general, uniform and thorough system" of public schools. The Legislature has tried to do this, often unsuccessfully, through the state school foundation program.

CHANGING THE foundation program would not necessarily require a change in the constitution, but the education committee is exploring alternate methods of school financing anyway, not necessarily to include in the constitution but so that any new constitutional provision would not limit or outlaw new possibilities.

Last week, delegate Marjorie Cain of Libby, a member of the committee, paid her own way to Denver to attend a two-day regional conference on alternative forms of school financing.

THE COMMITTEES also plan to consult with Michael Billings, who is working on a report dealing with alternative financing plans.

State Superintendent of Public Instruction Dolores Colburg last week told the Education Committee that the convention was an opportunity to design a "just and general" distribution system.

"Montana is in a position to develop a system of educational financial support that could serve as a model for other states," she said.

Single-Member Legislative Districts Proposed

BY DANIEL J. FOLEY
IR State Bureau

Two state legislators and a political scientist urged Saturday the adoption of single-member legislative districts, so each voter would pick only one law-

maker in a unicameral assembly or one representative and one senator in a bicameral body.

The single-member concept would promote accountability by giving voters a chance to know their legislator, and it

would insure that rural areas are not represented by urban lawmakers, the proponents said.

Speaking at a Saturday night hearing of the Constitutional Convention's legislative committee were Reps. Thomas E. Towe, D-Billings, and Jack

Gunderson, D-Power, and University of Montana Prof. Ellis Waldron.

Towe said that in his home county, Yellowstone, there are 30 legislative candidates on the ballot every two years. "You don't have anything that really

represents an intelligent vote by the people," he said.

Laurel, the state's 17th largest city is predominantly Democratic, but it is in the same county as Billings, the state's largest city and a predominantly Republican one, Towe said. The result is that Laurel has had only five representatives since 1900 and has never had a senator, he said, adding, "I think that's unfair."

In an aside, Towe quipped that delegate Chet Blaylock of Laurel did a "beautiful job of undermining our case" when he was elected to the convention with the largest vote in Yellowstone county.

The case referred to is one in which Towe is challenging the Legislature's present apportionment. It has been appealed to the U.S. Supreme Court, he said.

Aside from Laurel, Billings southside is another good example of the suppression of minority representation in large multi-member districts such as Yellowstone County, Towe said. That low income area hasn't had a representative or senator since 1907, he said.

The Billings legislator also cited a poll last year of 136 Yellowstone County voters. Only two correctly identified all 18 of their legislators from a list of 50 names and the average person identified only one-third, he

said. "If you don't even know who your legislators are, how can you know what they do when they come to Helena?" he asked.

Towe said that if the state were divided into single-member districts, there would be more districts than at present and the districts would be smaller in size. That would insure better representation in rural areas, he said.

Prof. Waldron noted that a single-member plan which he drew and Reps. Towe and Gunderson introduced in the 1971 session followed more county boundaries than the multi-member plan finally adopted, a plan which was urged by some legis-

lators who said it preserved county integrity.

The single-member plan also divided city districts from suburban-rural districts while the adopted plan did not, Waldron said.

If the use of large multi-member districts is continued, rural counties will be reshuffled into new combinations after each census, Waldron said. That would seriously diminish chances for reflection of experienced lawmakers from those areas, the political scientist said.

Waldron, Towe and Gunderson all urged the convention to establish a bipartisan commission to initiate reapportionment or act as a backup if the Legis-

lators fail. "Legislators have demonstrated that they don't do the job very well," Waldron said. "One of the reasons they are not the best to reapportion is because they are determining the terms of their own employment."

Taxing issues

By DON OAKLEY

There has been a spate of landmark lower court rulings in the field of public education/civil rights lately. They will be landmarks, that is, if they are ultimately affirmed by the U.S. Supreme Court and made binding up on the nation as a whole.

Four separate decisions so far have called into question the continued use of property taxes as the basis for funding public schools in response to suits charging that the system unconstitutionally discriminates against children from poor districts.

Referring to these decisions, and possibly anticipating what the Supreme Court may do, President Nixon in his State of the Union message urged Congress to provide "fair and adequate" financing for public schools on a nationwide basis in place of or as a supplement to the local property tax.

The speculation is that he is thinking of a "value added" tax which would be applied to products at every stage, from raw material through manufacture to sale—a sort of national sales tax which would ultimately be paid by the consumer.

IN ANOTHER decision which may have even wider ramifications than the Supreme Court's outlawing of segregated schools in 1954, Richmond, Va., has been ordered to merge all its local school districts, city and suburban, into one metropolitan district and to achieve complete racial balance in every school within that super district.

This decision, if upheld, would mean "no place to hide" any more for whites fleeing from the cities, say some observers. The problems of the ghetto would be dumped smack on the well-trimmed lawns of suburbia. It would be sink or swim for all of us.

Less publicized has been yet another ruling, which involves education only incidentally but which could throw a lot of state legislatures into a minor financial panic should it be validated by the Supreme Court.

In a case involving a student at a community junior college in Kansas City, Kan., a judge ruled in effect that an out-of-state student who registers to vote in the town where he goes to college becomes a resident of that town and is not subject to the additional tuition fee that most state colleges and universities impose on nonresidents of the state.

DISTRICT JUDGE William Ryan held that granting the vote to an 18-year-old ends traditional legal subservience to his parents, including the view that their home is his residence.

It is estimated that the financial loss to Kansas alone could amount to about \$5 million a year and as much as \$250 million a year for tax-supported institutions in all 50 states.

What would likely happen, of course, is that Kansas, and the other 49 states as well, if they are eventually affected, would simply have to raise tuition for all students by an amount sufficient to make up this projected loss.

Another possible result of the Kansas City ruling, having to do with the fear of many people that students will stage political "take-overs" in communities where the college population outnumber the nonstudent population, is not as easy to foresee.

All these court decisions have one thing in common: They illustrate the snowball effect that occurs whenever we attempt to translate broad human rights into specific law. They touch upon one of the fundamental questions of civilized existence: Where do the rights of one person or group end and those of another person or group begin?

In this country, it started with the Declaration of Independence.

Newspaper Enterprise Assn.

Montana Studies a National First

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School financing criticized

By DENNIS E. CURRAN
Gazette State Bureau

HELENA — Montana taxpayers and school children are being shortchanged by "gross inequities" in the supposedly equal method of financing basic education, according to a report from state Superintendent of Public Instruction Dolores Colburg.

The inequalities, which are similar to those found in court-embattled California and Texas, could force Montana to develop a new financing structure, Mrs. Colburg said.

MAIN CONCLUSIONS of the report, which was released Monday, include:

—Wealthier school districts tend to spend more per pupil on basic education programs than do poorer districts.

—Wealthier elementary districts get more state aid per pupil for support of basic programs.

—Wealthy districts pay less in district and county property taxes for their basic programs yet get more district and county revenue per pupil for basic programs.

THE REPORT IS the result of two months of research by Michael G. Billings, director of the Financial Support for Schools Program in the Public Instruction office. It is being distributed to two Constitutional Convention committees and a legislative council subcommittee, all of which are studying school financing. A second part of the report, dealing with alternative forms of school funding, will be completed in a month or six weeks, Mrs. Colburg's office said.

Montana tries to equalize aid to local districts at two levels, and its equalization program is considered superior to those of some states. But the report indicates that Montana has the same type of disparities as are found in states now locked in court battles.

LAST FALL the California Supreme Court questioned the constitutionality of that state's equalization program. A similar Texas case appears headed for the U.S. Supreme Court, and similar cases are pending in many states, according to news reports.

"While it is difficult to determine exactly what the implications of court decisions about other state structures will be for Montana, it is clear that Montana's present structure has many of the same funding anomalies that are present in California and Texas," Mrs. Colburg said in a news release Monday.

IF THE California and Texas funding structures are declared unconstitutional, Montana "almost certainly will be faced with the challenge of developing a new method for financing public schools," she said.

Last week Mrs. Colburg advised Constitutional Convention delegates to make "an arduous study" of school financing.

The report on the foundation program documents several cases where different districts have widely differing property tax rates for the same per pupil expenditure.

ANOTHER EXAMPLE cited showed that a rural Cascade County district could get \$444 per pupil with a district tax levy of 2.17 mills while the Florence-Carlton district in Ravalli County has to levy 27.25 mills to scratch together \$94 per pupil.

Wihaux High School district levies under eight mills to raise \$518 per pupil while Ronan High School district levies almost 16 mills to raise \$121 per pupil.

Daily Clipping Sheet
February 1, 1972

ELEMENTARY DISTRICTS have even greater inequities because of distribution of interest and income from the school trust fund, the report notes. "I and T" money is distributed to schools equally on a per pupil basis, regardless of whether the school needs the money.

Some schools don't have to levy a district tax because of the interest and income money, the report says.

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However, there is another side of the coin emerging; a reality that has caused the state Associated Press to poll its member papers about using partisan designations. It is clear to the reporters covering

the event that partisanship has been the key organizational force at the convention. The convention is organized with a Democratic and Republican caucus, and will frequently divide along those lines.

If the press fails to "tell it like it is," we fail to let the people of Montana know the realities at Helena. We would be guilty of providing half the news rather than all of it. We would be giving people the misimpression that there is little partisanship operating in the convention.

It is not the business of newspapers to sell the convention or its product on our news pages. It is our business to provide the news, all the news, regardless of whether that news damages or assists the convention.

If The Gazette, and other newspapers, approve of the new constitution, we will do our selling and persuading on our editorial page, where opinion properly belongs. Until then, we are only in the business of providing readers with a clear survey of the infighting, issues, and caucusing that we find in Helena.

Our state bureau has been requested to use great prudence in the use of labels. It may be more meaningful in discussing an issue to say that Delegate X is a rancher and populist rather than merely to label him a Democrat. The issues will fracture along economic and ideological lines, as well as partisan ones.

School Financing Shortchanges Many

By DENNIS E. CURRAN
IR State Bureau

Montana taxpayers and school children are being short-changed by "gross inequities" in the supposedly equal method

Dennis Curran



of financing basic education, according to a report from State Superintendent of Public Instruction Dolores Colburg. The inequalities, which are similar to those found in court-embattled California and Texas, could force Montana to develop

a new financing structure. Mrs. Colburg said.

Main conclusions of the report, which was released Monday, include:

— Wealthier school districts tend to spend more per pupil on basic education programs than do poorer districts.

— Wealthier elementary districts get more state aid per pupil for support of basic programs.

— Wealthier districts pay less in district and county property taxes for their basic programs yet get more district and county revenue per pupil for basic programs.

The report is the result of two months of research by Michael G. Billings, director of the financial support for schools program in the public instruction office. It is being distributed to two Constitutional Convention committees and a Legislative Council subcommittee, all of which are studying school financing. A second part of the report, dealing with alternative forms of school funding, will be completed in a month or six weeks, Mrs. Colburg said.

Montana tries to equalize aid to local districts at two levels, and its equalization program is considered superior to those of some states. But the report indicates that Montana has the same type of disparities as are

found in states now locked in court battles.

California and Texas

Last fall, the California Supreme Court questioned the constitutionality of that state's equalization program. A similar Texas case appears headed for the U.S. Supreme Court, and similar cases are pending in many states, according to news reports.

"While it is difficult to determine exactly what the implications of court decisions about other state structures will be for Montana, it is clear that Montana's present structure has many of the same funding anomalies that are present in California and Texas," Mrs. Colburg said in a news release Monday.

If the California and Texas funding structures are declared unconstitutional, Montana "almost certainly will be faced with the challenge of developing a new method for financing schools," she said.

Last week Mrs. Colburg advised Constitutional Convention delegates to make "an arduous study" of school financing.

The report on the Foundation Program documents several cases where different districts have widely differing property tax rates for the same per pupil expenditure.

Another example cited

showed that a rural Cascade County district could get \$444 per pupil with a district tax levy of 2.17 mills while the Florence-Carleton District in Ravalli County has to levy 27.26 mills to scratch together \$94 per pupil.

Wibaux High School District levies under eight mills to raise \$515 per pupil while Ronan High School district levies almost 18 mills to raise \$121 per pupil.

Greater Inequities

Elementary districts have even greater inequities because of distribution of interest and income from the school trust fund, the report notes. "I and I" money is distributed to schools equally on a per pupil basis, regardless of whether the school needs the money.

Some schools don't have to levy a district tax because of the interest and income money, the report says.

The report also discusses a general disparity between amounts schools are spending per pupil for their basic education programs. The range per elementary pupil is \$335 to \$2,463 and per high school student is \$648 to \$2,354.

"Even for districts the same size, the per pupil general fund expenditures tends to increase as district wealth increases," the report says.

The report also concluded that all school districts suffer at the expense of inadequate schedules under the School Foundation program.

"Montana's Foundation Program falls far short of providing adequate funding for basic educational programs as they presently exist" at both elementary and secondary levels.

"The result is upward pressure on district property tax levels, which in turn compounds the effects of existing (and traditional) disparities in district wealth," the report says.

N. Dakota nears end of its own Con Con

BISMARCK, N.D. (AP) — The North Dakota Constitutional Convention turns into the home stretch Monday with about 30 proposals still to come up for first passage.

Under convention rules, all proposals must clear first passage by Wednesday, the Convention's 23rd day.

Convention officials plan to recess the assembly sometime after the remaining measures are approved. This would give the style and drafting committee time to put finishing touches on the proposals for second reading when the convention reconvenes.

The body has 10 days of its allowed 30 plenary session days remaining and has 6 of its allowed 10 days of recess time yet to spend.

Among the more significant measures awaiting first passage are proposals dealing with education and local governments.

Under the proposal dealing with political subdivisions, voters would have greatly expanded powers to determine the structure of their local governments. For instance, voters in the individual counties could eliminate any elective

office. One of the few restrictions as far as counties are concerned is that they would have to continue to provide the types of services they do now.

The convention faces majority and minority reports from the education, resources and public lands committee on a proposed education article.

A minority of the committee wants to create an education commission with authority over all phases of education. As proposed, the commission would have 15-21 members and be divided into three boards. One board would be responsible for elementary and secondary education, another for junior college and vocational education and the third for higher education.

The committee's majority plan is closer to the state's existing education and a separate state board of higher education.

The state has such separate boards now, although the Board of Higher Education is a constitutional board now while the Board of Public School Education is a statutory board not mentioned in the Constitution.

Opinions

Fred Martin at Con Con First two weeks spent laying proper groundwork

The Montana Constitution - there will be one - will be a product of the common sense of the 100 delegates. After two weeks the delegates, combining the testimony of state, county and city officials, plus representatives of public groups are laying the foundation of the 100 bricks on which the new Constitution will be erected.

The two week period has provided an opportunity for the delegates to get acquainted with each other. There is a fresh exchange of ideas with which they can combine their knowledge of the effort for freedom dating back to the Magna Charta and the American Constitution.

In this they have been aided by perhaps the best assemblage of collective information from other states, and have the benefit of perhaps the greatest dedication on the part of the research analysts and all members of the Convention staff.

The spirit of confidence which pervades permits the delegates to practically devote full time to their respective substantive committees, knowing full well that their counterparts in the other nine com-

mittees are doing likewise.

The constitution, according to most delegates, will be broad, flexible and fundamental with a minimum of shackling provisions, recognizing, first of all, that the basic powers rest with the people.

The delegates are very much aware that the final test will come when the Constitution they are writing will be subject to rejection or approval from the same voters who elected them. All of the delegates respect the confidence in which the people in their respective districts have in them.

Every delegate will have an opportunity to appear before committees if he so desires, and ample notice of public hearings will be available. The delegates appreciate hearing the views of their constituents. The press has difficulty in covering all of the ten or more simultaneous meetings, but as hearings emerge they will be so spaced that there will be an opportunity for complete coverage which will help spotlight individual issues.

ConCon lobbyists better tell expenses

HELENA (AP) — For the first time, beginning Tuesday, lobbyists registered for Montana's Constitutional Convention must file expenditure statements.

Secretary of State Frank Murray said the statements are to be filed every two weeks under terms of the law setting up the convention.

If they are not filed within five days, the secretary of state shall suspend the license of the delinquent lobbyist.

Following the Feb. 1 reporting date, the next biweekly report is due Feb. 15 and the final one June 15.

The reports must include all expenditures made to promote or oppose constitutional provisions. However, they need not include expenses for office, routine research, mailing, personal food, lodging and travel.

Through Monday, a total of 73 lobbyists had registered at Murray's office.

—The Missoulian, Wednesday, February 2, 1972

Environmental Provision Backed For Inclusion in Constitution

By DENNIS E. CURRAN
Missoulian State Bureau

HELENA — A normally softspoken committee chairman lambasted the status quo and delivered a fiery plea for strong environmental protection Tuesday during a Constitutional Convention hearing.

Louise Cross, chairman of the convention Natural Resources Committee, speaking as "a citizen," told fellow delegates that the citizens of Montana want their environment protected and that it is up to the convention delegates to resist "pressures" and provide protection.

Her testimony came during a joint hearing of the Natural Resources and Bill of Rights committees, which are studying possible constitutional provisions on the environment. Much of the testimony again supported establishment of a public trust for resources, a far-reaching doctrine which would give the public more say over environmental aspects of public and private land.

"I am speaking for those people who cannot be here to speak for themselves but are greatly concerned about our natural resources and our environment," Mrs. Cross said, adding that she decided to appear "after seven days of

listening to arguments defending the status quo."

"It has become increasingly clear that the status quo is woefully lacking as far as the environment and the use of natural resources is concerned," she said. "We have reached the point where nature no longer has the ability to restore what man consumes."

Mrs. Cross, a Democrat from Glendive, especially criticized air pollution, clearcutting and strip mining.

"I have heard arguments that individuals really don't have the right to a healthful environment — because it is too hard to define the term 'healthful,'" she said. "Do people have to become ill or drop in their tracks before the word 'healthful' can be defined?"

The public trust concept was again urged, this time by State Rep. George Darrow, R-Billings, chairman of the Environmental Quality Council.

His proposal would give the state and individual citizens the right to "maintain the integrity of the environmental life support system" and also would provide compensation for taking of private property.

Darrow called the public trust "an important and necessary preventive measure to take for the future."

"If, after the pollution occurs, we're going to play cops and

robbers trying to clean it up, we never will begin to catch up with our problems," he said.

Giving each citizen the right to go to court in environmental cases again prompted questions from committee members.

especially Wade Dahood, chairman of the Bill of Rights committee, and C. B. McNeil of Natural Resources.

McNeil criticized Darrow's language giving each person "an inalienable right to the unimpaired enjoyment of this public trust" as being much broader than "maintaining the life support system."

"A citizen could sue for the slightest trace of dust" under

the broader "enjoyment" language, McNeil said.

McNeil later defended his own proposal granting everyone a right to a "quality" environment.

The Polson attorney a Republican, also criticized Gov. Forrest H. Anderson's veto of the state's air pollution control implementation plan and said that the governor's action "certainly will provide incentive to promulgate the strongest possible environmental provisions."

Also expressing support for strong environmental protection provisions in the constitution were Cecil Garland of Lincoln, Darlene Grove of Helena and Mavis McKelvey and William Tomlinson of Missoula. An Anaconda Forest Products forester, Robert LeProwse, urged the committee to express concern for forests and oppose any clearcutting moratoriums.

The present Montana constitution does not make any statement about the environment.

Supports Retention of Justices of the Peace

District Judge Attacks 'Montana Plan' for Court Reform

By JOHN KUGLIN
Tribune Capital Bureau
HELENA—Half a dozen witnesses, including a district judge and several justices of the peace, Tuesday urged the Constitutional Convention's Judicial Committee to provide for a lower court system in the Constitution.

Dist. Judge E. Gardner Brownlee of Missoula, a long-time defender of retaining and upgrading the justice court system, attacked the "Montana Plan" for improving the judicial system.

Brownlee said that the Montana Citizens Conference for Court Improvement had taken credit for the plan, but it was actually drafted by professors at the University of Montana Law School.

Brownlee said that the plan which would abolish the constitutional status of JPs should be called the "Law School Montana Plan."

Brownlee, during his hour-long presentation, suggested that the power of the Montana Senate to sit as a court impeachment be expanded to include the power to act on the removal or compulsory retirement of unfit judges. Brownlee suggested accomplishing this by appointing a 12-member jury of state senators selected by lot.

Brownlee said that he met with about 30 JPs in Polson last weekend, and they supported a compromise to the previous stand by many JPs that the Constitution should continue to require two justice courts in each organized township.

Brownlee suggested a provi-

sion saying "the judicial power of the state shall be vested in the Senate sitting as a court of impeachment, in a Supreme Court, district courts, and such other inferior courts as the legislature may from time to time establish."

Brownlee said, "I believe this change is not objectionable to the JPs of our state." He said that what the JPs want is "help . . . help to improve their courts and their public image . . . and a recognition of the responsibilities of their office. Here is where Montana mostly needs its judicial reform."

Brownlee said that the present lower court structure is working and "almost every ill attributed to it can be cured by legislative action."

Brownlee listed six objections to the "Law School Montana Plan":

—Overloading of the Supreme Court. All appeals from any trial must go directly to the Supreme Court. This includes an appeal from a traffic fine.

—Failure to provide for city police courts. Montana has at least 100 police judges. "The Montana Plan repeal of all city traffic ordinances can't leave us with anything but chaos. Perhaps this one point illustrates the complete lack of real understanding of the normal court functions by the Montana Plan draftsmen."

—A luxury we cannot afford. "Under the Montana Plan our cost of replacing our lower courts would increase five times

system who testified before the committee included JP Robert Brooks, Lewistown; JP Sterling De Pratu, Fairfield; Kenneth D. Clark, Miles City, a lobbyist for the United Transportation Workers Union; Pondera County Sheriff Walter Hammermeister, representing the Montana Sheriffs and Peace Officers Association, and Opal Eggert, Billings, a lobbyist for some Montana elected officials.

De Pratu argued, "you can't have the people from Augusta coming all the way to Helena (to have their cases tried)."

Hammermeister argued that "a JP should be available in every area where a law enforcement agency is based. I can't see taking a traffic violator 60 miles to a magistrate."

istrates. The power given to district judges to appoint magistrates under the Montana Plan would be detrimental to the judicial image. "The hiring and firing of employees does not fit into the normal process of settlement of disputes by the judicial process."

After submitting suggestions for improving the judicial article of the constitution, Brownlee urged the committee to give JPs "a chance to prove what they can do to improve their courts and above all let's get them the help from the legislature that they need."

Delegate Cedor Aronow, D-Shelby, explained a proposal he has drafted which would require that "dignified accommodations be provided for justice courts.

Other supporters of the JP

Dakota ConCon pressed

BISMARCK, N.D. (AP) — Delegates to the North Dakota Constitutional Convention began a countdown Tuesday toward another deadline, that of passing for the first time proposals intended for a new constitution.

The deadline is at the close of business Wednesday, but delegates still had a big workload ahead, including some complex proposals such as home rule, criminal indictment procedures and whether a ban on foreclosure of homesteads should be repealed.

The home rule provision faces at least one extensive amendment bid, one combining the jobs of Register of Deeds and Clerk of District Court into one office in counties having a population of 6,000 or fewer.

A proposal giving the legislature the power to change, regulate or abolish the grand jury system is a key to the criminal indictment section under consideration.

Another proposal sets down rules for recalling elected non-judicial officials, but that will not be considered until after the convention makes up its mind about a section on election of legislators. A proposal on legislative elections was approved last week, but has been brought back for reconsideration.

In Case California Decision Is Upheld

State Looking for New School Financing Method

HELENA (AP) — Two Constitutional Convention committees already are searching for a new way to finance education in anticipation that the present method may be unconstitutional.

The Education and Revenue and Finance committees will hold a joint public hearing Feb. 18 to explore what the constitution should say about funding public schools.

The educational financing schemes of most states were thrown into flux last fall by a California Supreme Court case which challenged California's school financing system.

The plaintiffs argued that the equality of education varies from some districts have greater wealth and can provide better education.

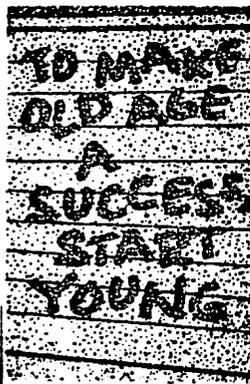
The California decision was on a legal point so the court's opinion that unequal education is unconstitutional does not have the force of law. Nor does it outlaw local property taxation as a means of paying for education.

But the case, plus similar cases in two dozen other states, has set the stage for an eventual U.S. Supreme Court decision which could affect most states, including Montana.

Changing the foundation program would not necessarily require a change in the constitution, but the education committee is exploring alternate methods of school financ-

ing anyway, not necessarily to include in the constitution but so that any new constitutional provision would not limit or outlaw new possibilities.

State Superintendent of Public Instruction Dolores Colburg has told the Education Committee that the convention is an opportunity to design a "just and general" distribution system.



Montana Gets Proposal For Parliament

HELENA (AP) — A Billings delegate said today he plans to introduce a proposal at the Constitutional Convention that would set up a parliamentary system of government.

Robert Kelleher said he is planning to submit a proposal that is patterned after the British parliamentary system in some respects.

It would provide for a one-house legislature of 100-110 members meeting annually, Kelleher said.

The majority party in the legislature would choose the state's chief executive, he added. Like the British system, the leader would move to dissolve the legislature, and, if a majority of representatives concurred, new elections would be held, Kelleher said.

Democrats Offer Proposal For Utilities Regulation

By DANIEL J. FGLEY
Missoulian State Bureau

HELENA — A Missoula delegate to the Constitutional Convention has introduced a proposal which would significantly change the state's method of regulating utilities.

The proposal was dropped in the hopper by Missoula Democrat George Heliker, a University of Montana economics professor, and cosponsored by nine Democrats. It would:

— Replace the elective three-member Railroad and Public Service Commission with a single commissioner, appointed by and serving at the pleasure of the governor. The commissioner would be subject to Senate confirmation.

— Allow the commissioner to use any method he deems appropriate to determine reasonable utility rates. That would replace the "fair value" system now used. Critics contend the fair value method results in high gas and electric rates.

— Permit municipal and public utility districts.

The most significant of the changes would be replacement of the fair value system, which is used because of several decisions of the Montana Supreme Court and Public Service Commission interpretation of those decisions.

Under the fair value system, the

predominant factor in determining a utility's rate base is the cost to reproduce its utility property. Many states consider the lower original cost as the main factor in determining property values and in setting rates. All else being equal, during inflationary times, the reproduction cost method results in high rates.

Heliker said that he thinks that only about 13 states still use the fair value method.

"We consumers do not want to eliminate profits for the utilities, but we do want to hold them to some reasonable figure," he said.

Heliker said he doesn't think there is much doubt that large utilities, such as Montana Power Co., are making excessive profits, but under the present rate-making system that is difficult to prove. The Public Service Commission now has under consideration an MPC request for a rate hike.

Heliker said he provides for municipal and public utility districts in hopes of getting some competition for the investor-owned utilities.

Cooperatives would not be subject to regulation under the proposal.

Others who sponsored the proposal, all Democrats, are Chet Blaylock, Laurel; Lyle R. Monroe, Great Falls; Leslie "Joe" Eskildsen, Malta; Lloyd Barnard, Saco; Henry Siderius, Kalispell; Miles Romney, Hamilton; Paul K. Harlow, Thompson Falls; Robert L. Kelleher, Billings, and Jerome J. Cate, Billings.

Solons Divided On Legislature

By CHARLES S. JOHNSON
Associated Press Writer

HELENA, (AP) — Several state legislators called for a one-house legislature Tuesday but another defended the past session and bicameralism at a Constitutional Convention hearing.

The convention's Legislative Committee, faced with the sticky problem of forging a new legislative article, heard testimony from supporters of a unicameral—or one-house—legislature as well as defenders of the bicameral system.

Those legislators urging that Montana join Nebraska as the only states with a one-house body were Reps. Bradley B. Parrish, D-Lewistown; Chase Patrick, R-Helena; and Jack Gunderson, D-Power, Sen. Jack McDonald, D-Belt, submitted written testimony favoring unicameralism.

Backing the two-house legislature was Rep. George Darrow, R-Billings, who said:

"If you'll examine the record, the past session, for all its problems, was the most responsive and productive in the history of the state."

Darrow said the fiscal deadlock resulted from the evenly divided houses, which was as the voters dictated.

"Among the greatest things the legislature does is preventing the passage of bad legislation," Darrow said, "And that's reason enough for a bicameral legislature."

Parrish, a freshman legislator, said the bicameral legislature is "a vestige of 18th century oligarchy, no more, no less."

Discussing the 1964 Reynolds vs. Sims decision of the

Supreme Court, the Lewistown attorney said: "In one fell swoop, the Supreme Court eliminated the major argument for bicameralism."

That decision required states to apportion both houses on the basis of population. Prior to 1964, state senates generally were based on geographic units such as counties, regardless of population.

Parrish countered the claim that unicameralism will decrease rural representation, saying:

"Representation is measured by the effectiveness of the representative, not the number of bodies."

Junking one house also would eliminate the need for conference committees, which Parrish called "undemocratic secretive conspiracies." Conference committees—made up of three senators and three representatives—work out differences when the two houses pass similar bills but disagree over specifics.

Senate Should Pick Its Own Chief

Judge Sees Need for Change In Lt. Governor's Assignment

By JOHN KUGLER

Tribune Capitol Bureau

HELENA — Lt. Gov. Thomas

Judge Tuesday said that the lieutenant governor should not be the presiding officer of the Senate, but should be given new duties by the governor within the executive branch.

Judge, the only announced Democratic candidate for governor, told the Constitutional Convention's Executive Committee that the lieutenant governor should be a full time assistant governor and an ex officio member at all boards on which the governor sits.

Judge said that there should be an "open" primary for parties to select their candidates for governor and lieutenant governor. The governor and lieutenant governor would be required to run as a "team" in the general election with one vote cast for both candidates.

Delegate Betty Babcock, R-Helena, wife of former Gov. Tim Babcock, said this would pose problems if a governor and lieutenant governor were not compatible.

Judge, who served 106 days last year as president of the Montana Senate, argued that the lieutenant governor should be

relieved of all legislative responsibility because "the legislature should be a separate and equal branch of government and must be willing to stand up to the governor and determine public issues on their own merit. To do this it must have a right to choose its own presiding officer."

Judge argued that running as a "team," as the governor and lieutenant governor do in 16 other states, would allow the governor to leave the state with the knowledge that "his acting governor will not raise havoc with his policies, programs and appointees."

The lieutenant governor should receive an annual salary equal to his responsibility as determined by the legislature, Judge said. The average pay for a lieutenant governor is \$17,000.

"It is ironical," he said, "that while the lieutenant governor serves as the state's second highest elected official his powers and duties are limited. He is the only official in state government who does not receive an annual salary. Montana is one of the few, if not the only state where this is the case."

Judge, who owns an advertis-

ing agency in Helena, said that he has devoted more than 50 percent of his time to the job of lieutenant governor. One reason for the heavy demands on his time, he said, is that "the people prefer to discuss their problems with an elected state official than with some bureaucrat or head of some agency."

Judge said that Montana governors have not delegated authority to lieutenant governors because of a lack of legislative mandate, a budget for salary and for political reasons.

Consolidation Provision Is Essential

Except for gun control or aid to parochial schools, a proposal by Frank Arness to allow creation of single-unit local government districts appears likely to raise the biggest commotion at the Constitutional Convention.

Certainly not perfect and probably not the complete answer to problems of local government, the Arness plan is a sincere attempt to provide a framework under which some of the duplications of public services and multiplication of costs may be eliminated.

The plan does not eliminate cities, counties, school districts and other governmental entities. They may continue to exist and function where the people so desire. But the proposal would give local residents the option to consolidate public agencies into one body.

The opportunity for cost cutting and improved efficiency would be a strong argument for the proposal. On the negative side is the fact that the five-man board of supervisors would be empowered with authority over almost every aspect of local affairs and it is doubtful that politically chosen officers would be competent in the diverse fields that would come under their purview.

The staff necessary to advise the supervisors on matters ranging from schools to roads to soil conservation to garbage disposal might be so expensive and cumbersome that it would negate any advantages that would accrue from consolidation.

Many functions of local government would be better served under consolidation. Police protection, refuse disposal, road and street maintenance, sewage treatment, public health and sanitation would probably function more efficiently and more economically under central departments than under separate city and county units.

Delegates from some eastern Montana counties have spoken out against the plan because they fear it would automatically terminate their local governments. Instead the proposal, if incorporated into the constitution, would give every area of Montana the opportunity to decide whether consolidation would satisfy its needs or whether the system of divided responsibility in city, county, school and other units should be continued.

Under the proposal as written by Arness, each county will have until 1980 to decide if consolidation should be effected. If consolidation

is rejected, if we read the proposal correctly, there would be no opportunity to adopt the plan after 1980. The constitution should make consolidation possible at any time in the future that it appears beneficial.

Fundamentally, it appears that the Arness proposal is a basically sound approach to the problem of consolidation, although a strong case could probably be made for exempting schools from its application. But omitting schools would leave the most costly arm of local government outside unification. Carrying consolidation to its logical conclusion would probably result in a county-wide school district with a single administrative staff and a principal in charge of operations at each individual school.

The new constitution should contain a workable provision for local governmental consolidation. It was only a few years ago that people in Libby were bemoaning the lack of statutory or constitutional authority for uniting city and county functions. As the tax base diminishes with decline of activities at Libby Dam, local residents may once again see benefits in consolidation. The Arness proposal would make it possible to reap those benefits if the voters desire.

16 Great Falls Tribune Saturday, February 5, 1972

County Superintendents Win Top Level Defense

Tribune Capitol Bureau
HELENA — Public Instruction Supt. Dolores Colburg told committees to be "unshakably certain" of the worth of some new system before it writes the county school superintendent out of the constitution.
Montana's chief state school officer was among witnesses testifying before the Convention's Education and Local Government Committees on the issue of whether to retain county school superintendents as constitutional officers.
Though she did not take a position on the issue, Mrs. Colburg read a prepared statement on the "value" of the office of county superintendent.
"To abolish the office of

county superintendent without providing a replacement would be a loss for education and for the citizens served," Mrs. Colburg said.
She conceded that the contemporary role of the county superintendent may no longer be totally consistent with the role as it was conceived by the drafters of the 1888 Constitution. However, she contended there are still vital services performed on the county level that cannot be discounted.
Mrs. Colburg said that Montana's special combination of an immense land area sporadically populated makes it impossible for the state superintendent to visit each locality every time a

problem develops or assistance is needed.
She also argued that the current administrative, fiscal and record-keeping activities performed by the county superintendents cannot be left unattended.
The county superintendent, Mrs. Colburg said, bridges a gap that would otherwise isolate a huge number of Montana school districts, the many rural elementary districts that can support neither a principal nor a district superintendent.
Schools in these districts, she said, "certainly have equal need for educational services."
Rural schools offer a valuable and desirable form of public education, Mrs. Colburg said,

which ought to be preserved and encouraged and it is imperative that modern educational services be provided. County superintendents help make this possible, she said.
In some urban districts, she added there is scant need to seek the county superintendent's services. Some rural counties are too sparsely populated to properly support a full-time superintendent. There could be modifications in the present system, although statutory law currently provides that two or more counties may jointly support a single superintendent of schools, she said.
Mrs. Colburg said that Montana has 199 one-teacher schools, 79 two-teacher schools and 43 three-teacher schools.

Citizens Show Concern at Session Here

Sweeping Legislative Reforms Are Favored

By GARY LANGELY
Missoulian Staff Writer

Bob Campbell is not Pat Paulsen, but he isn't had at suggestive political humor either.

"What you see is the dust being raised from the stampede of scared cows," he told an audience during a public meeting on the Constitutional Convention Sunday night, drawing a barrage of laughter.

The comment seemed to epitomize the din surrounding the reframing of Montana's 82-year-old constitution since it was that stampede that drew some 85 concerned citizens to the meeting. And they grilled the delegates for nearly three hours on the intricacies of constitutional reform.

It was the state legislature, rated by a national citizens' conference as among the bottom 10 in the nation and often criticized for its inefficiency, that concerned most.

In fact, if Sunday's audience was any indicator, the public would favor the most sweeping of reforms in the legislature — a show of hands indicated a good three fourths of the audience favoring a change from a two-house legislature to a unicameral, or one-house, body.

And the delegates were quick to respond.

"I think we're going to come out with a very strong vote for unicameralism," said delegate Daphne Bugbee, a member of the convention's Legislative Committee.

And while she admitted she is not certain if the convention will adopt unicameralism — even if her committee favors it — she was quick to speak in behalf of the idea.

"Who needs two constitutional conventions side by side," she said, criticizing bicameralism. "We don't need that."

She described unicameralism as "very logical" for "efficiency and visibility" in government.

Delegate George Heliker was more pointed in his criticism of bicameralism.

He drew laughter when he read from testimony he delivered last week before his Public Health, Education and Welfare Committee, which said:

"The most important thing we can do, and it will command almost universal approval, in my opinion, is to lift from the back of the long-suffering Montana citizen that tiring circus, that now-you-see-it-now-you-don't shell game, that pull-the-wool-over-the-eyes machine, that paid lobbyists kill-'em-dead obstructionist mill, that expensive and anachronistic institution politely known as the bicameral legislature."

Arguments against unicameralism, Heliker said, are "obstructionist arguments."

"They are made by people who want to prevent legislation from being passed," he said.

He described unicameralism as more visible and efficient than the two housed, and charged that bicameralism "makes possible efficient obstructions."

But while the idea of unicameralism drew strong support from the audience, it was not without qualifications.

One person warned a unicameral legislature must be coupled with a strong open meetings law.

"The people act as a second house in a unicameral state," he said.

Another suggested the convention obtain as much information as possible from Nebraska, the only state to adopt a unicameral legislature.

But Mrs. Bugbee responded by saying delegates already have an "enormous" amount of material from Nebraska.

"If we're going to have unicameralism in Montana we've got to stop talking about Nebraska," she said. "We've got to start talking about Montana."

She said the committee plans to draft two proposals — one for each legislative form.

The proposal was not without opposition.

One man said he could not understand why a unicameral legislature would be less expensive than a bicameral legislature.

Another, David J. MacLay, warned against hasty action, and told delegates give both sides consideration.

"If a high school kid jumps off a bridge they'll all jump off the bridge," he said.

The comment was welcomed by John Toole, first vice president of the convention, who cited the "tremendous thrust" for unicameralism and said he was pleased with comments from the other side.

Toole did not say directly which legislative form he favors.

Another area that concerned the audience was the Bill of Rights where delegates were grilled on the rights to privacy, a clean environment — and the hot issue of the right to bear arms.

In the main, they were concerned about their environment and their right to sue its polluters — the public trust issue.

"About 10 days ago I would have said the trust was about dead," said Campbell, a member of the Bill of Rights Committee. But then he pointed to Gov. Forrest Anderson's

recent veto of Montana's air pollution implementation plan and said some rethinking has occurred, not only on the trust theory, but on how much power the governor should have.

Somewhat leary about the trust proposal, Campbell explained its shortcomings.

For example, he said he would involve the right to sue any place at any time and, in effect, control "what a person can do with his land."

The theory, he said, has caused some delegates to see "all kinds of red flags."

"You have to have a lot of justification," he said.

But support of the trust persisted.

Dr. Jim Brogger, president of the Western Montana Fish and Game Association, described it as the "most feasible means of protecting our right to a healthful environment." And he said the right to a healthful environment is "as fundamental" as anything that could be written into the new constitution.

The right to bear arms drew some comment with sportsmen who said the delegates to keep the present constitutional provision at the very least. The present constitution guarantees the right to bear arms for protection — not recreational purposes.

Campbell said the provision will be kept, and he called concern over its deletion "one of the biggest nonissues of the convention."

While the meeting was called to test public reaction, it also gave the delegates a chance to boost their pet proposals.

Heliker's is one to regulate private utilities, and would replace the current three-member elective Public Service Commission with one man appointed by the governor who would serve at his pleasure.

Under his proposal, he said, "the responsibility for private utility regulation is pinned on the governor."

He pointed out the Public Service Commission was created by statute early in the twentieth century.

"It hasn't improved much in the last 65 years," he said. "It's time, it seems to me, for a drastic fundamental change."

Vice President Toole, despite his necessary attention to administrative chores, also has dropped a proposal in the hopper — one that would divert gasoline tax money to other uses besides highway construction and maintenance, including the Highway Patrol, mass transportation, parking lots, automobile-caused air pollution and disposal of abandoned cars.

"It does not mean this is no longer an earmarked fund," he said of the antidiversion amendment. "It doesn't mean that highway maintenance will be destroyed."

But Toole added, under his proposal the money — which amounts to \$38 million a year — could be used "to cure evils caused by the automobile."

While he called the amendment a "travesty" he said his proposal represents a compromise" with highway maintenance advocates.

"The lobby supporting the antidiversion amendment is the most powerful in the state of Montana," he said. "When you're up against that you don't say you're going to eliminate the antidiversion amendment."

And he noted the lobby is so powerful, he predicted his proposal probably will be defeated this year.

"We can't do this all in one step," he said. "My proposal is a step in the right direction."

Mrs. Payne, a former city councilman, explained her controversial proposal which would delete reference to elected county officials in the constitution.

"They shouldn't be in the constitution," she said, if the document is written so it will "take care of us the next 100 years."

Campbell, who has proposed a provision to give 18-year-olds blanket adulthood rights, said if the provision is approved, it could serve as a model for other states.

Delegate Proposals Due Today

HELENA (AP) — Thirty-five proposals ranging from the right to work to the right to die were introduced at the Montana Constitutional Convention Wednesday.

Thursday is the deadline for delegate proposals.

Among the measures submitted was one by R. J. Studer Sr., R-Billings, that says no persons shall be denied the right to work because of union membership or nonmembership. It also guarantees the right to bargain collectively and forbids public employes from striking.

Abortions would be outlawed under a proposal of Robert L. Kelleher, D-Billings, but persons incurably ill would have the right to die.

The present language on religious freedom in the Bill of Rights would be replaced with the First Amendment if a proposal submitted by Dan W. Harrington, D-Butte, is approved.

Moreover, several sections banning state aid to private schools would be repealed.

Vice President John H. Toole, R-Missoula, was the principal sponsor of a proposal to change

the present provision that diverts certain funds for highway use. This measure would extend the funding to include mass transport, public-owned parking lots, reducing air pollution from cars and highway patrolmen's salaries.

Arnold W. Jacobson, R-Whitefish, proposed a measure that would direct the legislature to provide for the acquisition of historic sites.

George Rollins, D-Billings, submitted a plan that would set up the units of the University System as corporate bodies under the direct control of the Board of Regents.

Kelleher also introduced a measure that would allow voters to contribute a dollar of their state taxes to the party of their choice.

Along with this was one requiring the legislature to appropriate a sum not more than 3 1/2 per cent of a legislator's salary to pay for campaign expenses. They would be forbidden to spend any other funds besides the state money.

Dorothy Eck, D-Bosman, proposed that a vote be taken in the state's counties on what form of government citizens want.

Under a plan submitted by Geoffrey L. Brazier, D-Helena, no public officials would be allowed to serve more than three consecutive terms in an elective office.

Kelleher also introduced a measure that would outlaw businesses and industries from making employes work from dusk Saturday to dawn Monday except for those providing essential services.

Con Con Commission \$14,000 Over Budget

HELENA (AP) — The preparatory commission that published nearly 4,000 pages of material for Constitutional Convention exceeded its budget by about \$14,000. Chairman Alex Blewett said Wednesday.

Blewett, the Great Falls attorney who headed the 16-member Montana Constitutional Convention Commission, attributed the deficit to printing and binding costs that exceeded cost estimates.

"The deficit was incurred by the commission in vigorous preparations for the convention, and I hope it will not be passed on as a burden to the convention," Blewett said. "After all, the convention and the commission are separate entities and were separately funded by the legislature."

The 1971 Legislature authorized the commission to spend \$149,540 in state funds and an additional \$148,451 in federal money to prepare for the convention. However, Blewett said, the request for the federal

grant was rejected after the commission had started its work.

"We have spent only about 55 per cent of what the Legislature originally thought we might need," he said.

Another request for federal funds has been submitted to the Department of Housing and Urban Development, Blewett said.

He and convention leaders remain optimistic because of a recent federal grant to the North Dakota Constitutional Convention.

If the federal funds do not materialize, Blewett said the commission, which retains its formal existence until the convention adjourns, will consider other possibilities. One is a request to the 1973 Legislature for a supplemental appropriation, he said.

Blewett said the largest single outstanding bill is \$11,972.75 owed to Artcraft Printers of Bozeman for binding the research report prepared by the commission staff.

The Great Falls attorney estimated that other outstanding bills would bring the total deficit up to about \$14,000.

The chairman of the commission and two other members, Margery Brown and Ellis Waldron, both of Missoula, met with convention leaders Wednesday to discuss the budget problems. Mrs. Brown was chairman of the commission's budget and staff committee, and Waldron headed the research committee.

"We have agreed upon the principles by which a final accounting of the transitional costs will be allocated," Blewett said. A final accounting, however, must await arrival of all bills that have not been paid, including one for telephone service in December and January.

At a budget meeting for the convention several weeks ago, Dale Harris, executive director for both the commission

and convention, had estimated from \$10,000 to \$15,000 would be left over from the commission's \$148,540 budget.

As a result, the convention's Administration Committee increased its original \$488,281 budget—the same amount the legislature appropriated—to \$604,693.

Convention Vice President John H. Toole, R-Missoula, said the budget would have to be juggled downward to the original figure. He heads the convention's Administration Committee.

Blewett, emphasizing that the convention and commission were separate entities, praised the work done by the 16-member commission and its nine-member research staff.

"The commission is proud of the preparatory work accomplished," he said. "We feel we did a great deal in a very short time to prepare for a convention of utmost importance to the future of the state."

Extra Touches Hiked Bills

Tribune Capitol Bureau

HELENA — The financially troubled Constitutional Convention Commission was apparently interested in what Montana's newspapers were saying on constitutional matters without having to go to the bother of actually reading the papers.

The commission, which is now wallowing in red ink, paid \$330.10 to a newspaper clipping service over the past six months. Although it has only \$12 left in its account and the bills

are still rolling in, the commission didn't poor-boy it when it came to getting a nice seal designed for convention letterheads and reports. It paid Sage Advertising in Helena \$125 to design the seal, letterhead and news release letterhead and an additional \$32.50 for "original art" in the design of the seal.

And to put the official touch on the convention, the commission laid out \$58.80 for a large replica of the convention seal to grace Convention President Leo Graybill's office wall.

The design job was sent out-

side despite the availability of a commission staff member with four years of commercial art experience. The total Sage bill, including typesetting and related items, came to \$771.67.

A payment from the commission account of \$539.60 to the Colonial Club for the big December banquet would indicate that the \$10 per head the delegates were assessed didn't quite cover everything. That was in addition to the \$223.75 paid to banquet speaker Samuel Witwer of Chicago.

Without Frenzy, Delegates Listen, Learn and Work

By GARY LANGLEY
Missoulian Staff Writer

The most hushed of sounds were audible.

A coffeemaker sputtered incessantly; doors clattered as a woman carefully placed sandwiches in a snack bar showcase.

Except for a man resting against it, she was alone in the corridor. Time passed slowly and she welcomed conversation.

"Sure is quiet," the man said.

"Sure is," she repeated. "It's not like a session of the legislature."

From her vantage point behind the snack bar, the woman has become a Capitol observer. And her impression of Montana's first Constitutional Convention in 82 years seems both right and wrong.

As the woman was preparing the sandwiches, the 100 convention delegates were huddled in the state Capitol's tiny committee rooms listening to ideas on how Montana's constitution should be reframed.

In that sense it is similar to a legislature except its committee hearings by necessity must be limited rigidly by time and money.

Yet the delegates are spending most of their time huddled in those small committee rooms as speakers drone on. It is not unusual for one

speaker to spend an hour or more testifying before a committee.

One day the Bill of Rights Committee spent an entire morning listening to and questioning four speakers. The committee on legislative reform spent a day listening to a dozen arguments on whether Montana should have a one or two-house legislature.

Yet the delegates seem unconcerned about the time being spent in committee hearings, especially if it will save a new constitution from being rejected at the polls.

"This is a people's committee and a people's convention," Wade Dahood, chairman of the Bill of Rights Committee, told witnesses.

Daphne Bugbee, a Missoula delegate and member of the Legislative Committee, is more emphatic about committee hearings.

"We could write a constitution in 10 days," she said, "but we're not here just to write a constitution. We're here to listen to the people. This is a people's document."

Another Missoula delegate, Mae Nan Robinson, describes committee hearings as "a two-way educational process."

So the parade of witnesses continues in nearly every committee; and one reason the delegates are so willing to listen might be because of their uncertainties on constitutional reform despite

high-toned campaign promises last year — and because of a fear their work might be for naught when a new constitution is placed before voters later this year.

"This is hunting," a member of the Public Health, Welfare and Labor Committee told a witness. "We're just as much at a loss as you are. We have to rely on ideas from you."

But for few exceptions, the delegates are not at a loss for ideas.

At a recent hearing, the Public, Health Welfare and Labor Committee's tiny meeting

First of a Series

room, tucked in the shadows of the House gallery, was so jammed that people were sitting outside. Much of the audience of about 25 was comprised of representatives of labor and industry who have hesitated to say anything for fear of being accused of railroad provisions through the constitution.

"We'll do anything we can to help, but we're not going to be here writing it," James Murry, executive secretary of the state AFL-CIO, said.

Unconcerned, Missoula delegate George Heliker, chairman of the committee, surmised

that the labor and industry establishments might be waiting for concrete proposals.

"Then they will criticize it," he predicted.

So the convention is straddling the fence, and the value of the opinions it is gathering are marked by doubt.

The most significant impression is that committee hearings are drawing only members of or lobbyists for organized groups with grassroots opinions left uncertain.

The solution, some delegates contend, is a mid-convention recess during which they either could go home and informally test public reaction or hold formal hearings in a dozen cities.

But the convention is limited inflexibly by money. Unlike the legislature, it cannot appropriate money for itself. It has about \$80,000 to last it 60 to 80 working days. When the money runs out, the convention ends, so delegates must face the ultimate reality: they must act.

One man told the Legislative Committee: "I think you should make the decisions yourselves. That's what we elected you for."

The indecisiveness cannot be attributed solely to the complexity of potentially controversial issues.

One belief is that the indecision is fed by in-

experience. Most delegates never have held elective office before.

While that might breed a "weak sister" image, it could have good points as well.

When the Supreme Court ruled last year that delegates must seek election on partisan tickets, the ruling led to immediate concern about a partisan convention.

Observers and candidates alike feared the new document would become a Democratic or Republican document once partisan hassles began.

But they have yet to begin in the convention. In fact, most delegates don't even mention partisanship; and if they do it is in passing.

In the main, the delegates seem concerned about issues, not personalities or parties.

And because of their perplexities, some of the issues ultimately may be left to the voters.

One such proposal is the unique and controversial one for a unicameral, or one-house, legislature.

The Legislative Committee appears to lean toward unicameralism; it undoubtedly will adopt reports on both.

"We're determined to write the best bicameral and the best unicameral proposals," Mrs. Robinson said.

And both probably will appear on the ballot.

However, the fate of other issues is uncertain since some delegates seem reluctant to place too many separate proposals on the ballot.

"There is a limit to the number of questions or options that should be attached to the ballot,"

said J. C. Garlington, a Missoula lawyer and vice president of the Executive Committee. He predicts "enough controversial issues" are likely to be submitted separately.

Unlike a session of the legislature, lobbyists are rare at the convention. Although about 60 are registered, they seem to work more quietly in the convention's reserved atmosphere than during the frenzied atmosphere of the state legislature.

They testify at committee hearings, but the button-holding, the arm-twisting and cajoling isn't evident.

But one thing has made the delegates at least more sympathetic to legislators as they sit in the tiny, crowded committee rooms or at cluttered desks in the state Capitol — there is a marked scarcity of committee rooms and space is at a premium.

"This building is not even set up for a 100-member legislature," Heliker remarked recently.

It was after a committee hearing, and Heliker was sitting in the vacant House of Representatives gallery.

Below a few scattered delegates worked quietly at small desks in Convention Hall. And even the most hushed of sounds were audible.

Convention Receives Short Ballot Proposal

HELENA (AP) — A Bozeman delegate to the Constitutional Convention introduced a proposed executive article Tuesday that would provide for the short ballot.

Richard B. Roeder, D-Bozeman, submitted the plan. If approved, the governor would be permitted to appoint the heads of executive departments, subject to senate confirmation.

No mention of existing executive officers, presently elected the attorney general, secretary of state, treasurer, auditor and public instruction superintendent, was included.

Lucile Speer, D-Missoula, and others submitted a proposal directing the legislature to provide for the establishment of a merit system for state employees.

Miss Speer and others also introduced a measure requiring the legislature to implement consumer protection laws.

Legislators would be required to disclose financial interests and sources of income with the secretary of state if a plan submitted by Robert Vermillion, D-Shelby, passes.

A commission to reapportion the state legislature would be

provided under a plan dropped in the hopper by Katie Payne, R-Missoula. The commission would come up with a plan, which would go into effect if not overturned by a legislative majority.

Richard J. Champoux, D-Kalispell, and other delegates introduced a proposal providing for equal protection of the law.

Youths under the majority age would be guaranteed all fundamental rights except where precluded by law and parent-child relationships under a sponsor submitted by Lyle N. Monroe, D-Great Falls.

A measure signed by Jerome J. Cate, D-Billings, and others would set a maximum annual limit of 12 per cent on interest debts and other obligations.

Ron Hanson, D-Fairfield, and others introduced a plan that would forbid consolidation of existing counties without a majority vote of those citizen affected.

Veteran Legislators Mount Attack Against Unicameral Plans

Con Con Commission Report Questioned

By JOHN KUGLIN

Tribune Capitol Bureau

HELENA — In an historic confrontation before the Constitutional Convention Wednesday, Montana's most experienced legislator and other prominent state representatives and senators mounted a verbal blitz against a unicameral legislature.

The controversial unicameral plan for a one-house legislature, which is supported by a majority of the members of the convention's Legislative Committee, was strongly recommended to the committee by House majority leader James T. Harrison Jr. and Rep. Michael Greely, D-Great Falls.

Unicameralism was denounced by Sen. Dave Manning, D-Hysham, dean of the legislature, who has served since 1933; Rep. Oscar Kvaalen, R-Lambert; Rep. J. O. Asbjornson, R-Winifred; Sen. Glen Rygg, R-Plevna; Sen. Earl Moritz, R-Lewistown; Sen. Stan Stephens, R-Havre; Rep. J. D. Lynch, D-Butte; Sen. Gordon McOmber, D-Fairfield and Sen. Carroll Graham, D-Lodge Grass.

Stephens attacked the integrity of the preparatory Constitutional Convention Commission, which produced a study on the legislative branch which was not supposed to contain recommendations for a unicameral or bicameral legislature. "That document is very slanted against retaining the bicameral system," the Hill County legislator said.

Stephens argued for an improved bicameral system and said that a one-house legislature would be easier for the vested interests to influence.

"No matter how many times a single body looks at a single piece of legislation, that is no substitute for a critique by an entirely fresh set of minds," he said.

Stephens praised the quality of the Montana legislature and said, "If I were a delegate to this Constitutional Convention I would ask why an overwhelming number of legislators oppose a unicameral body."

Meritz defended the two-house system by recalling that a controversial bill to require fluoridation of public water supplies was passed by the Montana Senate last year, but "God bless the House. They killed it. There were so many letters on this that you could hardly haul them out of the post office." Mo-

ritz also argued that "our democracy is based on the two-house system."

McOmber was displeased because "it appears the legislature is being judged not by what it has done, but what it had not done. McOmber warned against setting up a unicameral system that valued expediency above citizen involvement. McOmber cited statistics, which he said showed that in 1929 the Montana legislature introduced 943 bills, yet the smaller unicameral legislature in Nebraska introduced 1,440 bills. There were 1,309 bills introduced in 1929 in Alaska, which has a 60-member bicameral legislature," he said. "Size has nothing to do with the number of bills introduced," he said, adding "a small legislature does not necessarily result in efficiency."

Kvaalen warned that submitting the unicameral issue to the voters would probably mean defeat for any proposed legislative article and could jeopardize ratification of the entire document.

Kvaalen said that a unicameral legislature, because it would probably reduce the total number of legislators, would deny additional representation to sparsely-populated eastern Montana.

Harrison, however, claimed that "rural Montana will have better representation and more representation" under a unicameral system.

Harrison said that the report in 1971 of the Citizens Conference on State Legislatures, which ranked Montana's legislature 41st, "with North Dakota well ahead of us is depressing."

Kvaalen had praised the work of Senate-House conference committees in resolving differences on legislation, but Harrison termed the committees "collective bargaining. One group against another."

Harrison said that lobbyists would operate under more difficulty under a responsible unicameral system. "They're not concerned about new enactments, but what is there. They're concerned about making legislative processes difficult to change," he said.

Greely argued that operations of the present legislature are so confusing that "most lobbyists

know more about what's going on than the individual legislators do." Greely said that the press sometimes loses track of bills they have been writing about when they are transmitted to the House from the Senate and vice versa.

Some but not all of the anti-unicameralists were also critical of cutting the size of the legislature, under either a two-house or one-house system.

Manning, who was born eight years after Montana's present constitution was adopted in 1889, questioned whether size of the legislature should even be mentioned in the constitution. "I wonder why we need this at this point in Montana's history?" he asked.

Manning said he looked forward in his lifetime to when a change in the makeup of the U.S. Supreme Court will mean a return to states' rights by reversing the court's position on the one-man, one vote principle. "I think we'll be given the right to reapportion Montana on the basis of factors other than population alone," he said.

Moritz, however, said he favored a smaller legislature, "just so the rural areas have some representation."

Asbjornson said he was not opposed to a 40-member senate and 80-seat house. "I don't think that specification of size belongs in the constitution," said Kvaalen.

"I don't like to see it (the legislature) get any smaller or you take it away from the local people," Rygg said.

"Reducing the size will reduce the people's ability to participate," said Lynch.

But the two pro-unicameralists wanted a smaller legislature. "The legislature is exceedingly large. I hope you consider the unicameral system," said Harrison. Harrison said that a unicameral house of

about 100 members would retain rural representation.

Greely agreed with Harrison, saying "150 legislators are too many for Montana. Montana doesn't need three or four times as many legislators as the other states."

Legislative committee chairman Magnus Aasheim, D-Antelope, said the committee was leaning toward a single-member district plan of legislative apportionment.

Kvaalen objected, saying that the reapportionment bill passed by the legislature last year —

member districts into single-member districts.

On the question of taking reapportionment powers away from the legislature, Kvaalen wondered why the committee was "concerned with the time we spend arguing about reapportionment? Why aren't you also concerned about the time we spend arguing about the school foundation program?"

Delegate Jerome Loendorf, R-Heleña, replied, "we felt a legislature has a built-in conflict of interest in trying to protect his own seat."

State Parliament Proposed

IR State Bureau

While other delegates are saying that a unicameral legislature would be a radical departure for Montana government, a Billings Democrat has come up with a really novel suggestion.

Robert L. Kelleher plans to introduce a Constitutional Convention proposal which would create a Parliament.

It would be a one-chamber body with 100 to 110 members elected to staggered four-year terms meeting in annual, open-ended sessions.

The members of Parliament would choose a leader, who would head the executive branch and who would choose members for his cabinet of executive officials.

At any time during a session, the leader could call for dissolving the Parliament and, with majority vote, call for new elections. A leader might do that if he thought the time right to gain a larger majority, Kelleher said.

The proposal also provides a method for Parliament to express a vote of no confidence in

the executive. A majority would have to call for dissolving parliament and two-thirds would have to vote for new elections.

The proposal also allows the leaders of the minority party to appoint party members to committees in proportion to the party's numerical strength.

Kelleher said a Parliament is the best method to truly represent the will of the people. One advantage, he said, is that there would be no executive veto to "frustrate the power of the people."

The convention and school financing

One of the most important subjects to which the Constitutional Convention must address itself is school financing. The matter is timely because of recent court decisions in California and Texas and cases pending in other states.

The concept of state aid as a supplement to local support of public schools based on the property tax has been proved insufficient. Both taxpayers and pupils are being shortchanged by "gross inequities in the supposedly equal method of financing basic education," State Superintendent Dolores Colburg has asserted. This stems from a fact that was not realized—or was just ignored—until recently that wealthier districts spend more per pupil on basic education programs than poor districts, despite the availability of state aid.

The same maximum property levy will raise more revenue per pupil in a rich district than a poor one, yet wealthier districts tend also to get more state aid per pupil for support of basic programs than do the poor districts, according to Superintendent Colburg. Montana thus has an excellent opportunity to help lead the way for devising a just and adequate system of public school financing, as they exist now.

Three-Member 'Team' Candidacies Proposed

Tribune Capitol Bureau
HELENA — A Great Falls Constitutional Convention delegate Wednesday introduced a proposal to streamline the entire executive branch of state government.

"It is a little novel, but I think it might work," delegate Harold Arbenas, a Democrat, told the Tribune.

Under his proposal, the governor, lieutenant governor and attorney general would run as a team representing one political party. One vote would be cast for all of them in both the primary and general elections.

This differs from the proposal made to the convention's Executive Committee Tuesday by Lt. Gov. Thomas Judge, who proposed there be an open primary, but that candidates for lieutenant governor and governor run as a team.

Shifting the entire load of elementary and secondary school support to the state level is suggested as the answer to the unequal opportunity as between rich and poor districts, which has been held unconstitutional in the California and Texas decisions.

Two Constitutional Convention committees—Education, and Revenue and Finance—are looking for possible ways to finance education and still get around the unconstitutionality of the present equal method of financing basic education. The two committees have scheduled a joint hearing on the project for Feb. 8.

Changing the Montana school foundation program would not necessarily require a change in the constitution, but the convention's Education Committee is exploring alternate methods of school financing, not necessarily for inclusion in the new constitution but so that no constitutional provision would limit or outlaw any possible new method of financing.

Changing the Montana school foundation program would not necessarily require a change in the constitution, but the convention's Education Committee is exploring alternate methods of school financing, not necessarily for inclusion in the new constitution but so that no constitutional provision would limit or outlaw any possible new method of financing.

Ten Committees Schedule Final Con Con Hearings

Tribune Capitol Bureau

HELENA — The 10 substantive committees of the Constitutional Convention have scheduled special hearings to allow citizens to have a final chance to express their views on what should be contained in a new constitution.

The formal hearings follow three weeks of "informal hearings." The formal sessions have been labeled "Romney Hearings," after Delegate Miles Romney of Hamilton, who first suggested the idea. All hearings will be in "Convention Hall" in the Montana House chambers.

The Hearings' Schedule:

Legislative Committee	Feb. 8, 7 p.m.
General Government	Feb. 8, 1:30 p.m.
Judiciary	Feb. 8, 1:30 p.m.
Executive	Feb. 9, 7 p.m.
Revenue-Finance	Feb. 10, 1:30 p.m.
Natural Resources-Agriculture	Feb. 10, 7 p.m.
Education	Feb. 11, 1:30 p.m.
Public Health	Feb. 11, 7 p.m.
Bill of Rights	Feb. 12, 1:30 p.m.
Local Government	Feb. 12, 7 p.m.

Voters Deserve Direct School Voice

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Montana voters deserve a direct voice in education, Public Instruction Dept. Dolores Colburg said Wednesday, recommending that her office remain elective.

Mrs. Colburg, finishing her first term as the state's chief school officer, testified before the Education and Public Lands Executive Committees at the Constitutional Convention.

Some groups, including the Montana School Boards Association, have called for having the state board of education appoint a superintendent.

"Montana need not gamble with a new system when the present one has proved worthy," Mrs. Colburg told the committees.

She pointed out that the governor appoints the superintendent in four states, the board of education tabs one in 24 states and voters elect the superintendent in 22 states.

"If ... education is considered distinct from the typical procedural functions of government, the official should be elected," she said.

While the job involves a certain amount of procedural activities, Mrs. Colburg said the main obligation of the superintendent "is to lead Montana citizens in the continuous renewal of the state's philosophical commitment to the goals of education" and promote imaginative approaches.

"An elected superintendent is directly responsible and accessible to the people, not once or twice removed from them," she said, unlike an appointee.

Appointing an official would lead to a national search for the best candidate, proponents say.

But Mrs. Colburg said she believed the job requires someone "intimately acquainted with Montana's unique educational, social, cultural and economic conditions and who shares the aspirations of its citizens."

Research Analyst Bruce R. Slavers, however, said the trend elsewhere was for appointed state superintendents.

Chadwick Smith, Helena, representing the Montana School Boards Association, said the increasing complexities in education make an appointed superintendent a necessity.

Governor Has No Objection to 2 Education Boards

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Gov. Forrest H. Anderson said Tuesday it does not matter greatly whether the Constitutional Convention sets up one or two boards of education so long as the boards are adequately staffed.

Anderson testified before the Education and Public Lands Committee and was followed by Supt. of Public Instruction Dolores Colburg, who recommended that two separate boards be established.

Early in his presentation, Anderson said: "I see no objections to having two boards, but

it is a question of how its set up." But he later said it really didn't make much difference.

Mrs. Colburg suggested that a separate board handle elementary and secondary school matters and another board take care of post-secondary education.

She recommended that board members continue to be appointed by the governor and confirmed by the Senate.

Presently, a board of education is appointed and handles the secondary and elementary educational matters and then meets separately as the Board

of Regents to set university policy.

Anderson also said board members should continue to be appointed by the governor.

"It's probably the most prestigious board in state government," the governor said. "The governor tries to do the best job picking top people."

Anderson said appointing education board members differed greatly from appointing members to the other 150-plus even boards.

"I sometimes don't even know who they are," he said of his appointments to many of the other executive boards.

Anderson added that if they eliminated the various constitutional elected offices, it could come back and haunt them, for many people favor their retention.

Anderson said eliminating these jobs could "be the one thing that could cause the defeat of this constitution."

Mrs. Colburg said the extent of the duties of the two boards is "great and the potential is even greater." Providing for two distinct boards in the constitution "would legitimize in writing what presently happens now," the state's chief school officer said.

'Taxation Without Representation'

Earmarking Tax Revenue Opposed

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — An opponent of earmarking tax revenue in the Constitution raised the battle cry of "taxation without representation" Thursday, and called for a return of Montana's highways to the people.

Representative government was conceived by people who demanded a voice in how their money was to be spent for government, delegate Donald Foster, R-Lewistown, told the Constitutional Convention's taxation committee. "We elect representatives every two years, not every 100 years. There could be no greater dereliction of duty than for us to freeze hundreds of millions of dollars per year into the Constitution. This removes the scrutiny of the people through their elected representatives."

Present constitutional earmarking includes 25 per cent of the income tax for education, nearly \$40 million annually from gasoline and other vehicle taxes for highways, and 4 mills for livestock inspection and protection.

Foster does not suggest that earmarking ought to be abolished but that it should be left up to the legislature. "If we fail to give the legislature the fiscal freedom which is duly theirs," he said, "we are making a sham of the whole concept of a responsive legislature and representative government."

He said the strongest argument against constitutional earmarking is that "we do not have the slightest idea of what the economic condition of this state or nation will be 25 years, five years, or even two years from now."

Referring to the highway lobby, Foster said, "If we allow a few self-seeking opportunists to hoodwink us into retaining a special interest provision which has no place in the Constitution. He told the committee that every other special interest highway taxes have reached the group in the state will have point where they are "force ample reason for expecting their feeding" an arrogant and inferential legislation be engraved in the marble of the constitution.

Foster, a honey farmer, said he would like to see the state apiarist elevated to constitutional status since he regulates five billion bees in the state. "Without which the flowering plant life would eventually vanish." But he said he would be happy to forego that honor. "If this convention will return the state of Montana's highways back to the people."

Foster also said he does not believe the "rumor" that constitutional earmarking of highway revenues has widespread state support.

Delegate Virginia Blend, D-Great Falls, argued for abolishing earmarking altogether, except when required for federal funding as is the case of highway money.

She said earmarking was useful in getting such programs as highways, fish and game, and education established. But once established, she said, the system of earmarking lends itself to autonomy and waste. Her presentation led committee member Dave Drum, R-Billings, to suggest that one of the ills of earmarking is that it's on a percentage basis, "which may provide more than the department needs in the first place and it has to expand its programs to use up the money."

Convention vice president John Toole, R-Missoula, explained his proposal for broadening the so-called "antidiversion amendment" to permit use of automobile taxes to solve some of the social and economic problems created by the automobile, rather than just to build more highways for the use of more and more automobiles. He proposes to open up the highway fund to such items as subsidizing mass transportation.

Toole acknowledged the popularity of the antidiversion amendment in 1956, but suggested that things may be different now "because so many people have been trodden on by the Highway Department since then."

The president of the Montana Grain Growers Association, Jim Stephens of Dutton, asked the committee to provide a constitutional levy for research and promotion of wheat and other commodities, similar to the levy for stockgrowers.

But the committee members seemed more inclined to even up things by removing the livestock levy. Bill Artz, D-Great Falls, agreed that if the stockgrowers have a constitutionally provided levy, then so should the wheat-growers. But, he added, so should the CPA and the automobile dealers and before long "we have a very long document."

Delegate Drum suggested that in place of such special interest levies in the Constitution, there might be a provision authorizing the state to do the collecting of assessments imposed on a certain group by the members of that group.

The committee has scheduled a public hearing on earmarking for Friday afternoon in the Senate chambers.

Poor Seek Medicaid Assistance

HELENA (AP) — A parade of people who share a too-common experience of burdensome medical bills resulting in despair, bankruptcy and eventually denied medical hospital assistance appeared before a Senate Committee Wednesday.

The low-income people, from Great Falls, Missoula and Helena, were supported by professional social workers and nurses who backed up their accounts of misery.

The delegation appeared to support Senate Bill 235, the 1969 version of Montana's Medicaid proposal to bring certain low-income people out of the cold and under the umbrella of assistance available to the sick.

There were no arguments against the bill.

Francis Mitchell, representing the Montana Community Action Association, introduced 11 men and women who said they and their families needed assistance.

Not Many 18-Year-Olds Equipped for Governor

Young Voters Also Want Right to Hold Office

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — A proposal that would permit anyone over 18 to hold any state or local elective offices was supported by several students Thursday and two Constitutional Convention delegates.

The proposal, sponsored by Bob Campbell, D-Missoula, would give anyone with the right to vote the right to seek any elected office.

Presently an age limit of 30 is imposed on several offices, notably the governor.

Campbell, who is 31, spoke in support of his measure saying that this was one of the major challenges delegates face.

He said its delegates must give them the right to full participation in their government.

Campbell traced the right of suffrage and quoted from the proceedings of the 1888 Constitutional Convention when delegates considered, but rejected, giving women the right to vote.

"The young generation is today's challenge for the convention," he said. "The eyes of the nation are upon us."

Also supporting the proposal was delegate Jerome J. Cate, D-Billings, who is 32. Cate said that four years ago many young persons were rioting and demonstrating but this has died down largely because many doors such as suffrage have been opened.

A Missoula Sentinel High School student, Will Roscoe, noted that young people today are more concerned with government than their predecessors.

Roscoe said the right to vote under the 26th Amendment was only half a right without being able to hold office.

"It's equivalent to allowing blacks to vote but only for whites," the student said.

He added that while there were not many 18-year-olds equipped to be governor, there aren't many 50-year-olds with the ability either.

He brought a petition signed by about 450 Missoula students and 23 teachers supporting the proposal.

Health Panel Voices Early Approval Indigent Care May Move to State's Shoulders

HELENA — The Constitutional Convention's Public Health Committee has tentatively approved a proposal that has the intention of shifting care of the indigent from the counties to the state.

The proposal would make it the duty of the legislature to provide for the indigent, whereas the present constitution makes it a burden of the counties.

It was acknowledged that the legislature would have the power to do what it wanted with the program, even to the extent of returning it to the counties. But concern was voiced about going from one locked-in position were to flatly require the state to pay for the indigent program.

William Swanberg, D-Great Falls, and Joseph McCarval, D-Anaconda, worked as a subcommittee in drafting the proposal that was tentatively adopted Wednesday. Swanberg said, "from the evidence gathered at several hearings on this subject, it is our opinion that the present section of the constitution which (puts the indigent burden on the counties) has worked a hardship on the larger counties of the state."

"This is so because indigents,

according to the evidence gathered, tend to gather in the larger population centers where better medical facilities are available, as well as better job opportunities, with the result that certain counties in the state have been compelled to assume an undue burden for welfare support."

The committee proposal is basically a re-wording of one submitted by state welfare director Ted Carkulis. A

stronger but less flexible proposal had been submitted earlier by Cascade County commissioners Milo Dean and Ed Shubert that would have made indigent welfare a state responsibility.

But Swanberg said it's a matter of trusting the legislature to carry out the intent of the proposal and at the same time allowing enough room for any change that might be desirable in the future. He said that if the record of the legislature has been good, the decision should be left to it.

If not, perhaps the intent should be spelled out in the constitution.

Don't Trust White Brothers

Indians Seeking Land Security

Tribune Capitol Bureau
HELENA — The Constitutional Convention's Bill of Rights Committee was told Wednesday that Montana Indians have a deep-seated fear of "termination" — that is, of having the white man take the rest of their lands from them.

The Inter-Tribal Policy Board of its council and wanted to come under state government. He said federal law provides for such a transfer of jurisdiction if approved by a majority of adult Indians involved and if requested in by the state.

Helena attorney Barney Reagan suggested that it be removed in case a tribe got tired

But Frances Satterthwaite of Helena, lobbyist for the Inter-Tribal Board, said Indians fear that any move made concerning Indian affairs is a "disguised move to take away their lands."

"If for nothing more than peace of mind," she said, "leave the ordinance in."

Delegate Wade Dahood, R-Anaconda, suggested that it would be better for Indians to join the state of Montana and the federal government in walking the same path. "They're treated as something special — as wards of a benevolent government," he said. "Do you think that's helpful to the Indian people?"

Mrs. Satterthwaite replied, "You cannot by legislation or anything else, bring another culture into the mainstream except in their own way. So I think it will be a long time before Indians do come into the mainstream."

Later she added "if we knew more about the Indians we might want to join them instead of getting them to join our mainstream."

The right to work, die

HELENA (AP) — Thirty-five proposals ranging from the right to work to the right to die were introduced at the Montana Constitutional Convention Wednesday.

Thursday is the deadline for delegate proposals.

Among the measures submitted was one by R. J. Studer Sr., R-Billings, that says no persons shall be denied the right to work because of union membership or nonmembership. It also guarantees the right to bargain collectively and forbids public employees from striking.

Abortions would be outlawed under a proposal of Robert L. Kelleher, D-Billings, but persons incurably ill would have the right to die.

The present language on reli-

gious freedom in the Bill of Rights would be replaced with the First Amendment if a proposal submitted by Dan W. Harrington, D-Butte, is approved.

Moreover, several sections banning state aid to private schools would be repealed.

Arnold W. Jacobson, R-Whitefish, proposed a measure that would direct the legislature to

provide for the acquisition of historic sites

George Rollins, D-Billings, submitted a plan that would set up the units of the University System as corporate bodies under the direct control of the Board of Regents.

Kelleher also introduced a measure that would allow wo-

men to contribute a dollar of their state taxes to the party of their choice.

Along with this was one requiring the legislature to appropriate a sum not more than 35 per cent of a legislator's salary to pay for campaign expenses. They would be forbidden to spend any other funds besides the state money.

HELENA — The reform-minded Legislative Committee of the Constitutional Convention ran smack into a status quo group of legislators Wednesday on the question of a unicameral assembly.

Nine of 11 lawmakers attending the special committee hearing spoke in opposition to the one-house assembly apparently favored by many of the committee delegates.

Among those favoring retaining the bicameral system was the dean of the legislature, 74-year-old Dave Manning. The Hingham Democrat has served in 20 legislative sessions. In all, the nine legislators asking for two houses has a total of 59 years experience.

TWO LAWMAKERS urged the committee to submit a one-house plan to the voters, including Tom Harrison, R-Helena, the House majority leader.

Sen. Stan Stephens, R-Havre, said a unicameral body would make it easier for vested interests to push through legislation, and it would result in more poorly drawn legislation. "There is no substitute for the objective critique by a second body of totally fresh minds," the lawmaker said.

Rep. Oscar S. Kvaalen, R-Lambert, told the committee that he favored a bicameral body because he believed that there was no area of government where the wheels should turn more slowly than in the Legislature.

Sen. Gordon McComber, D-Fairfield, said that over the years the two-house legislature had done what the people wanted. "Should citizen participation be sacrificed for quick decisions?" he asked.

Others supporting a bicameral body were Senators Carroll A. Graham, D-Lodge Grass; Glen T. Rogg, R-Plevna, and Earl Morris, R-Lewistown; and Representatives J. O. "Boots" Asbjornson, R-Windred, and J. D. Lynch, D-Butte.

Majority Oppose Unicameralism...

Survey Indicates Lack of Understanding About Unicameralism; Many Voice Views

By Evelyn Young
Feature Editor

In a random survey to find out what the people's views are concerning unicameralism - an issue presently being hashed over at the Constitutional Convention - it was startlingly revealed that at least a good portion if not a majority of Gallatin County residents do not know what unicameralism is.

A total of 42 people, chosen at random from the telephone directory, were called in the Bozeman, Belgrade, Manhattan, Logan, Willow Creek, Three Forks, Trident and Amsterdam communities (excluding four people who were questioned in the Tribune office).

Of these 42 people only 20 replied to the query - 19 stated that they did not understand what unicameralism was or did not understand it well enough to

wish to take a stand; three refused to comment at all.

Approximately half of those who did respond with a definite stand were reluctant to do so and a few did so only after a definition of

same results.

Mrs. Dellinger reported that she contacted 23 people and only seven understood the issue well enough to willingly take a stand.

Of those who did take a

The abolition of the bicameral system and the adoption of a unicameral legislature has come before the Constitutional Convention.

What, in essence, are these systems?

Every state (except Nebraska) has a bicameral (two-house) lawmaking body which is elected by the people. Nebraska's is unicameral - one house. This body is called the state legislature, general assembly or general court. In the typical two-house legislature, the upper (smaller) body is called the senate; the lower (larger) body is called the House of Representatives or the assembly.

The pros and cons of this subject will be explored by the Tribune at a later date.

unicameralism had been made.

A similar survey made in West Yellowstone, by West Editor, Mrs. Donna Dellinger, revealed approximately the

stand in the valley communities, they were two to one against unicameralism - 12 against and 6 in favor. Not Very Enthusied

One elderly gentleman did

not respond one way or the other - the conversation went something like this:

"Hello, Mr. , this is the Gallatin County Tribune calling and we are making a random survey of residents in Gallatin County to find out what their views are concerning unicameralism, an issue which is presently being debated at the Constitutional Convention. We were wondering if you would care to make a comment."

A very gruff voice abruptly and emphatically replied, "I don't think much of the Constitutional Convention to start with, so I guess that will take care of that," and he immediately hung up.

People Voice Views

Although a few others were just as emphatic about their views, they were not quite so abrupt and were

willing to comment further.

Monday,
Feb. 7, 1972

The Billings Gazette

Stick to principles

Constitutional Convention delegates are being besieged by people who want to preserve their own special position or interests under the cloak of constitutional law.

State officials, county officials, justices of the peace, tax dodgers, tax users, right-to-work, guaranteed bargaining, legislators, veterans preference - the whole can of worms, that's what the ConCon delegates are being asked to include in the proposed new documents.

They don't want to take their chances with future legislatures and the changing times. They want Montana constitutional guarantees to their perpetuity.

They, all of them, are asking too much.

There may well be merit in all of the contentions within the framework of statutory law—but not in the Constitution. It isn't any state or county official's inalienable right to have an office there waiting for him to seek it.

The work he does is a function of government not the reason for

its existence.

Montana's constitution, like that of the United States, should not be so rigid that it binds future generations to what may be outmoded practices. Statutory law, the law the Legislature enacts, will take care of the present exigencies.

Let the Montana constitution be one of principles, not of specifics. That's what's wrong with the present one. It contains far too much statutory law.

And, as you may have guessed, it was put there by special interests wishing to preserve a good thing for themselves. The welfare of the commonwealth was strictly incidental.

Let the Montana constitution be a flexible one that will meet the needs of the times, next year or 50 years from now. Let it protect your individual freedom and rights and not bind the populace to a set of provisions that in the end are nothing but bread and butter, maybe even steaks and chops, to the special interests trying to get them included in the new Montana constitution.

Our readers' opinions

No Demos or GOP at the landing

We must be prepared to "blame" ourselves if we do not have wise government. We must recognize that wise government is the product of an intelligent citizenry, and nothing else. If a citizen demands freedom of speech, he must not encourage its suppression in those who disagree with him, nor must he use it maliciously to destroy the government from which that privilege flows.

If a citizen demands of his fellow citizens that they work increasingly for a nation by building homes, rearing families; caring for the sick, needy and suffering; giving children and adults more education; eliminating disease, accident and disaster and developing communities in which men may have pride, let him as a citizen dedicate in a spirit of humility to those responsibilities.

I would like to remind the Constitutional Conventional delegates, although I don't think it has entirely been forgotten, that when the Pilgrim Fathers landed on our shores in 1820 the Democrats were not down to the dock to meet them, and neither were the Republicans. The first winter they were on our shores in New England, half of their number died, but the following spring when the Mayflower returned to England, not one of that gallant band went back. They were absolutely sold on the future of America.

Sometimes a nation abolishes God, but fortunately God is more tolerant. We, as citizens here, know God is on our side but He can't do it all! It might be a good idea also to remind ourselves that when the Indians were running things, they had no taxes, they had no debts, and the women did all the work.

If any of us reading this feel he is a SUPERIOR white citizen of this nation . . . why not take a good look around and start out first by shaking the Indian's hand?

ANNA BELLE LINCOLN, Joplin

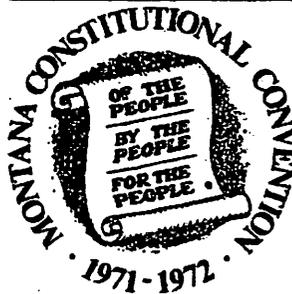
Great Falls Rancher Defends Property Rights

Tribune Capitol Bureau
HELENA — Great Falls lawyer-rancher Fred Johnston says he doesn't think anyone should be able to come on private property without permission — "whether it's to use your barbecue pit or to angle from your back yard just because a stream happens to run through your property."
 Johnston defended the rights of property owners against public access in a hearing before the Natural Resources Committee of the Constitutional Convention.

He was seconded by State Sen. Gordon McGowan, who asked "what good does it do to own property if you have no property rights?"
 Noting that people talk about going into the country for a picnic, McGowan, a Highwood rancher, said that when he was young his greatest delight was to go into town on Sunday. "I don't know why we couldn't go to town and have a picnic on anybody's lawn," he said.
 Johnston was particularly critical of a proposal by delegate E. M. Berthelson, R-

Conrad, which would give the public the right to the recreational use of waters and their beds and banks "regardless of whether the waters are navigable and regardless of whether the beds and banks are privately owned." It would also include recreation and aesthetics as a beneficial use of water.
 Johnston noted that both concepts were killed in the last legislative assembly "and if we can't get them through the legislature, I have serious reservations about imbedding them in the constitution."

He said Berthelson's proposal is an attempt to overthrow present law which says the public has no right to fish where he has no right to be.
 Johnston was also critical of city dwellers who, he said, are very concerned about protecting their own property but who don't seem to understand that property in the country is also private. "They'll walk through a barnyard," he said. "But if you walk through their backyard they get madder than hell."



Con-Con COMMENTS

By the Delegates from
 District 23

By George James
 The past week has been devoted to marathon hearings of citizens and organizational viewpoints by all committees. The Convention hopes to give every Montanan an opportunity

to air his opinion on any subject of constitutional concern. While we as delegates cannot attend every committee meeting, we do get a briefing via a digest of hearings by each committee analyst. Our committee is fortunate in having Rick Applegate of Libby.

Two subjects seem to have dominated the Bill of Rights hearings, Article III Section 4 or the religious article. Several have advocated that it be shortened to conform to the federal constitution, while many were passionately against any change.

Another concern seemed to be based on the growing fear of bureaucracy and the growing intrusion of government in our lives. Two new proposals would be added to the constitution to combat this. One on the right to privacy would limit electronic surveillance or bugging, while the other would give the citizen the right to know and is aimed at secrecy in the operations of government at all levels.

We were most happy to visit with Robert Herrig, Lincoln County Superintendent of Schools, who testified before two committees and are looking forward to seeing others from District 23.

By Marjorie Cain
 On Jan. 24 and 25 at Denver there was a report made to the Rocky Mountain States by the National Educational Finance Project. This group has been studying the various states and

their patterns of support for education. They have developed more co-operation between the models for support that will different local units, less duplication of effort, and more response to the needs of the people. There needs to be more co-operation between the different local units, less duplication of effort, and more response to the needs of the people.
 How to solve the dilemma of giving local government more responsibility of government, so they cannot pass the buck, and still not set up a little kingdom which disregards the needs of the state as a whole, keeps one thinking all the time.

The material developed will be of great assistance to those responsible for providing and distributing funds for all the educational efforts of the State.
 This week has been filled with hearings from those concerned with the retention, deletion or change of Constitutional Articles or Sections. We have been listening and working within our own committees.

The weather is a hindrance to our doing anything beyond the confines of our residences or the Capitol Building. But I am sure that we are not alone in solving this problem of keeping comfortable.

I appreciate the communications I have received and hope that you continue to let me know how you feel about what we are considering.

By Paul Harlow
 The interest of the people of Montana in wanting a good constitution is shown by the number coming to Helena to testify before the convention. In spite of the weather which we all experienced last week, we had many people appearing before the various committees.

There is a predominance of feeling towards annual sessions for the legislature, single member districts, open ended sessions, and a small annual salary for legislators.

The question of completely changing the judiciary system is not gaining too much support. Local government needs reform, not so much in its make up as in its operation and efficiency, is the thinking of most

Legislators Should Disclose Finances

INDEPENDENT RECORD
 State Bureau

A Constitutional Convention delegate from Shelby says he believes legislators should make public financial disclosures to restore faith in government.

"Appearances do count, and those who enter the public arena have already long recognized the fact that they must not only be honest in their dealings, but they must also appear to be," Robert Vermillion, D-Shelby, told the Legislative Committee.

Vermillion is the sponsor of delegate Proposal 6, which would require legislators to file a public statement with the Secretary of State disclosing their financial interests and sources of income.

"I do not ask that they give up their financial interests," Vermillion said. "I do ask the legislators to give up their rights to cast votes. I do not ask for detailed reports with dollar figures. I do ask that the legislator in his role as fiduciary to the people be required to outline his interests that could be taken as conflicting with his public trust."

Several members of the committee said that such a provision, if adopted, should apply to candidates, not just those elected.

A more detailed disclosure provision, suggested by Rep. Robert Watt, D-Missoula, ran into general distavor with the committee. It would require disclosure by dollar amount and it provides for a commission to determine conflicts of interest. The commission would have the power to prevent legislators from voting if they have a conflict.

Bar Owner Pens Mock Constitution

HELENA (AP) — A Capital City bar owner and operator has written a mock constitution for Montana that would probably be the envy of many Constitutional Convention delegates attempting to rewrite Montana's aged document.

Tony Cullum managed to get most of the basic issues that go into constitutions in a concise document of 500 words.

Cullum, who began the project in May, said he hopes to get the signature of every delegate to the convention on the old parchment. He promised to reciprocate by providing the 100 delegates with copies of the professionally lettered constitution.

Delegates to the convention who have already read the document say its wording is mild and the only provision that received any objection was for a unicameral legislature.

Forestry Instructor Proposes Regulation of Private Property

By Mrs. Olive Rice

Have you ever been confronted with such an array of food at a smorgasbord that you couldn't decide which to choose?

That is what last Saturday's session of the Constitutional Convention was like.

There were so many interesting, important hearings going on at the same time that it was difficult to know which to attend.

Issues of general interest were scheduled for Saturday to allow as many citizens as possible to appear before the committees. People from all over the state took advantage of this opportunity.

Bill of Rights

An audience of about 65 people was on hand for the opening of the morning meeting of the Bill of Rights Committee.

The first item to come up for consideration was the proposal of William Cunningham, Forestry Department instructor, U of M, for placing all Montana

land under a "Public Trust" which would require that "private land be used in a manner consistent with the public interest."

"Under Public Trust," the instructor explained, "the

total environment would be protected."

Later, in response to a delegate question about property rights, he replied, "It would be a drastic situation where the state

would take over private property - only in those specific instances where the public interest is at stake. I'm against this when there is any other way."

Public Trust Challenged

Delegate Wade J. Dahood, Anaconda, challenged the basic idea of the Public Trust plan.

"I am concerned about too much complex bureaucracy stifling individual rights in this country," he said. "What is the difference between 'Public Trust' and 'Eminent Domain'?"

"We have people - well-meaning and well-intentioned people - saying that we have to take a little bit more and a little bit more all the time. I'm very concerned about this."

There was extensive discussion on this plan both in this committee and in the Natural Resources Committee, where it was the main topic of the day.

Women's Rights

Next on the Bill of Rights agenda was the question of "Equal Rights for Women."

Several speakers represented such organizations as the Business and Professional Women, Montana Federation of Women's Clubs and other women's groups.

Bess Reed, former representative from Missoula County, summed up the women's viewpoint by saying that they are not taking a "women's lib" position, that their requests would not mean an end to separate, rest room facilities for boys and girls in school, but that they are asking for equal job opportunities and equal pay for equal work.

The committee, composed mostly of men, had very few questions for these speakers.

Gun Control

After the noon recess, the Bill of Rights Committee heard testimony on the "right to keep and bear arms."

The statements and questions were in general quite mild for such a potentially "explosive" subject.

(Just before the committee convened for the afternoon, a tube in a piece of equipment blew up with a loud "pop." Someone wondered aloud if that were part of the testimony!)

Most of the people who spoke were requesting a strong statement in favor of the right to possess guns and ammunition; many wanted to add a paragraph prohibiting gun registration or any form of gun tax.

Most of the committee members expressed themselves as being in favor of the present constitution wording covering this matter.

Private School Aid

Saturday morning the Committee on Education and Public Lands heard the views of citizens on the question of state aid to private schools.

This hearing took place in the House of Representative chambers and was televised, evidently in the expectation that it might be an especially controversial issue.

Surprisingly enough, it, too, was a quiet hearing with an audience of only about thirty people in the balcony.

Most of the people who spoke were in favor of retaining the wording of the present constitution.

Former Governor Speaks

The afternoon Executive Committee meeting during which former Governor Babcock was interviewed, drew a larger crowd.

This meeting took place in the sumptuously decorated Governor's Reception Room.

Since it was filmed as a part of the convention record, wires, lights, cameras and mikes surrounded the conference tables.

With the beautiful candelabra hanging over the tables and the elaborate fireplace wall as a background, it all looked like a stage setting.

However, the interview was serious and was given full attention by committee and audience alike.

Unicameral Legislature

Former Governor Babcock recommended, among other things, avoiding a unicameral legislature; making the offices of attorney general and superintendent of schools appointive; and keeping the offices of auditor and treasurer elective.

"I can't see that you need to completely overhaul the constitution," he said. "It's not that bad."

By the end of the day and after a week of listening to hour upon hour of testimony, the delegates seemed weary and ready for their two days of rest before hearings began again, on Tuesday.

Let's have fewer legislators

If the Constitutional Convention is to accomplish any basic improvements in state government, it first must reduce the number of legislators to fifty or sixty. Of course immediately those who fear they will lose their position scream that the people will not have good representation! However, Montana does not need the expense of supporting 100 to 200 legislators.

A citizen can have just as good a representation (actually better) with one representative than with ten since there are fewer to pass the buck and their positions are more visible. I do not need three or even two legislators from Fergus County. One is very adequate and means only one person to keep track of his position on issues and one letter to write to express my views.

We also only need a one house legislature. The argument put forth (pushed largely by politicians who dislike seeing political offices eliminated) that we need a two house legislature for check and balance is pure "hog wash" since both houses have to be apportioned according to population anyway. In our democratic system the Governor, Supreme Court, initiative, and referendum are very adequate check and balances.

Special interest groups like a large two house legislature. If they can not influence key committee members in one house (generally trying to kill a bill which would affect them), they have a second chance in the

other house. With a large number of legislators, their activities are more easily obscured than in a small one house legislature. With our modern, instant, news coverage, it is easy to keep track of the actions of a smaller group.

It is time we have some efficiency in government and let us start with state government. I hope that the Constitutional Convention Delegates remember that quantity does not also mean quality. We do not need a hundred legislators in Montana!
Edward B. Butcher
Rollings Hills Ranch
Wilsford

Con-Con Studies Executive Role

By GARY LANGLEY
Miscellaneous Staff Writer
(Sixth in Series)

They sit at the head of a long conference table that leaves little space for anything else in the small, cramped fourth-floor room.

Dutifully, each member of the parade of luminaries explains why his job should be frozen into a new constitution.

First it was the attorney general, then the secretary of state, the state auditor, the state treasurer — and the list continues.

The executive committee of the Constitutional Convention is at work on the arduous task of governmental reform that will end when it decides how many officials the voters will hire and how powerful it should make the man sitting in the governor's office.

"We're just trying to get a real grasp on the function of it all," notes J. C. Garlington, a Missoula lawyer who is vice chairman of the committee. "We're just rooting for facts at this point."

And to get those facts, the committee is interviewing, not only the state's 11 elected officials — seven of them constitutional — but those involved in the bureaucracy of state government "to learn what their functions are — all of which we need in order to have some kind of basis to see what ought to be the form of the executive branch of government."

Garlington is a tall, thin white-haired man who works quietly, and because of the complexities involved he spends much of his time bent over his desk.

"There's so much to study and read," he said. "I've read pounds and pounds of material."

No simple issue, the executive branch is the state's largest and most expensive. So powerful is it that there are few state capital offices it does not affect at one time or another.

As Garlington notes, it is "interlaced" with a variety of implications.

"For example what is done to make a strong executive out of the governor depends in part on what is done to

strengthen the legislature," he said. "If it has the authority to function and call itself into session (a power it does not have under the present constitution), it is an active check on the rest of the government."

Thus, one could argue that if many constitutional offices are eliminated there would be less of a check and balance unless the legislature is given more power.

Moreover, Garlington notes, Gov. Forrest Anderson's governmental reorganization program to reduce the number of state agencies "has taken quite a long step toward the handling of the executive functions."

"It would not be our thought to make any changes in that phase," he added, however.

Those considerations, combined with practices and constitutions from other states, gives the committee something from which to work. However, Garlington also noted Montana's executive branch will not be just the result of drawing from other experiences.

"It's easy to clip and paste from other constitutions and put them into an executive article," he said. "But we don't see that as our job here."

Despite the broad scope of the issue, it has remained out of any convention controversy.

Garlington said he has received "very little" mail on the subject.

"I think there's much less interest on the part of the public in the executive branch than there is in some others," he said.

So Garlington appears to have drawn dull duty. But it is unlikely to remain that way for long.

Garlington also is a member of the style and drafting committee — the group that eventually will prepare the ballot that will submit a new constitution to voters.

That means he must "stay in touch with the whole program" before attempting to give the proposals a final polish as the convention draws to an end.

"We can't really do much until we have something to work with," he said.

And what might the end product be?
"It's too early to make any predictions."

Which offices to be elective

By DANIEL J. FOLEY
Gazette State Bureau

HELENA — The Constitutional Convention's Committee on the Executive article is split on the important issues of which executive branch officers should be elected and which should be provided in the constitution.

The existing constitution provides for seven elected officials, the governor, lieutenant governor, attorney general, secretary of state, state treasurer, state auditor and superintendent of public instruction.

SOME DELEGATES think that from one to five of those offices should be eliminated from the constitution, and oth-

ers think the positions should be appointive even if retained in the constitution.

The Executive Committee took a straw poll over the week-end, with somewhat inconclusive results. The poll was to give other delegates and the public some idea of where the committee stands before important "Romney" hearing Wednesday at 7 p.m. in the House chambers at the Capitol.

THE EXECUTIVE COMMITTEE seems generally agreed on these points:

—The governor and lieutenant governor should file in the primary as a team, and the lieutenant governor should serve full-time with duties assigned by the

chief executive.

—The board of Examiners, Board of Equalization, Board of Prison Commissioners, Board of Pardons, Depository Board and state examiner should be eliminated from the constitution. Some are no longer functioning and others are provided for by state law.

—The governor's "pocket veto" should be eliminated.

—Some constitutional method should be provided for determining the governor's physical or mental disability.

—The governor's authority should continue even while he is out of state. Under the existing constitution, the lieutenant governor becomes acting governor whenever the chief executive leaves the state.

—The Board of Education should be retained in the constitution, but the ex-officio members, the governor, attorney general and superintendent of public instruction, should not be members.

FGF Hears Con Con Delegate

Constitution Ballot System Told

How are you going to vote on the new Montana Constitution?

A possible balloting procedure was explained by Constitutional Convention delegate Arlyn Reichert, D-Great Falls, who spoke informally to the Forward Great Falls Steering Committee Monday.

"The June 6 ballot will likely be drawn up similar to the one used in Illinois," she explained. "There will be a place for 'yes' or 'no' to the entire document at the top with the more controversial areas, such as unicameral versus improved bicameral legislature, singled out for individual attention at the bottom," she said.

"It is hoped we can avoid total defeat because of one controversial article by using this method. The Illinois constitution was passed by a considerable margin," she added.

All Cascade County delegates will be invited to the FGF membership meeting the evening of Feb. 21.

Mrs. Reichert is a member of the convention Legislative Committee, which already has finished rough drafts of articles establishing unicameral and bicameral legislature.

"After final drafts are completed, we will submit them to the convention when it meets as a committee-of-the-whole, which will be sometime after Feb. 15," she said. "The unicameral provision would, of course, be new for Montana, but

the bicameral article also is partly new, and I think, it is greatly improved."

The Legislative Committee is more advanced in its rough draft work because the nature of its subject offered only two alternatives, she continued.

"Debate by the convention as a whole is likely to be very lengthy," she continued. "That's why I think the hearings... will be helpful. Although they are designed to inform the public, they will be equally informative for delegates who have been tied up in committee work and unable to attend other committee hearings or important matters."

Mrs. Reichert says she's looking forward to the debates. "There has been considerable overlapping of committee work that must be decided, in addition to the other things," she said. "An example of this overlapping occurred when we, in our committee, eliminated the lieutenant governor as presiding officer over the Senate. The Executive Committee has retained Senate."

Many statutory issues have been the subject of unnecessary lengthy and heated debates. It's a right to work provision, Mrs. Reichert said. "But I'm sure Leo Graybill will keep the debates on the right track and moving fast," she added.

Home rule, or "residual powers" as it is now called, is being opposed by the unions with the fear of localities establishing their own right-to-work laws, according to Mrs. Reichert.

Pros and Con Con

TRIBUNE CAPITOL BUREAU

HELENA — The Constitutional Convention's Revenue and Finance Committee — in fear of retaliation from supporters of the highway earmarking provision, county boards of equalization and the State Board of Equalization — has hesitated from a committee decision on the status of the present constitutional articles.

Delegate Russell McDonough, D-Glendive a lawyer, wanted to reword the present highway earmarking section and place it on the ballot as an alternative proposal. The legislature could divert the earmarked funds on a certain percentage of votes. The legislature could also expand the funds for public safety deductions such as the highway patrol.

Other delegates agreed with McDonough theoretically, but they said, practically we cannot delete the earmarking provision.

Otherwise said one delegate, we would have sat here for nine weeks for nothing.

Two delegate proposals by Virginia Blend, D-Great Falls, and Donald Foster, D-Lewistown, have been introduced to regulate the earmarking of state revenue.

County and state board of equalization, may prove to be another hot potato.

Court Clerks Defended

HELENA — Clerk of the Supreme Court Thomas J. Kearney has appealed to a Constitutional Convention committee to protect the rights of the people by continuing the present elective status of the Clerk of the Supreme Court and the clerks of the district courts.

The so-called "Montana Plan," which is being pushed by Chief Justice James T. Harrison, other judges, a citizens group and university law school professors, would allow the Supreme Court and district judges to appoint clerks of their respective court.

"I am unable to comprehend," Kearney told the convention's Judicial Committee, "how the mere appointment of clerks will benefit the judiciary in any significant manner, or make them more efficient in any respect, just because they would be selected and chosen instead of elected. The method of selection in my estimation would be a relinquishment of a previous franchise of the people for the benefit of a chosen few."

Kearney said that the clerks have always admired and appreciated the dedication of the judiciary and all members of the legal profession.

Kearney said he was unaware of any clerk of a court in Montana who had ever shirked his duties or brought any scandal upon the judiciary or legal profession by any unethical actions.

Wants 'Secrecy' Provision

HELENA — A veteran Eastern Montana legislator has urged a Constitutional Convention committee to allow the legislature to conduct secret meetings.

Rep. Oscar Kvaalen, R-Lambert, said that retention of the present constitutional provision which allows the secret sessions was needed to allow "man-to-man talk."

He told the convention's Legislative Committee that "there should be no specific restriction on executive sessions of committees. To do so would preclude straight from the shoulder, man-to-man talk."

Kvaalen argued that people in government, as in any area of the social structure should be given the opportunity to "let their hair down."

"There is no such thing as 'playing' to the grandstand in executive sessions — and this is good. We recognize the need for privacy of the individual legislator when we exclude other than members and invited guests from the floor of the House and Senate."

Kvaalen, a House member since 1959, except for the 1965 session, said that a legislature needs some collective privacy to function properly.

The legislative article of Montana's 1889 Constitution says "the sessions of each House and of the committees of the whole shall be open, unless the business is such as requires secrecy."

Legislators frequently lock committee doors, particularly when asking votes. The senate particularly often conducts the delicate job of screening gubernatorial appointments behind closed doors.

'Interesting' Hearing

HELENA — Montana consumers should have a real "interest" in a hearing scheduled Saturday.

Under consideration by the General Government Committee will be a proposal that "interest on debts of obligations of any nature may never exceed an annual rate of 12 per cent."

Many Montanans with gasoline credit cards and other types of "revolving credit" cards now pay 1 1/2 per cent per month interest — or 18 per cent a year.

The hearing on the proposal is scheduled for 10 a.m. in Room 410 of the capitol.

Daily Clipping Sheet
February 4, 1972

Committee Heads Favor June 6 Constitution Vote

Tribune Capitol Bureau

HELENA — A majority of the Constitutional Convention's committee chairmen voted Thursday night to submit the new constitution to the voters for ratification on June 6, the regular primary election date.

Because of the early election date, 12 of the 14 committee chairmen voted to forego a mid-session recess.

Rules committee chairman Marshall Murray polled the chairmen after he reported the cost of a special election would be in excess of \$500,000, according to Sec. of State Frank Murray's office. That is twice the cost Marshall Murray had previously estimated.

Convention first vice president John Toole favored a June 26 special election, regardless of cost.

Toole warned the committee chairmen that the June 6 election date "throws askew the en-

tire public information program." He said the early date could affect production of a brochure and a film on the convention to make the public prior to the ratification vote.

However, Toole said it might be possible to adjust to the June 6 date.

Western District vice president Dorothy Eck said she originally favored a mid-session recess, but "some people are advising us to barrel ahead and get this done."

Bill of Rights committee chairman Wayne Dahood said he had promised the people he would come back during a recess and conduct meetings on constitutional issues. Dahood said delegates could still conduct such meetings on weekends if there is not a recess.

The issues of a recess time and a ratification election date are scheduled for full convention floor debate Saturday.

Delegates Hear Woman's Plea for 'Right to Death'

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Poignantly tracing the lingering death of her 86-year-old father, an Alibon woman pleaded with a committee Thursday to provide the right to death in a new Montana Constitution.

Joyce M. Franks graphically and sadly described her father's suffering before the Bill of Rights Committee at the Montana Constitutional Convention. He died in December.

"I maintain that to give to people facing certain death, before they ever regain health, the right to die quickly, easily and in peace when they want to do so, is being compassionate, intelligent and humane." Mrs. Franks said before a hushed audience in the Senate chambers. "And I affirm that it is an act of compassion who gave us all life was a person of."

After her father broke a hip, his doctor described the necessary operator," she said.

"Dad asked me if the doctor would please give him something to put him to sleep right then," Mrs. Franks said, but she did not ask the doctor.

As his health deteriorated, her father made the request a second time. Mrs. Franks asked the doctor which of her own medicines would be sufficient to end his agony, but the doctor refused to tell her.

"My father had been a farmer, and he had given merciful death to animals who had been pets and companions," Mrs. Franks said, sobbing. "He could not stand to see them suffer prolonged and agonizing death when they were severely mutilated or dying of illness."

"He was compassionate and merciful. He asked for the same mercy for himself."

Instead, she said, his condition worsened.

"For eight weeks he died, little by little minute by minute, day by day," Mrs. Franks said. "For no one, by denying him death when he desired it, gave him life."

"He was just denied a release from the suffering and torture which he knew and we knew, and the doctor knew he faced."

He was reduced less than a baby, she said.

Con Con Flexes Subpoena Powers

By JOSEF KUGLIN
Tribune Capital Bureau

HELENA — The chairman of the Constitutional Convention's Health, Welfare and Labor Committee Thursday announced that he would invoke the convention's power to subpoena witnesses to testify on a sure to be controversial proposal to change the state's method of regulating public utilities.

Committee Chairman George Heltzer, D-Missoula, told the Tribune that Sen. Lee Metcalf, who for years has been hitting what he says are "overcharges" by the investor-owned utilities, will testify before the committee next Thursday.

Heltzer, during an action-packed session of his committee Thursday, announced that he would issue subpoenas to C. W. Leaphart Jr. and John H. Rishan, two Helena attorneys who have represented consumers during utility rate hearings conducted by the Montana Railroad and Public Service Commission.

Heltzer said he would also subpoena Charles J. Stack, personnel director at Montana State University, to testify on a proposal for a merit system for all state employees.

Heltzer said that issuing the subpoenas was "merely a formality" and that the three men were not "hostile witnesses."

Committee member Charles Mahoney, I-Helela, wondered why the witnesses were afraid to appear voluntarily. "We should make it easier for them to come down," he suggested.

The 1971 legislature gave the convention and its committees power to "compel the attendance and testimony of witnesses and the production of books, records and documents." Subpoenas may be issued over the signature of the president or any other officer of the convention.

Heltzer announced during the committee meeting that two sponsors had asked to have their names removed from a controversial right-to-work proposal. The delegates were Roger A. Wagner, D-Nashua, and Rachel Mansfield, D-Geysler.

Hearings on the proposal, which is also sponsored by R. J. Studer R-Billings, A. W. Kamboot, R-Forsyth, Archie Wilson, R-Hysham, Arnold Jacobsen, R-Whitfish and Torrey Johnson, R-Busy, are scheduled before Heltzer's committee Friday.

Studer, the proposal's chief sponsor, told the Tribune that the two delegates backed off after they were subjected to "overwhelming political pressure." However he declined to speculate on the source of the pressure.

The other action in Heltzer's committee centered on debate over a merit system proposal.

Eight state agencies are now covered under a merit system. However some of the largest agencies, including the Highway Department and Fish and Game Department, have no merit system.

Merit system administrator Melvin Martinson said that a state system is provided for by the constitutions of 12 other states.

Elton R. Hartz, Helena, field representative for Montana Council 9 of the American Federation of State, County and Municipal Employees, AFL-CIO, said the organization was not opposed to a merit system if it is implemented by collective bargaining between employee organizations and the merit system through legislative enactment. Hartz said that merit system legislation was killed last year because it did not recognize collective bargaining.

Studer asked Hartz what he thought of the part of his right-

to-work proposal which prohibits strikes by public employees.

Hartz didn't think much of the idea.

Ernest Post, director of the AFL-CIO's COPE committee said that a merit system "can be made workable providing it involves the collective bargaining bilateral decision making process between the employee or his chosen representative, and the employer."

Post said that enlightened administrators have discovered that organized employees provide a more stable relationship and one in which they can administer the affairs of government in an atmosphere of order and harmony.

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Delegates Tighten Belt but Convention Budget to be Balanced

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Constitutional Convention leaders plan to reduce the convention budget by about \$5,000 to make up for anticipated funds that did not materialize.

President Leo Graybill Jr. said Thursday he planned to submit a budget of \$490,361 to delegates Friday.

The original budget had been increased to \$504,563 as about \$5,500 in funds leftover from the convention's preparatory commission—a separate entity from the convention—were to supplement the \$499,061 legislative appropriation.

About \$10,000 or \$15,000 was expected to be turned over to the convention from the Montana Constitutional Convention Commission.

However, Commission Chairman Alex Blewett announced Wednesday that the commission exceeded its \$149,540 budget by about \$14,000 and thus would be unable to turn over any money to the convention.

Both Blewett and Graybill emphasized that the commission and convention were separate bodies and separately funded. The commission, made up of 16 members appointed by the governor, legislature and su-

4,000 pages of research material for convention delegates.

"The budget of the Montana Constitutional Convention is in balance and the convention leadership expects to accomplish the convention's purposes with the funds appropriated to it by the legislature," Graybill said in a prepared statement.

Graybill, a Great Falls attorney, told the Associated Press several areas of the budget were reduced to compensate for the anticipated funds that won't be forthcoming.

While he said it was "disappointing" not to receive the money, Graybill said the adjustments would not be major.

He said it remained to be seen whether the convention could finish drafting a new document and complete "the educational process required to properly present it to the public within its budget."

"But from all indications," the president said, "the Constitutional Convention will be able to carry out its budget through the ballot stage without a deficit."

Or Wednesday, Commission Chairman Blewett attributed the \$14,000 deficit to printing and binding costs that exceeded estimates.

How the deficit will be made

good start which we feel the convention has made."

Chairman Blewett said commission members were proud of the preparatory work.

"We feel we did a great deal in a very short time to prepare for a convention of utmost importance to the future of this state," he said.

In another convention development, Executive Director Dale A. Harris was granted a leave of absence of two weeks. He said, was requesting a supplemental appropriation from the 1973 legislature.

Blewett said he was hopeful the commission might receive

some federal funds that would help make up the deficit. A previous request for \$150,461 was turned down by the Department of Housing and Urban Development.

Thus, the commission spent only about 35 per cent of what the legislature intended, Blewett said.

Both the convention president and the commission chairman had praise for the work done by the preparatory commission.

President Graybill said the material prepared by the commission and its staff "was of the highest quality and has

Harris also served as executive director of the preparatory commission.

Vice President John H. Toole, R-Missoula, called Harris a tireless worker and said he simply needed some time off.

"We hope he can resume his duties," Toole said, adding that Harris still will be paid his \$65 daily salary.

Some delegates said Harris had blamed himself for the commission deficit.

However, Toole said Harris "had taxed himself beyond the capacity of any human being." Harris has worked for the constitutional revision effort for several years.

Committee coordinator Max Baucus will assume Harris' duties on a temporary basis, Toole said.

Indian. Ask for Changes In State School Practices

By DENNIS E. CURRAN
IR State Bureau

Montana's first residents, the Indians, came before a Constitutional Convention committee Thursday to urge constitutional language which would help bring better education for their people.

Indian representatives testified before the Education Committee in favor of provisions for equal educational opportunity, preservation of Indian cultural integrity and greater Indian involvement in education.

Earl Barlow, Indian education supervisor in the state office of the Superintendent of Public Instruction, told delegates that Indians encounter many problems in society and need special mention in an equal opportunity provision. A broad provision could be ineffective, he said.

Barlow, an Indian, also told the committee that Indians must have greater control of their educational systems.

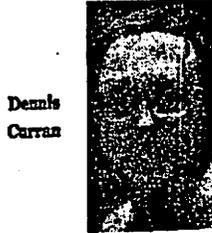
"For 450 years the American Indian has had someone either doing something for him or doing something to him," Barlow said. "Local control that has Indian involvement, Indian direction, is the only way to go."

Bert Corcoran, superintendent of the Rocky Boy School, one of the few Indian directed reser-

vation schools in the nation, also urged greater local control but suggested that Indians should have a greater say at the state level, too.

Lift the Lid

"If you're going to take the lid off the Indian people, you've



Dennis Curran

got to do it at the state level as well as the federal level," he said.

Corcoran also suggested creation of a "department of Indian affairs" at the state level and possible constitutional provision for Indian membership on the state board of education.

"A minority will never get on the state board" unless "you get some kind of mandate," he said.

Francis Satterthwaite, a lobbyist for the Montana Inter-Tribal Policy Board and a member of the National Indian Health Advisory Board, complained that Americans don't

understand Indian culture and for years were intent on "making Indians non Indians."

"Somewhere in the constitution there should be something that would preserve the cultural integrity of our Indian people," she said.

Dwight Billedeaux, coordinator of Indian education at Eastern Montana College, complained that "Indian education is a myth and simply doesn't exist" and suggested creation of an "office of Indian education."

He said that while Barlow has the title of Indian Education Supervisor, he actually only administers federal programs. Barlow, who earlier spoke for greater Indian representation on boards and agencies, agreed.

Corcoran criticized some of the state rules which have forced his school to rely on white teachers instead of equally competent Indian teacher's aides.

Delegate Robert Woodmansey, a Great Falls teacher, warned that standards are needed partly to prevent "cheap" school boards from cutting corners which would "cheat" children of quality education.

"I'd be the last guy to set lower standards," Corcoran replied, "but let's set relevant standards."

A shorter ballot.

It's not surprising that quite a few state and county officials have paraded to the Montana Constitutional Convention to urge delegates not to change the system by which the officials obtained their offices. They prefer having their offices remain elective rather than appointive ones.

It's human nature for men and women to want to protect what they have. Of course, many officials who testified before convention committees sincerely believe the public's interests will be protected better if their offices continue to be elective ones.

There are valid arguments for a check-and-balance system of government such as we have when many top officials are elected. There are stronger arguments for an improved system of local and state government.

Under our present out-of-date constitution, our election ballots are simply too long. It is difficult to pin responsibility for good government on many elected officials. A shorter ballot for both local and state offices would increase chances for more efficient and economical government.

Preferential Mining Tax Removal Not Protested

Tribune Capitol Bureau

HELENA — An Anaconda Co. spokesman told a Constitutional Convention committee that it has no objection to the removal of the preferential mining tax from the constitution.

John H. Quinn, Great Falls, an attorney for the Anaconda Co., said that Anaconda had no objection to removal of the provision contained in Art. 12, Sec. 3 of the constitution.

This tax break, given mines in 1889 by the delegates to the last Constitutional Convention, limits valuation of mining claims to the minimal price originally paid the United States for the land, regardless of how valuable it might become.

Quinn presented three arguments to the convention's Revenue and Finance Committee for keeping the portion of the section which says that the annual

net proceeds of all mines and mining claims shall be taxed as provided by law.

First, he said, this is a simple provision. Second, he said, it's attractive to prospectors, and third it's "essential to the mineral development of the state."

Though the company did not pay a net proceeds tax on output from its mines in 1963, 1964 and 1968, the tax brought in \$2 million in 1971 and \$1.5 million in 1970, P. L. MacDonald, a lobbyist for the Anaconda Co. said.

Testimony from the Anaconda Co. and representatives of Western Energy Co., a Montana Power Co. subsidiary, were prompted by a proposal introduced by delegate Thomas Ask, R-Roundup, to delete the preferential mining tax altogether.

Ask said that "one segment of the economy shouldn't get special consideration."

Con-con debates right-to-work plan

HELENA, Mont. (AP) — Labor and business locked horns again Friday as a Constitutional Convention committee considered a right-to-work provision.

Focus of the debate was a proposal submitted by contractor R. J. Studer Sr., R-Billings, that says: "The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization..."

James Murry, executive director of the Montana State AFL-CIO, said right-to-work provisions would lead to weaker unions, lower wages and an anti-union climate in the state.

Two proponents, Jack Marlow, secretary-manager of the Montana Contractors' Association, and Del Stewart, secretary of the Montana Chamber of Commerce, said it was a matter of freedom of association.

Marlow, whose group represents about 100 general contractors, said:

"The right to work without joining a union should be an American freedom just the same as freedom of worship, freedom of speech and freedom to take a new job or move to a new community."

To enact a right-to-work section would not destroy unions, he said. In fact, union membership has increased greatly in the 19 states that have passed such measures, he said.

Murry later disputed this point, saying that membership increased because wages went down or did not increase in right-to-work states. Consequently, industries were attracted to these states, and the union membership totals reflected the increased job market.

Marlow charged that an employer loses touch with workers in a union shop.

"Workman go under the thumb of the international union, and service to employes gives way to dictatorship by union officials," he said.

Delegate Joseph H. McCarvel, D-Anaconda, disagreed. The railroad engineer said he had been in a union for 35 years and always had a voice in local union decisions.

"I'm a firm believer that with every right, there is an obligation," McCarvel said. "If you're going to get the benefits this union has derived for you, you should have to belong to

Veto Long Recess

Delegates Set June 6 For Constitution Vote

HELENA (AP) — Montana voters will get their chance to ratify or reject a new constitution June 6 instead of Nov. 7 as some had anticipated.

That decision, which would be changed if necessary, came after a 1½-hour debate at the Constitutional Convention Saturday.

The June date was picked over November or a summer special election primarily because of momentum and costs.

Delaying the vote to November could be deadly, so he said, for the constitution might be lost in the shuffle of presidential and state races.

To hold a special election would cost the 56 counties anywhere from \$250,000 to \$500,000, according to estimates.

Delegates also decided against holding a lengthy recess as some had wanted.

Any recess before final adoption of the new constitution is limited to two days.

In setting the June date and limiting any recesses, the delegates approved two decisions recommended by the Rules Committee.

Rules Committee Chairman Marshall Murray, R-Kalispell, said language in the present constitution and legislative enabling act require a special election.

But, Murray said, after consulting with the offices of the attorney general and secretary of state, he believes the election can be held at the same time as the June primary but separately. The only additional requirement would be that separate ballots and registration books would be used.

The Kalispell attorney said another reason for having separate ballots was the fact that almost 25 per cent of the electorate fails to vote on special issues. Since the new document must be approved by a majority of those voting, Murray said

constitution ratification could be endangered by those voting for candidates but skipping the constitution issue.

By having separate ballots, only a majority of those voting on the constitution would be needed.

That other states approving new constitutions have had better success when elections were held soon after conventions was another compelling reason for the June date, Murray said.

Not all delegates approved the decision.

"Somebody hit the panic button," Don Scanlin, D-Billings, said. "Slow down, cool it."

Another opponent was Vice President John H. Toole, R-Missoula, who heads the convention's Public Information Committee. He said he believed the estimated costs of a special election were too high and

wanted more time to inform voters.

Lucile Speer, D-Missoula, also said the June date would not give delegates sufficient time to explain their work to citizens. It would also be inconvenient for high school and college students, who will be in the middle of final exams, Miss Speer said.

Robert L. Kelleher, D-Billings, said delegates now were "the darlings of the state," dominating the news coverage of state newspapers, radio and television stations.

"If we wait until November, we won't even be on the obituary pages," he said. The Republican and Democratic national conventions, state elections, the World Series and college and professional football would capture the public interest instead of the new constitution.

Robert F. Woodmansey, R-Great Falls, said delegates were trying to write a constitution that would stand the test of time. He said citizens ought to be given ample time to study a new document before determining its fate.

Otto T. Habedank, R-Sidney, said even if voters had six months to look at the new constitution, they would put off studying it until the last two months anyway.

When the debate finally ended, about one-fourth of the 100 had spoken on the issue. They then approved the June date and the limited recess proposal in separate votes.

The convention's tentative schedule calls for completing deliberations either by March 18 or 25. The Style, Drafting and Transition Committee will then arrange the document and put in proper style.

Delegates will return and sign the new constitution by April 6, two months before the election, as the law requires.

With the Montana editors

THE NEW CONSTITUTION should contain a workable provision for local governmental consolidation, suggests The Western News at Libby.

"It was only a few years ago that people in Libby were bemoaning the lack of statutory or constitutional authority for uniting city and county functions," says The News. "As the tax base diminishes with decline of activities at Libby Dam, local residents may once again see benefits in consolidation."

A plan submitted to the convention does not eliminate cities, counties, school districts and other entities. They may continue to exist and function where the people so desire, The News explains. But the proposal would give local residents the option to consolidate public agencies, eliminate duplications of public service and cut costs.

THE NITTY GRITTY of the Constitutional Convention is "Are the people willing to bring about changes in our government to make it more economical, more flexible and more responsive to our needs?" observes The Harlowton Times.

"Change is sometimes painful, but in a dynamic society, also vital.

"The Constitution cannot try to solve contemporary problems, but rather facilitates future solutions. Thought must be aimed at the future, not the past or the immediate present, for we

know no more today of what is in the offing than did our ancestors envision autos in 1889," The Times concludes.

CITY-COUNTY consolidation is one realistic way local residents can deal with what—for the past 20 years—has been a gloomy economic picture in this area of Montana," says the Shelby Promoter and Tribune.

"Local taxpayers will not much longer tolerate the duplication in services that presently exists between city and county governments. No longer can we in Toole County, faced with a continuing depressed economy, afford the luxury of duplication and the resulting inefficiency," the Promoter and Tribune adds.

LIBERTY COUNTY Times at Chester reports hearing "very little sentiment expressed in favor of forced consolidation of counties, and much sentiment in opposition to forced consolidation." The observation followed the Times editor's visit to the Constitutional Convention in Helena.

"I came away encouraged by the feeling that the big cities do not at this time seem inclined to force county consolidation. I feel the situation still needs close scrutiny, but if the convention follows the sentiments I heard, the small counties of Montana will not be forced to consolidate over the objections of the people of these counties," the Times report concludes.

Public to get rough con-con drafts

Standard State Bureau

HELENA — Constitutional Convention committees will scurry to provide the public with "rough drafts" of committee proposals in time for formal public hearings next week.

Convention President Leo Graybill Jr., D-Great Falls, told committee chairmen Friday that the public should know in advance what com-

mittees are proposing "so the people have something to shoot at."

"If the public gets something it can see, it will react," Graybill said. "If it doesn't see anything, it will never react."

Committee chairmen took the news without strenuous protest. Thursday night, however, they howled in protest when told they would have to speed up deliberations

so that tentative proposals would be ready.

The formal hearings (dubbed "Romney hearings" after delegate Miles Romney, D-Hamilton, who proposed them) begin Tuesday and continue through Feb. 15.

Unlike the flurry of hearings during the past two weeks, Romney hearings will be scheduled one at a time, allowing delegates and the

public to focus on issues presented.

Each committee is being urged to present a draft of probably majority and minority committee reports.

Graybill said the Romney hearings will summarize committee work for the delegates, allow public reaction and suggestion, insure comprehensive news coverage, and prod committees into completing reports.

It's a 10-Ring Circus

A Day at the Convention

By DENNIS E. CURRAN
Missoulian State Bureau

HELENA — Shortly after 10 five mornings a week, delegate Leslie "Joe" Eskildsen, D-Malta, rises, catches the eye of Leo Graybill Jr. and moves the Constitutional Convention adjourn.

Without emotion, delegates mumble "aye," and Convention President Graybill raps his gavel. After 30 minutes of routine announcements, the Montana Constitutional Convention has concluded its formal general session of the day.

But for the 100 convention delegates, the day is just beginning.

And when the weary delegates slip away from the capitol in darkness that night, another plodding step will have been taken toward constitutional revision.

"This is the hardest working group of people I've ever seen," says Delegate Marshall Murray, R-Kalispell, a former legislator.

But the hard-working convention has a low-profile style. It isn't at all like the legislature, where hundreds of headline-catching bills are introduced, debated and passed in the early weeks of the session.

In contrast, convention delegates have spent virtually all of the past two weeks either in individual research reading or in one of the 10 "substantive" committees which are studying the constitutional issues.

Committee work began with dozens of public hearings to gather information — "input" in the convention lexicon. But in spare moments between hearings, committees also debate "output" — its report to the convention as a whole, which must come up with a cohesive document.

It's a 10-ring circus with no break between the acts. Take last Saturday for example:

At 8 a.m., while most of Montana prepared for shopping, skiing or other Saturday pursuits, convention delegates already were arriving at the capitol. For some, the early morning hours mean a chance to catch up on mail, newspapers or research. For others, there is a chance for informal conversation or the invariable committee meeting.

At 9:30 a.m., Graybill, D-Great Falls, a 47-year-old attorney with graying hair and fashionable wire-rimmed glasses, began what for the convention is atypical — a general session debate.

For almost two hours, the convention argued over when to submit its work to the voters, finally agreeing on June 6. It was one of the few major debates since the opening week hassle over rules, a dry topic which nonetheless had considerable importance.

But by 11:30 a.m. the convention had adjourned for more important pursuits — committee work.

Delegates grabbed hurried sandwiches at the third floor capitol snack bar, just outside "convention hall" (the House chamber during odd-numbered years), and scattered to committee rooms.

If you wandered into convention hall Saturday afternoon, you would have seen the public health, welfare, labor and industry committee listening to testimony on a proposal by its chairman, George Heliker, D-Missoula, for closer regulation of utilities.

The committee members and witnesses were scattered through the chamber, and there were many empty seats both on the floor and in the gallery.

Behind the gallery, the legislative committee was squeezed into its airless little committee room, earnestly discussing its tentative draft of a new legislative article. On Saturday the committee was concerned with time limits on the legislature, not whether it should be unicameral or bicameral.

Next door, the executive committee room was vacant. After weeks of hearing state officials, the committee had moved downstairs to the plush governor's conference room for its first formal public hearing.

Down the hallway, just off the Senate gallery, the local government committee was meeting with a legislative council subcommittee on home rule — its door closed, not for secrecy but to keep out the noise from a hearing in the Senate chamber.

Unlike the legislature, all convention committee meetings are open to the public all the time.

In the Senate, the bill of rights and education committees were staging a joint hearing on equal educational opportunity — the best attended hearing of the day.

As the committee listened to testimony from a black college professor, two Indian college professors and the state superintendent of public instruction, young people swarmed into the gallery, perhaps sensing that the convention is more for their benefit than anyone else's.

Later in the day the joint session would end. Education would continue in the Senate, and the bill of rights committee and much of the audience would move over to the law library for more testimony on Indian rights, privacy and the death penalty.

Meanwhile, up in the labyrinth behind the Senate and Supreme Court galleries, the general government committee was hearing testimony on interest rates and the natural resources committee was holding a hearing on the department of agriculture. The judiciary committee, the first to schedule hearings, worked Saturday on preparing rough drafts of three plans to be aired next week in the general hearing.

Over in the Mitchell Building east of the capitol, the revenue and finance committee concluded a hearing on earmarking of tax revenue and later members of the committee met jointly with the local government committee to discuss local government finance.

As dusk darkened into night in Helena last Saturday, convention hall finally was empty — earlier than normal.

One by one, delegates slipped out of committee rooms, their arms often laden with weekend "homework," and plodded to their cars. Another day at the convention was over.

ConCon sets an example

By DANIEL J. FOLEY
Gazette State Bureau

HELENA — Anyone who has witnessed Montana's legislative sessions in recent years and the Constitutional Convention now in session can't help but be struck by the vast contrast.

In fact, the Legislature might do well to note some of the things the convention has done to involve the people instead of just the lobbyists, to obtain independent research instead of only self-serving testimony and to facilitate thoughtful instead of hasty decision-making.

A few examples:

1. OPEN MEETINGS. All convention hearings, committee meetings and get-togethers of any sort have been open to the public and press, regardless of whether decisions are being made or delegates are just thinking out loud.

By contrast, legislative conference committees (which try to compromise on bills passed in different versions by both houses) are never open; appropriations committee meetings are seldom open, and committee discussions following public hearings are only occasionally open. In fairness, it should be noted that the Legislature is virtually wide open when compared to some executive agencies.

2. NOTICE OF HEARINGS. The convention is giving three or more days notice of all hearings. As a result, an average citizen or two drops by occasionally.

The Legislature, because of its 60-day time limit, gives advance notice of only a few very major hearings. Many of the more routine matters are posted only the day before or even the day of the hearing. As a result, only the paid lobbyists who patrol the halls on a daily basis are able to attend. The press reports to the people what has happened in their absence, not what is about to happen that they might influence.

3. WORK WEEK. The convention is taking off a couple of days each week and many of the delegates are even returning home to talk to constituents.

The Legislature, again because of the 60-day limit, often works seven days a week once past midsession. As a result, the tempers of tired legislators often flare and, much worse, the only "outsiders" they talk to are the press and the pressure groups, seldom the people.

4. RESEARCH STAFF. Each of the convention committees has a staff researcher, most of whom have prepared thick, well-documented reports on the issues facing the committee.

Legislative committees have no independent research help. Instead, lawmakers must depend on juggling the views of the lobbyists who appear before them and the views of the

"built-in lobbyists," such as the bankers serving on the Banking Committee and contractors serving on the Highway Committee.

5. TIME LIMITS. The convention does not have to quit on any certain day, although that may be small consolation when the body runs out of money about the end of the ninth week.

The Legislature must finish in 60 days, but it seldom makes it. Chaos reigns in the final few days as good bills die and bad bills squeeze by.

6. LOBBYISTS. Under the Convention's enabling act, paid lobbyists are not only required to register, but they must report all spending to influence the convention.

The Legislature, which is lobbied much more actively than the convention has been, requires only registration of lobbyists.

Several of the examples cited — research assistance, control of lobbyists and lack of a time limit — are the result of the foresight of the 1971 Legislature in adopting the Convention's enabling act. Hopefully, the convention will be as farsighted in lifting the unreasonable time restrictions on the Legislature.

Proponents Defend as Necessity for Auto Users

Opponent Says Fund-Tagging Is 'Empire-Building'

HELENA (AP) — The anti-diversion amendment to Montana's constitution, which has earmarked gasoline-tax money for highway purposes for nearly 15 years, was criticized Friday as "empire-building" and defended as a necessity for the motoring public.

Supporters of retaining the antidiversion clause in the document that will come out of the Constitutional Convention mostly represented highway-user organizations such as the Montana Automobile Association, chambers of commerce and the State AFL-CIO.

Speaking for the statewide labor union was Harry L. Billings, who asked: "If the antidiversion amendment is taken

out of the constitution, what is to stop a future legislature from diverting for general government a part or all of the gasoline sales tax paid by highway users?"

Billings added that unless the constitution provides the amount of gasoline tax levied shall not exceed the appropriation for highway purposes, the AFL-CIO strongly urges retention of the antidiversion amendment in the proposed new document.

State Sen. William Bertsche, D-Great Falls, said the amendment should be retained but should be liberalized to include aid for city streets and county roads, and financing of the Highway Patrol.

He got no argument from Dan Mizner, executive officer of the League of Cities and Towns, who agreed such liberalization would clarify the legislature's intention to finance city and county road work out of the gas tax.

Such city-town-county aid is presently given to the tune of \$3 million a year but some feel such help from the highway fund could stand constitutional protection.

Ex-State Sen. George Schotte, speaking on behalf of the MAA and 19 other groups making up the Highway Users Federation, repeated his earlier support for keeping the amendment. He indicated he would not oppose a liberalized antidiversion clause.

Speaking against the principle of earmarking funds in the constitution were two delegates—Richard B. Reeder and Dorothy Eck, both Bozeman Democrats.

"What's sauce for the goose is sauce for the gander," said Reeder, a Montana State University faculty member, as he warned the Finance and Revenue Committee other interests would be demanding similar fund protection on the basis of "I want mine."

It was Reeder who said earmarking leads to "empire building" and added that "often there is no connection between the program and amount of income."

His reply to questions indicated that presumably his opposition to earmarking would extend to removing the present constitutional guarantee of 25 per cent of income taxes for education.

In her opposition to any constitutional earmarking of funds, Mrs. Eck said it erodes the power of both the legislative and executive branches of government.

At one point, Delegate Mike McKeon, D-Anaconda, asked Mrs. Eck if she felt the Montana electorate had changed position since approving the antidiversion amendment at the polls in 1955.

"I doubt the electorate really knows what it is," Mrs. Eck replied.

Also opposing earmarking was Rep. Terry Murphy, D-Caldwell, who said the practice "makes it very difficult for the legislature to budget in response to new and changing needs."

Among those asking that the antidiversionary language be retained were Forrest Boles, executive vice president of the Kalispell Chamber of Commerce; Cecil Hudson, president of the Columbia Falls Chamber of Commerce; and Del Stewart, executive vice president of the Montana Chamber of Commerce.

Would keep both houses

I hope the delegates at the Constitutional Convention and the people of Montana remember how close we came to having a sales tax in Montana. It should be a lesson. There were many in influential positions who wanted the sales tax and it was only because our present constitution gave the people of Montana a choice that we do not have the sales tax today.

I believe that to keep our state government truly representative we should have more elected office holders, not more appointed office holders. There may be more difference of opinion in our state government that way, but that is what we expect in a free democracy.

Judges, education superintendents and others should have to meet set qualifications to run for their respective offices in order to do their jobs correctly.

Changes in our judicial system and other parts of our constitution might not really help our state, even if the changes did save money. The purpose of government is to serve the people in their own respective communities as much as possible, I think.

In the past our two houses in the legislature have helped guard the people's wishes in state government against certain pressures. I think our state legislature should meet every year.

MRS. MARTIN ROSEBURG, Turner

Gardner will talk to ConCon

HELENA (AP) — John W. Gardner, former U.S. secretary of Health, Education and Welfare, is scheduled to address the Constitutional Convention March 9.

Gardner will speak in his capacity as the chairman of the national Common Cause group. The announcement of his speaking engagement before the delegates was contained in a report by the Montana Common Cause.

Con-Con Has Its Lighter Side

Missoula State Bureau

HELENA — While delegates spend most of their day pondering weighty constitutional issues, the Constitutional Convention has its lighter side, too.

On the floor and in committee, delegates have shown a sense of humor.

Delegate Robert Kelleher of Billings, whose parliament proposal has run into less than enthusiastic response, recently said that because the executive and a majority of parliament are of the same party, "the ship of state is moving." Countered Delegate Arfyse Reichert of Great Falls: "So was the Titanic."

— Kelleher's parliament plan might get some support, suggested Delegate Jerry Cate of Billings. "If Kelleher would run Mae Nan Robinson for queen."

— Women delegates have found limits to the convention's "open door" policy. For years, the male-dominated legislature saw no need for a sign on the door at the rear of the cloakroom, but now, lest the 19 women delegates "liberate" the restroom, a MEN sign hastily has gone up.

— Education Committee Chairman Rick Champoux of Kalispell, a college professor, always starts committee hearings with the announcement that "demonstrations will not be permitted during the hearing."

— According to legislative committee minutes: "Chairman Aasheim called the meeting to order. It was announced that Mae Nan Robinson wasn't present because she didn't see the big cheese in the committee room."

— Delegates Lucile Speer of

Missoula and Lynn Sparks of Butte have been wearing sunglasses in the bright local government committee room. Commented Miss Speer: "It's the glare of the public limelight."

— Committee chairmen at one point agreed on a format where witnesses at public hearings would conclude by saying "thank you, Mr. Chairman" and not offer repetitive testimony. But Oscar Anderson, chairman of the local government committee, quickly discontinued the practice after a whole row of witnesses bobbed up and down, saying "I agree with the previous speaker. Thank you, Mr. Chairman" while committee members cracked up in laughter.

— Sterling Rygg of Kalispell has taken to calling his revenue and finance committee the

"Mitchell Gang" because it was "banished" to the Mitchell Building east of the capitol. After a series of hearings on taxation, Rygg complained: "Montanans aren't against paying taxes—they just want to make sure the other guy pays it."

— So many suggestions for constitutional change have come from Missoula, Delegate Clark Simon of Billings notes, "we should write two constitutions — one for Missoula and one for the rest of the state."

— And finally, Delegate Charles Mahoney, who unleashed some bombastic speeches during the debate on rules, remained silent for an entire day and received an award for it from Delegate Fred Martin of Livingston — a statue of a dwarf with an American flag over its mouth.

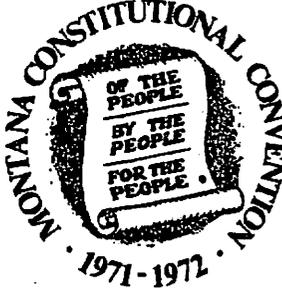
Great Falls Rancher Defends Property Rights

Tribune Capital Bureau
HELENA — Great Falls lawyer-rancher Fred Johnston says he doesn't think anyone should be able to come on private property without permission — "whether it's to use your barbecue pit or to angle from your back yard just because a stream happens to run through your property."
 Johnston defended the rights of property owners against public access in a hearing before the Natural Resources Committee of the Constitutional Convention.

He was seconded by State Sen. Gordon McGowan, who asked "what good does it do to own property if you have no property rights?"
 Noting that people talk about going into the country for a picnic, McGowan, a Highwood rancher, said that when he was young his greatest delight was to go into town on Sunday. "I don't know why we couldn't go to town and have a picnic on anybody's lawn," he said.
 Johnston was particularly critical of a proposal by delegate E. M. Berthelson, R-

Conrad, which would give the public the right to the recreational use of waters and their beds and banks "regardless of whether the waters are navigable and regardless of whether the beds and banks are privately owned." It would also include recreation and aesthetics as a beneficial use of water.
 Johnston noted that both concepts were killed in the last legislative assembly "and if we can't get them through the legislature, I have serious reservations about imbedding them in the constitution."

He said Berthelson's proposal is an attempt to overthrow present law which says the public has no right to fish where he has no right to be.
 Johnston was also critical of city dwellers who, he said, are very concerned about protecting their own property but who don't seem to understand that property in the country is also private. "They'll walk through a barnyard," he said. "But if you walk through their backyard they get madder than hell."



Con-Con COMMENTS

By the Delegates from
 District 23

By George James
 The past week has been devoted to marathon hearings of citizens and organizational viewpoints by all committees. The Convention hopes to give every Montanan an opportunity

to air his opinion on any subject of constitutional concern. While we as delegates cannot attend every committee meeting, we do get a briefing via a digest of hearings by each committee analyst. Our committee is fortunate in having Rick Applegate of Libby.

Two subjects seem to have dominated the Bill of Rights hearings, Article III Section 4 or the religious article. Several have advocated that it be shortened to conform to the federal constitution, while many were passionately against any change.

Another concern seemed to be based on the growing fear of bureaucracy and the growing intrusion of government in our lives. Two new proposals would be added to the constitution to combat this. One on the right to privacy would limit electronic surveillance or bugging, while the other would give the citizen the right to know and is aimed at secrecy in the operations of government at all levels.

We were most happy to visit with Robert Herrig, Lincoln County Superintendent of Schools, who testified before two committees and are looking forward to seeing others from District 23.

By Marjorie Cain

On Jan. 24 and 25 at Denver there was a report made to the Rocky Mountain States by the National Educational Finance Project. This group has been studying the various states and

their patterns of support for education. They have developed models for support that will meet the equality standards now necessary in light of the California, Texas, New Jersey and other decisions of the Courts. It was my privilege to attend that meeting.

The material developed will be of great assistance to those responsible for providing and distributing funds for all the educational efforts of the State.

This week has been filled with hearings from those concerned with the retention, deletion or change of Constitutional Articles or Sections. We have been listening and working within our own committees.

The weather is a hindrance to our doing anything beyond the confines of our residences or the Capitol Building. But I am sure that we are not alone in solving this problem of keeping comfortable.

I appreciate the communications I have received and hope that you continue to let me know how you feel about what we are considering.

By Paul Harlow

The interest of the people of Montana in wanting a good constitution is shown by the number coming to Helena to testify before the convention. In spite of the weather which we all experienced last week, we had many people appearing before the various committees.

There is a predominance of feeling towards annual sessions for the legislature, single member districts, open ended sessions, and a small annual salary for legislators.

The question of completely changing the judiciary system is not gaining too much support.

Local government needs reform, not so much in its make up as in its operation and efficiency, is the thinking of most

of the people. There needs to be more co-operation between the different local units, less duplication of effort, and more response to the needs of the people.

How to solve the dilemma of giving local government more responsibility of government, so they cannot pass the buck, and still not set up a little kingdom which disregards the needs of the state as a whole, keeps one thinking all the time.

These are but a few of the tasks that we are working on here in the convention. More next week.

Bar Owner Pens Mock Constitution

HELENA (AP) — A Capital City bar owner and operator has written a mock constitution for Montana that would probably be the envy of many Constitutional Convention delegates attempting to rewrite Montana's aged document.

Toy Cullum managed to get most of the basic issues that go into constitutions in a concise document of 500 words.

Cullum, who began the project in May, said he hopes to get the signature of every delegate to the convention on the old parchment. He promised to reciprocate by providing the 100 delegates with copies of the professionally lettered constitution.

Delegates to the convention who have already read the document say its wording is mild and the only provision that received any objection was for a unicameral legislature.

Legislators Should Disclose Finances

INDEPENDENT RECORD

State Bureau

A Constitutional Convention delegate from Shelby says he believes legislators should make public financial disclosures to restore faith in government.

"Appearances do count, and those who enter the public arena have already long recognized the fact that they must not only be honest in their dealings, but they must also appear to be," Robert Vermillion, D-Shelby, told the Legislative Committee.

Vermillion is the sponsor of delegate Proposal 63, which would require legislators to file a public statement with the Secretary of State disclosing their financial interests and sources of income.

"I do not ask that they give up their financial interests," Vermillion said. "I do ask the legislators to give up their rights to cast votes. I do not ask for detailed reports with dollar figures. I do ask that the legislator in his role as fiduciary to the people be required to outline his interests that could be taken as conflicting with his public trust."

Several members of the committee said that such a provision, if adopted, should apply to candidates, not just those elected.

A more detailed disclosure provision, suggested by Rep. Robert Watt, D-Missoula, ran into general disfavor with the committee. It would require disclosure by dollar amount and it provides for a commission to determine conflicts of interest. The commission would have the power to prevent legislators from voting if they have a conflict.

Majority Oppose Unicameralism...

Survey Indicates Lack of Understanding About Unicameralism; Many Voice Views

By Evelyn Young
Feature Editor

In a random survey to find out what the people's views are concerning unicameralism — an issue presently being hashed over at the Constitutional Convention — it was startlingly revealed that at least a good portion if not a majority of Gallatin County residents do not know what unicameralism is.

A total of 42 people, chosen at random from the telephone directory, were called in the Bozeman, Belgrade, Manhattan, Logan, Willow Creek, Three Forks, Trident and Amsterdam communities (excluding four people who were questioned in the Tribune office).

Of these 42 people only 20 replied to the query — 19 stated that they did not understand what unicameralism was or did not understand it well enough to

wish to take a stand; three refused to comment at all.

Approximately half of those who did respond with a definite stand were reluctant to do so and a few did so only after a definition of

same results. Mrs. Dellinger reported that she contacted 23 people and only seven understood the issue well enough to willingly take a stand. Of those who did take a

The abolition of the bicameral system and the adoption of a unicameral legislature has come before the Constitutional Convention.

What, in essence, are these systems?

Every state (except Nebraska) has a bicameral (two-house) lawmaking body which is elected by the people. Nebraska's is unicameral — one house. This body is called the state legislature, general assembly or general court. In the typical two-house legislature, the upper (smaller) body is called the senate; the lower (larger) body is called the House of Representatives or the assembly.

The pros and cons of this subject will be explored by the Tribune at a later date.

unicameralism had been stand in the valley communities, they were two

A similar survey made in West Yellowstone, by West Editor, Mrs. Donna Dellinger, revealed approximately the

Not Very Embused
One elderly gentleman did

not respond one way or the other — the conversation went something like this:

"Hello, Mr. . . . this is the Gallatin County Tribune calling and we are making a random survey of residents in Gallatin County to find out what their views are concerning unicameralism, an issue which is presently being debated at the Constitutional Convention. We were wondering if you would care to make a comment."

A very gruff voice abruptly and emphatically replied, "I don't think much of the Constitutional Convention to start with, so I guess that will take care of that," and he immediately hung up.

People Voice Views

Although a few others were just as emphatic about their views, they were not quite so abrupt and were

willing to comment further.

Monday, Feb. 7, 1972 **The Billings Gazette**

Our readers' opinions

Stick to principles

Constitutional Convention delegates are being besieged by people who want to preserve their own special position or interests under the cloak of constitutional law.

State officials, county officials, justices of the peace, tax dodgers, tax users, right-to-work, guaranteed bargaining, legislators, veterans preference — the whole can of worms, that's what the ConCon delegates are being asked to include in the proposed new documents.

They don't want to take their chances with future legislatures and the changing times. They want Montana constitutional guarantees to their perpetuity.

They, all of them, are asking too much.

There may well be merit in all of the contentions within the framework of statutory law—but not in the Constitution. It isn't any state or county official's inalienable right to have an office there waiting for him to seek it.

The work he does is a function of government not the reason for

its existence.

Montana's constitution, like that of the United States, should not be so rigid that it binds future generations to what may be out-moded practices. Statutory law, the law the Legislature enacts, will take care of the present exigencies.

Let the Montana constitution be one of principles, not of specifics. That's what's wrong with the present one. It contains far too much statutory law.

And, as you may have guessed, it was put there by special interests wishing to preserve a good thing for themselves. The welfare of the commonwealth was strictly incidental.

Let the Montana constitution be a flexible one that will meet the needs of the times, next year or 50 years from now. Let it protect your individual freedom and rights and not bind the populace to a set of provisions that in the end are nothing but bread and butter, maybe even steaks and chops, to the special interests trying to get them included in the new Montana constitution.

No Demos or GOP at the landing

We must be prepared to "blame" ourselves if we do not have wise government. We must recognize that wise government is the product of an intelligent citizenry, and nothing else. If a citizen demands freedom of speech, he must not encourage its suppression in those who disagree with him, nor must he use it maliciously to destroy the government from which that privilege flows.

If a citizen demands of his fellow citizens that they work increasingly for a nation by building homes, rearing families; caring for the sick, needy and suffering; giving children and adults more education; eliminating disease, accident and disaster and developing communities in which men may have pride, let him as a citizen dedicate in a spirit of humility to those responsibilities.

I would like to remind the Constitutional Conventional delegates, although I don't think it has entirely been forgotten, that when the Pilgrim Fathers landed on our shores in 1620 the Democrats were not down to the dock to meet them, and neither were the Republicans. The first winter they were on our shores in New England, half of their number died, but the following spring when the Mayflower returned to England, not one of that gallant band went back. They were absolutely sold on the future of America.

Sometimes a nation abolishes God, but fortunately God is more tolerant. We, as citizens here, know God is on our side but He can't do it all! It might be a good idea also to remind ourselves that when the Indians were running things, they had no taxes, they had no debts, and the women did all the work.

If any of us reading this feel he is a SUPERIOR white citizen of this nation . . . why not take a good look around and start out first by shaking the Indian's hand?

ANNA BELLE LINCOLN, Joplin

Citizens Show Concern at Session Here

Sweeping Legislative Reforms Are Favored

By GARY LANGELY
Missoulian Staff Writer

Bob Campbell is not Pat Paulsen, but he isn't had at suggestive political humor either.

"What you see is the dust being raised from the stampede of scared cows," he told an audience during a public meeting on the Constitutional Convention Sunday night, drawing a barrage of laughter.

The comment seemed to epitomize the din surrounding the reframing of Montana's 82-year-old constitution since it was that stampede that drew some 85 concerned citizens to the meeting. And they grilled the delegates for nearly three hours on the intricacies of constitutional reform.

It was the state legislature, rated by a national citizens' conference as among the bottom 10 in the nation and often criticized for its inefficiency, that concerned most.

In fact, if Sunday's audience was any indicator, the public would favor the most sweeping of reforms in the legislature — a show of hands indicated a good three-fourths of the audience favoring a change from a two-house legislature to a unicameral, or one-house, body.

And the delegates were quick to respond.

"I think we're going to come out with a very strong vote for unicameralism," said delegate Daphne Bugbee, a member of the convention's Legislative Committee.

And while she admitted she is not certain if the convention will adopt unicameralism — even if her committee favors it — she was quick to speak in behalf of the idea.

"Who needs two constitutional conventions side by side," she said, criticizing bicameralism. "We don't need that."

She described unicameralism as "very logical" for "efficiency and visibility" in government.

Delegate George Heliker was more pointed in his criticism of bicameralism.

He drew laughter when he read from testimony he delivered last week before his Public Health, Education and Welfare Committee, which said:

"The most important thing we can do, and it will command almost universal approval, in my opinion, is to lift from the back of the long-suffering Montana citizen that tanning circus, that now-you-see-it-now-you-don't shell game, that pull-the-wool-over-the-eyes machine, that paid lobbyists kill-'em-dead obstructionist mill, that expensive and anachronistic institution politely known as the bicameral legislature."

Arguments against unicameralism, Heliker said, are "obstructionist arguments."

"They are made by people who want to prevent legislation from being passed," he said.

He described unicameralism as more visible and efficient than the two houses, and charged that bicameralism "makes possible efficient obstructions."

But while the idea of unicameralism drew strong support from the audience, it was not without qualifications.

One person warned a unicameral legislature must be coupled with a strong open meetings law.

"The people act as a second house in a unicameral state," he said.

Another suggested the convention obtain as much information as possible from Nebraska, the only state to adopt a unicameral legislature.

But Mrs. Bugbee responded by saying delegates already have an "enormous" amount of material from Nebraska.

"If we're going to have unicameralism in Montana we've got to stop talking about Nebraska," she said. "We've got to start talking about Montana."

She said the committee plans to draft two proposals — one for each legislative form.

The proposal was not without opposition.

One man said he could not understand why a unicameral legislature would be less expensive than a bicameral legislature.

Another, David J. Maclay, warned against hasty action, and told delegates give both sides consideration.

"If a high school kid jumps off a bridge they'll all jump off the bridge," he said.

The comment was welcomed by John Toole, first vice president of the convention, who cited the "tremendous thrust" for unicameralism and said he was pleased with comments from the other side.

Toole did not say directly which legislative form he favors.

Another area that concerned the audience was the Bill of Rights where delegates were grilled on the rights to privacy, a clean environment — and the hot issue of the right to bear arms.

In the main, they were concerned about their environment and their right to sue its polluters — the public trust issue.

"About 10 days ago I would have said the trust was about dead," said Campbell, a member of the Bill of Rights Committee. But then he pointed to Gov. Forrest Anderson's

recent veto of Montana's air pollution implementation plan and said some rethinking has occurred, not only on the trust theory, but on how much power the governor should have.

Somewhat leary about the trust proposal, Campbell explained its shortcomings.

For example, he said he would involve the right to sue any place at any time and, in effect, control "what a person can do with his land."

The theory, he said, has caused some delegates to see "all kinds of red flags."

"You have to have a lot of justification," he said.

But support of the trust persisted.

Dr. Jim Brogger, president of the Western Montana Fish and Game Association, described it as the "most feasible means of protecting our right to a healthful environment." And he said the right to a healthful environment is "as fundamental" as anything that could be written into the new constitution.

The right to bear arms drew some comment with sportsmen who said the delegates to keep the present constitutional provision at the very least. The present constitution guarantees the right to bear arms for protection — not recreational purposes.

Campbell said the provision will be kept, and he called concern over its deletion "one of the biggest nonissues of the convention."

While the meeting was called to test public reaction, it also gave the delegates a chance to boost their pet proposals.

Heliker's is one to regulate private utilities, and would replace the current three-member elective Public Service Commission with one man appointed by the governor who would serve at his pleasure.

Under his proposal, he said, "the responsibility for private utility regulation is pinned on the governor."

He pointed out the Public Service Commission was created by statute early in the twentieth century.

"It hasn't improved much in the last 65 years," he said. "It's time, it seems to me, for a drastic fundamental change."

Vice President Toole, despite his necessary attention to administrative chores, also has dropped a proposal in the hopper — one that would divert gasoline tax money to other uses besides highway construction and maintenance, including the Highway Patrol, mass transportation, parking lots, automobile-caused air pollution and disposal of abandoned cars.

"It does not mean this is no longer an earmarked fund," he said of the antidiversion amendment. "It doesn't mean that highway maintenance will be destroyed."

But Toole added, under his proposal the money — which amounts to \$38 million a year — could be used "to cure evils caused by the automobile."

While he called the amendment a "travesty" he said his proposal represents a compromise "with highway maintenance advocates."

"The lobby supporting the antidiversion amendment is the most powerful in the state of Montana," he said. "When you're up against that you don't say you're going to eliminate the antidiversion amendment."

And he noted the lobby is so powerful, he predicted his proposal probably will be defeated this year.

"We can't do this all in one step," he said. "My proposal is a step in the right direction."

Mrs. Payne, a former city councilman, explained her controversial proposal which would delete reference to elected county officials in the constitution.

"They shouldn't be in the constitution," she said, if the document is written so it will "take care of us the next 100 years."

Campbell, who has proposed a provision to give 18-year-olds blanket adulthood rights, said if the provision is approved, it could serve as a model for other states.

Consolidation Provision Is Essential

Except for gun control or aid to parochial schools, a proposal by Frank Arness to allow creation of single-unit local government districts appears likely to raise the biggest commotion at the Constitutional Convention.

Certainly not perfect and probably not the complete answer to problems of local government, the Arness plan is a sincere attempt to provide a framework under which some of the duplications of public services and multiplication of costs may be eliminated.

The plan does not eliminate cities, counties, school districts and other governmental entities. They may continue to exist and function where the people so desire. But the proposal would give local residents the option to consolidate public agencies into one body.

The opportunity for cost cutting and improved efficiency would be a strong argument for the proposal. On the negative side is the fact that the five-man board of supervisors would be empowered with authority over almost every aspect of local affairs and it is doubtful that politically chosen officers would be competent in the diverse fields that would come under their purview.

The staff necessary to advise the supervisors on matters ranging from schools to roads to soil conservation to garbage disposal might be so expensive and cumbersome that it would negate any advantages that would accrue from consolidation.

Many functions of local government would be better served under consolidation. Police protection, refuse disposal, road and street maintenance, sewage treatment, public health and sanitation would probably function more efficiently and more economically under central departments than under separate city and county units.

Delegates from some eastern Montana counties have spoken out against the plan because they fear it would automatically terminate their local governments. Instead the proposal, if incorporated into the constitution, would give every area of Montana the opportunity to decide whether consolidation would satisfy its needs or whether the system of divided responsibility in city, county, school and other units should be continued.

Under the proposal as written by Arness, each county will have until 1980 to decide if consolidation should be effected. If consolidation

is rejected, if we read the proposal correctly, there would be no opportunity to adopt the plan after 1980. The constitution should make consolidation possible at any time in the future that it appears beneficial.

Fundamentally, it appears that the Arness proposal is a basically sound approach to the problem of consolidation, although a strong case could probably be made for exempting schools from its application. But omitting schools would leave the most costly arm of local government outside unification. Carrying consolidation to its logical conclusion would probably result in a county-wide school district with a single administrative staff and a principal in charge of operations at each individual school.

The new constitution should contain a workable provision for local governmental consolidation. It was only a few years ago that people in Libby were bemoaning the lack of statutory or constitutional authority for uniting city and county functions. As the tax base diminishes with decline of activities at Libby Dam, local residents may once again see benefits in consolidation. The Arness proposal would make it possible to reap those benefits if the voters desire.

16 Great Falls Tribune Saturday, February 3, 1972

County Superintendents Win Top Level Defense

Tribune Capital Bureau

HELENA — Public Instruction Supt. Dolores Colburg told committees to be "unmistakably certain" of the worth of some new system before it writes the county school superintendent out of the constitution.

Montana's chief state school officer was among witnesses testifying before the Convention's Education and Local Government Committees on the issue of whether to retain county school superintendents as constitutional officers.

Though she did not take a position on the issue, Mrs. Colburg read a prepared statement on the "value" of the office of county superintendents.

"To abolish the office of

county superintendent without providing a replacement would be a loss for education and for the citizens served," Mrs. Colburg said.

She conceded that the contemporary role of the county superintendent may no longer be totally consistent with the role as it was conceived by the crafters of the 1889 Constitution. However, she contended there are still vital services performed on the county level that cannot be discounted.

Mrs. Colburg said that Montana's special combination of an immense land area sporadically populated makes it impossible for the state superintendent to visit each locality every time a

problem develops or assistance is needed.

She also argued that the current administrative, fiscal and record-keeping activities performed by the county superintendents cannot be left unattended.

The county superintendent, Mrs. Colburg said, bridges a gap that would otherwise isolate a huge number of Montana school districts, the many rural elementary districts that can support neither a principal nor a district superintendent.

Schools in these districts, she said, "certainly have equal need for educational services."

Rural schools offer a valuable and desirable form of public education, Mrs. Colburg said,

which ought to be preserved and encouraged and it is imperative that modern educational services be provided. County superintendents help make this possible, she said.

In some urban districts, she added there is scant need to seek the county superintendent's services. Some rural counties are too sparsely populated to properly support a full-time superintendent. There could be modifications in the present system, although statutory law currently provides that two or more counties may jointly support a single superintendent of schools, she said.

Mrs. Colburg said that Montana has 199 one-teacher schools, 79 two-teacher schools and 43 three-teacher schools.

Individual Rights Prime Concern of Delegates

By GARY LANGLEY
Missoulian Staff Writer
(Seventh in a Series)

Between bites of chicken noodle soup and a hot dog, Bob Campbell found time for reflection.

He had just finished listening to two newspapermen and a priest discuss freedom of the press and religion, but Campbell also had other things on his mind.

Thirty and a civil liberties lawyer, the personable Campbell has won reputé as a backer of liberal causes, and as a member of the Constitutional Convention's Bill of Rights Committee he continues to step to the tune of that distant drummer.

But Campbell is not alone.

"It seems that labels do not mean too much to the convention," he said, pleased. "We all agree we have certain strong individual rights. This is what the Bill of Rights Committee is involved in. We're stating our ideals.

"The government should be told in no uncertain terms there are areas in which citizens do not want the government involved."

Some of these areas are foregone conclusions — but others are colored with rights and controversies yet to come.

And if some of the many proposals backed by Campbell win convention and public endorsement, the following could happen:

— The gallows, which have not been used in Montana for nearly 30 years, would never be used again.

— An 18-year-old could run for governor.

— An ex-convict could leave prison one day

and vote or run for office the next.

— A welfare applicant would not have to submit to an interrogation of his personal life.

"This is a very exciting committee," Campbell says. "One that will spark public reaction and response in all these areas."

But that is something it has not yet done as it plows through the drudgery of committee hearings.

Campbell said he has received an average of only three to four letters a day even though he actively has solicited public opinion on the issues.

"These people here have never served in the legislature, and they're very sensitive to public reaction," he said.

Particularly in the shadow of potential controversy is the proposal to scrap the death penalty, the brainchild of delegate Jerome J. Cate of Billings, which has won support from Campbell.

"If it is an unacceptable thing to the people, now is when we want to find out about it — not when the constitution is voted on," he said. "What I want to do is have this thing discussed by the people and let our delegation know on this."

Campbell's reasons for backing the proposal are varied, and because he "thinks its time to discuss it" openly is not the least of them.

"It's been proved it's not an effective deterrent to crime," he said. "I don't think we have to follow an eye for an eye, death for a death sort of thing."

Moreover, Campbell points out: "As a practical matter it's not been used."

A provision granting blanket adulthood rights to 18 year olds is another major in-

dication of things to come that Campbell himself has prepared.

"We've got to eliminate the inconsistencies in the statutes," he said, noting statutory adulthood rights range from 18 to 21 years.

Among other things, Campbell's proposal not only would grant 18 year olds the right to vote, but also to run for office.

"If they are qualified to vote they certainly are qualified to run for the office they are voting for," Campbell said.

While Campbell also is quick to admit the chances of an 18-year-old governor are nil, he hopes the provision will accomplish other ends.

"I think it will produce honesty in the candidates by forcing them to face issues young people raise," he said. "They still have a great deal to overcome, but this gives them the knowledge at least that they can run."

Criminal reform is another area at which Campbell is aiming with a proposal that automatically would restore a person's rights once he completes a jail term. Currently, restoration of rights is dependent on the discretion of the governor.

"If we're going to encourage any rehabilitation at all I think we should start there," Campbell said.

Yet Campbell's most sweeping proposal is one that would grant individuals the rights to dignity, privacy and freedom of expression.

"We don't have these rights stated specifically now and this is the essence of a free society," he said.

While the freedom of expression and privacy provisions would protect individuals against action by the state, the dignity clause would be aimed primarily at an individual's

right to privacy. Welfare recipients would not, for example, be required to answer "embarrassing" personal questions when applying for welfare.

While Campbell is enthusiastic about the proposal, he does not see it skipping unblemished through the gauntlet of skeptical convention delegates and voters.

"This is a provision that I think will generate a great deal of discussion," he said.

Campbell has an eye on other areas also:

— He has drafted a proposal protecting the right of privacy during searches and seizures. "It just recognizes the need today and the concern people have for privacy," he said.

— The right to a clean environment has won Campbell's endorsement.

— He supports a provision that would give equal rights to women, particularly in renting and buying housing, where he says they particularly are discriminated against.

But right now Campbell's committee is gathering information on what the people want — a process that has tightened the rein on an already tight schedule in a convention limited by time and budget.

"I think we have enough time to make our decisions," he said.

And he made it clear whatever decisions are made will depend a great deal on public reaction, not only to save a new constitution from death at the polls, but because of the importance of a fundamental bill of rights.

"We're going to live the rest of our adult lives under the provisions that are adopted," he said.

The sounds of the distant drummer are bound to be heard.

Con Con Proposals Narrowing

Judges: What to Do?

HELENA — Two committee reports have been drafted by the Constitutional Convention's Judiciary Committee — one calling for election of judges and the other calling for appointment.

Committee chairman David Holland, D-Butte, emphasizes that the reports are not official in that they have not been voted on. That's expected to take place Wednesday morning, with the committee's formal hearing set for 1:30 p.m.

The election provision is found in what is expected to be the majority report, which also recommends continued election of court clerks, county attorneys, and justices of the peace.

Instead of the present requirement of two JPs for each township, however, the report recommends only one per county. And it recommends that lawyers be allowed to serve as JPs and at the same time be permitted to practice in other courts.

Vacancies would continue to be filled by appointment, but an appointed judge would only serve until the next election and would not be eligible to seek election himself until one year after his successor took office. Holland says this is intended to prevent a "hierarchy of appointed judges."

What is expected to come out as the minority report recommends that judges be appointed, but according to procedures established by the legislature and with Senate confirmation.

Both reports have similar provisions for a judicial commissioner to recommend to the Supreme Court discipline and removal of judges.

Tribune Capitol Bureau

HELENA — An environmental protection provision for inclusion in the new constitution has been written by the Constitutional Convention Natural Resources-Agriculture Committee.

The proposal is contained in a rough draft which the committee will use as the basis for a formal public hearing next Thursday.

The committee is headed by delegate Louise Cross, D-Glendive, who has argued for strong environmental safeguards during informational hearings conducted during the past 3½ weeks.

The environmental protection provision says "it is the public policy of the state and the duty of each person to provide, maintain and enhance a quality environment for the benefit of the people."

The legislature is directed to implement and enforce the policy, including, but not limited to the areas of air, water, land, wildlife, minerals, forests, open space, populations and sound, and the preservation, enhancement, reclamation and restoration of these values.

The rough draft also would:

— Provide in the constitution for a Department of Agriculture.

— Allow the legislature to provide for the identification, acquisition, restoration, enhancement and preservation of scenic, historic, archeologic, scientific, cultural and recreational areas, sites and objects.

— Recognize all existing water rights for any useful or beneficial purpose. All surface, underground, flood and atmospheric waters within the boundaries of the state would be the property of the state for the use of its people and subject to appropriation for beneficial uses.

Public Participation Lacking In Constitutional Convention

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Constitutional Convention President Leo Graybill Jr., said Tuesday public participation in the convention has been somewhat disappointing and he urged citizens to take part in formal hearings this week and next.

At a news conference, the Great Falls Democrat said: "If we have any disappointment we would have liked more public participation."

He said the convention leaders were "a little saddened by the fact that the whole process has not been observed by more people."

Graybill said he expected gallery attendance to perk up when debates begin next week on the floor. So far, most of the work has been done in the 10 major committees.

Graybill also said the financially hard-pressed convention

was taking further steps to assure that the money doesn't run out. Three secretaries have been dismissed, he said, since much of the typing has been completed.

"We're going to try to get along with a skeleton crew," he said. "We are, we think, within the budget, and we're bound and determined to stay that way."

He said one economy move came by doing away with the legislature's practice of ordering water jugs at \$5 apiece. Graybill said from here on out the 100 delegates and convention staff will rely on water fountains for their refreshment.

Graybill said he had detected no "organized partisanship" in the convention.

"I've really seen no evidence of partisan politics forming," he said. The convention is breaking down more on liberal and conservative lines than by party, he said. The Democrats hold a 58-39 majority over Republicans. There are six independent delegates.

But Graybill said there were some political references made when the right to work discussion came up last week.

"I'm sure when we debate something, there will be some political references," he said.

Graybill said he was not sure how many delegates would

run for the legislature later this year. He said, however, he believed candidacy by the Con-Con delegates could be a healthy sign.

"I think the openness of this convention will be very difficult for legislators to cope with," Graybill said. "If some of the delegates become legislators, the legislature is in for a rude awakening."

He cited the open meetings of the convention, the advance notices of committee hearings and also allowing witnesses more time to testify.

Graybill also announced that

Margaret Warden, D-Great Falls, would take over as chairman of the Public Information Committee. He said John H. Toole, R-Missoula, found it necessary so he could concentrate on the convention's Administration Committee. Toole previously headed both procedural committees.

Newspaper editor Fred Martin, R-Livingston, will move up to vice chairman.

Graybill praised the media for providing "marvelous coverage" and quipped, "Even the headline writers are doing better."

Con-Con Movie Canceled

HELENA (AP) — Voting on the new constitution in June instead of a later date has forced the cancellation of a scheduled promotional film on the constitution.

The film was to be made by some Montana State University professors. President Leo Graybill Jr., D-Great Falls, said the early date simply would not give the producers time to make the movie, which was to have been financed by federal and convention funds.

Graybill said the MSU film team had planned on a November election, but delegates decided Saturday to put the new document before voters June 6.

A book explaining the work of the convention still is in the works, Graybill said. Leaders still plan to submit a request for \$50,000 in federal funds from the Department of Housing and Urban Development for post-convention public information activities.

Graybill said several staff members had been working on the application but it had not yet been submitted because of several problems. One question to be resolved is whether the convention or the preparatory commission, a separate entity, should apply for the funds. The commission, which said last week its budget was \$14,000 in the red, unsuccessfully applied for a grant last year.

Women Con Con Delegates Urge Consumer Protection Provision

HELENA (AP) — Montana's new constitution should include a provision on consumer protection, two delegates said Tuesday, but several others said they believed it was not a constitutional matter.

Testifying before the Public Health, Welfare, Labor and Industry Committee, were delegates Arlyne Reichert, D-Great Falls, and Lucile Speer, D-Missoula.

Miss Speer sponsored a proposal that would provide for the state to provide public education on consumer protection.

Both women cited examples of buying faulty products and having trouble getting refunds.

Mrs. Reichert said she was ening to hire an attorney and writing a letter to a newspaper editor.

Miss Speer, however, said she had some problems. "I am a timid little person," the 73-year-old delegate said, "I can conceive of lots of little old ladies who haven't got the nerve."

Some delegates, while favoring consumerism, believe the matter might be better left to the legislature.

Attorney William Swanberg, D-Great Falls, said Legal Services and VISTA lawyers could provide help.

Miss Speer said that present programs simply weren't generating interest. She said that an adult education program in Missoula has tried three times, unsuccessfully, to offer a consumer protection course but there was not enough interest.

Other channels such as the news media and the Montana State University Extension Service publications could be used.

"There is apathy but we somehow should make it (consumerism information) more seductive," she said.

R. J. Studer Sr., R-Billings, said education was the key to consumerism but it did not belong in the constitution.

"It just has to be left to the legislature," the Billings delegate said.

Miss Speer said she also would like to see a state official be charged with helping consumers. But Mrs. Reichert said this role could be handled by an ombudsman.

Divided on Offices

HELENA — The Constitutional Convention's Executive Committee, which is to hold its formal hearing Wednesday at 7 p.m., is divided as to how many state offices should remain in the constitution.

The committee has agreed that there should continue to be a governor and lieutenant governor and that the two should run as a team. But in a report prepared for the hearing, the committee makes no recommendation as to the constitutional status of the secretary of state, attorney general, superintendent of public instruction, treasurer or auditor.

The committee has not yet put together its own proposed executive article, but it has been working with three delegate proposals containing the article.

The committee is in agreement upon the following items:

—The board of examiners and the board of prison commissioners, should be eliminated as constitutional boards.

—The office of state examiner should be eliminated as a constitutional office.

—The governor should continue to have general and line item appropriation veto power.

—The governor should continue to be able to call special sessions of the legislature.

—The 20 executive department principle recently adopted as a part of the constitution should be retained.

—The lieutenant governor should be a full-time position with duties to be prescribed by law and the governor.

Graybill Takes Con Con Staff Reins

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA—Constitutional Convention President Leo Graybill Jr., during an unpublicized committee meeting Tuesday, fired the secretary of former Con Con Executive Director Dale Harris and personally took over supervision of the convention's staff.

The meeting of the convention's administrative committee was not listed on the official schedule of committee meetings.

Bartley Carson, Harris' secretary, was taking minutes of the meeting when Graybill announced that "to conserve convention's funds" she would be fired. Graybill told the committee that Mrs. Carson, who was Harris' secretary when Harris directed the work of the preparatory Constitutional Revision Commission, had few if any assignments left from Harris.

Graybill, in a proposal on "convention staff reorganization" which he prepared for the committee meeting, said Mrs. Carson's work as secretary to the administrative committee was light and could easily be reassigned. He also recommended the axing of two secretaries for the sten pool.

Later, during a news conference, Graybill merely told reporters that three secretaries would be "relieved" of their duties for the purpose of efficiency and economy.

Galleries Disappoint Graybill

Constitutional Convention Press Constitutional Convention President Leo Graybill Jr., said today the public participation in the convention has been somewhat disappointing and he urged citizens to take part in formal hearings this week and next.

At a news conference, the Great Falls Democrat said: "If we have any disappointment we would have liked more public participation."

He said the convention leaders were "a little saddened by the fact that the whole process has not been observed by more people."

Graybill said he expected gallery attendance to perk up when debates begin next week on the floor. So far, most of the work has been done in the 10 major committees.

Graybill also said the financially hard-pressed convention was taking further steps to assure that the money doesn't run out. Three secretaries have been dismissed, he said, since much of the typing has been completed.

Graybill also obtained the committee's permission to divide up Harris' duties. Harris was granted a two week leave of absence last Thursday, due to exhaustion.

Graybill also succeeded in getting the committee's blessing for reassigning nine functions which had been assigned to Harris. Convention First Vice President John Toole, R-Missoula, was placed in charge of fiscal control, external affairs and interns; local government re-

search analyst Jerry Holloran was made research coordinator; Graybill assumed supervision of staff; Vice President Bruce Brown-I-Miles City, was placed in charge of contracts; Jean Fallon, head printing clerk, was given control of printing and mail room; Max Baucus, acting executive director, was given charge of custodial functions and special projects.

During his press conference, Graybill, who has had frequent disagreements with Harris over

running the convention, said that when Harris came back he would act in the area of research coordination.

One of the convention's officers told the Tribune that Harris had asked to be relieved of some of his duties.

To quell what he termed "some unrest among interns because they do not get to do a variety of things," Graybill received the committee's okay for assigning them to reception and telephone answering duties.

Vo-Tech Should Stay Where It Is

—The Missoulian, Wednesday, February 9, 1972

Letters, Opinion

Vocational and technical education in Montana belongs under the jurisdiction of the public schools, not the university system.

Concern was expressed last week at the meeting of the Missoula County High School trustees that if the Constitutional Convention splits the present State Board of Education into two bodies, one for the public schools and one for higher education, vo-tech education might wind up in the university system because vo-tech is post-secondary school education.

The MCHS Board wants vo-tech kept under the same jurisdiction as the high schools, where it is now, from fear that the university system might starve vo-tech education in favor of higher education.

There are several issues here:

1. Should the present State Board of Education be divided at all? Other states are tending to bring together their educational boards, but perhaps it would be best to have two in Montana.

2. Should the Constitutional Convention do the splitting by writing two separate boards into the new constitution? The answer to that is no. The power to alter the present system should be left to the legislature, which has that power in other states. If two boards were tried and didn't work, it would be foolish to have to go through the rigmar-

ole of a constitutional amendment to bring them back together again. Let the legislature handle the problem.

3. If a division of the board is written into the new constitution, where should vo-tech education go? As stated above, it belongs where it is now — under the high schools.

Vocational and technical training in Montana has achieved a status and prestige unique among states. In many states vo-tech education has had trouble attracting enough students, and too many students who should be in vo-tech programs have entered colleges and universities instead, to their own detri-

ment and the institutions'.

That has not been nearly the problem in Montana as it has been elsewhere. Missoula is an excellent example of a community which, though it has a university, also has a vigorous and prestigious vo-tech program.

The fear voiced by MCHS is that if the university regents take over vo-tech education, it will become a poor cousin to higher education, and will be starved for administrative support and money.

Clearly, the same state board that governs the high schools should be given jurisdiction over vocational-technical education in Montana.

Constitution vote set for June

Reasoning behind the decision of Constitutional Convention delegates to have the election on the proposed new constitution in June seems sound.

Delegates agree the election would be advisable at the primary election June 6 rather than the general election Nov. 7. They think the issues would be clouded in a vote in November due to the interest in the presidential, congressional and top state political races. They also think the long interval be-

tween the end of the convention and the November election would be detrimental.

There's merit in the plan to schedule the election in June. That's an important decision for the delegates. They now have a host of more monumental issues to agree upon before they recommend a new document to replace the archaic one that was drafted in 1889 to meet needs of that period.

CON CON REPORT CON CON REPORT

By Delegate Miles Romney

As this report is typed the Montana Constitutional Convention has completed the first two weeks of its existence, following the organizational sessions held Nov. 29, 30 and Dec. 1.

No final determinations as to what will go into the revised document have been arrived upon, nor will there be any conclusive action taken for some time yet. But preliminary probing is developing shadows of thought which can very well become reality in the near future.

That which is transpiring now is the committee work—within the realms of the ten substantive committees—by which committee member evolves decisions as to what they, as individuals—and more importantly as committee groups or majorities or as entities—consider should become incorporated in the constitution articles' sections which are their committee responsibilities.

First off, each standing committee considers the present constitution's sections, debating each section's need, past effectiveness or obsolescence, and comparing such section with similar sections of the constitutions of the 49 other states of the union. Perhaps it is decided by the committee that because the particular section is obsolete it should be discarded; maybe it is determined the wording is obscure and more meaningful verbiage could be substituted, or it might ensue that the view would be that the compared section of some other state's constitution is superior. Tentative action is then taken by the committee, and in some instances some committees might take final action on that section.

This action is followed through the entire body of the article which is the province of the particular committee.

Meantime proposals of convention delegates and from the Montana citizenry are being received by the convention clerk and referred by the President of the convention to appropriate committees. When these proposals are received by the committee chairmen it is their responsibility to refer them to their committee for study and possibly acceptance in original or amended form for the article which such committee is handling.

Meantime individual citizens or representatives of organizations, corporations, unions, farmers organizations, lodges, churches, civic groups, public officials, and so forth, appear before the committee to testify as witnesses favoring or combatting certain sections of the present constitution, offering what they favor as improvements, changes, amendments.

People appear to testify about incorporating their views upon water, air and other environmental values, about the lottery section of the constitution, concerning right of women, all of guarantees within the present bill of rights plus demands for additional guarantees, concerning zoning, about provisions for expanded city and county home rule through removal of legislative restraints upon tax levies, etc., relative to labor provisions, in connection with increasing salaries

By Jack K. Ward
Delegate District 22

I have had many comments and opinions concerning the Constitutional Convention this past week by mail, phone and in person. The comments to date concern the pros and cons of a unicameral or bicameral legislature and the changes that may or may not occur in the Bill of Rights.

No proposal, to date, has been debated in the body as a whole, and will probably not begin for another week or so. At present only committee hearings are being held. The public is welcome to attend any hearing and may testify for or against any proposal. The papers usually carry a schedule of proposals and hearings.

I will try to answer all letters and calls as time permits. I have received your messages and letters and appreciate them very much. Keep up the good work. Remember, this is your constitution. This Constitutional Convention is being held for you and your future.

of public officials during their terms of office, until practically all of the contemporary sections of the present constitution have had adherents or opponents speak for or against. At these hearings delegate member to the committee ask questions of the witnesses and often offer "their two-bits worth."

In my legislative committee we are primarily concerned with sections in the Legislative Article V. This leads to study of the Initiative and Referendum, the possibility of recall, right of the legislature to call itself into session, annual sessions versus biennial sessions, length of sessions, compensation, apportionment, the desirability of bicameral (as at present) or unicameral form of legislature, together with all of the sections in the present constitutions, and then some. Various persons from within and without the state appear to testify concerning their personal predilections.

Our committee has developed a consensus concerning tentative agreement upon numerous of the sections in the present Article V, but made no final determination of anything. The wealth of information adduced to date finds the 14 members of the committee with sharply different viewpoints on many sections. Few are the sections studied that do not find some members differing from the majority and there is a shifting of the individuals who sometimes are part of a majority and other times share the minority view. I think this is a healthy situation but it does not make for speed in formulating a consensus.

During most of the first two weeks I went to the capitol about 7:45 or 8 a.m. to attend meetings of the Rules committee of which I am also a member. The work of this procedural committee is now largely completed, so I do not have to arrive at the capitol

8 Lobbyist Suspensions See 3 Quick Responses

HELENA (AP) — Eight lobbyists had their licenses suspended Tuesday by Secretary of State Frank Murray but at least three were promptly reinstated because they filed delinquent reports of their Constitutional Convention expenditures.

Reinstated were the licenses of Francis D. Mitchell and his wife, Carol. Helena, lobbyists for a low-income organization known as Montana Common Cause.

Also reinstated was the license of lobbyists David A. Smith, Helena.

Murray advised Con-Con President Leo Graybill Jr. the suspensions were for failure to file expense statements within the required time.

A 1971 law requires lobbyists to report expenditures every two weeks. The first report was due Feb. 1 and the law says reports are delinquent if not filed within five days.

Murray also suspended the licenses of Robert A. Ellis, Helena; Edward Heard and Maurice Mulcahy, both of Butte;

Kenneth D. Davis, Billings; and State Rep. Robert A. Ellerd, Bozeman.

Con Con Misses Its Public

HELENA (AP) — Constitutional Convention President Leo Graybill Jr., said Tuesday the public participation in the convention has been somewhat disappointing and he urged citizens to take part in formal hearings this week and next.

At a news conference, the Great Falls Democrat said: "If we have any disappointment we would have liked more public participation."

He said the convention leaders were "a little saddened by the fact that the whole process has not been observed by more people."

Graybill said he expected gallery attendance to perk up when debates begin next week on the floor. So far, most of the work has been done in the 10 major committees.

Graybill also said the financially hard-pressed convention was taking further steps to assure that the money doesn't run out. Three secretaries have been dismissed, he said, since much of the typing has been completed.

"We're going to try to get along with a skeleton crew," he said. "We are, we think, within the budget, and we're bound and determined to stay that way."

He said one economy move came by doing away with the legislature's practice of ordering water jugs at \$5 apiece. Graybill said from here on out the 100 delegates and convention staff will rely on water fountains for their refreshment.

Graybill said he had detected no "organized partisanship" in the convention.

"I've really seen no evidence of partisan politics forming," he said. The convention is breaking down more on liberal and conservative lines than by party, he said. The Democrats hold a 58-26 majority over Republicans. There are six Independent delegates.

Graybill also announced that Margaret Warden, D-Great Falls, would take over as chairman of the Public Information Committee. He said John H. Toole, R-Missoula, found it necessary so he could concentrate on the convention's Administration Committee. Toole previously headed both procedural committees.

Newspaper editor Fred Martin, R-Livingston, will move up to vice chairman.

Earmarking Of Highway Tax Pushed

Tribune Capitol Bureau
HELENA — Continued earmarking of highway taxes is recommended by the Constitutional Convention's Revenue Committee in a tentative proposal drafted in preparation for a formal hearing Thursday at 1:30 p.m.

The proposal departs from the present earmarking provision of the constitution, however, in limiting earmarked funds to fuel taxes. Fuel taxes account for the lion's share of highway revenue funds (some \$31 million in fiscal year 1971.) General sales and use taxes which are excluded from the earmarking recommendation, brought in around \$7 million.

The proposal also contains a departure in that it would allow use of earmarked funds for highway safety enforcement and drivers' education.

Some other features of the proposal:

—All property that is to be taxed shall be appraised and assessed by the state.

—The legislature shall provide a non-judicial, independent taxpayer appeal procedure to handle taxpayer grievances.

—No state debt shall be created unless authorized by a three-fifths vote of the legislature.

—The legislature shall enact limits of indebtedness for local government.

New ways to revise constitution

HELENA (AP) — New methods of revising Montana's constitution in the future were unveiled Tuesday at a public hearing of the General Government and Constitutional Revision Committee of the Constitutional Convention.

While the hearing was a public matter, most of the time was spent with delegates debating the recommendations. Only two witnesses — both from Hamilton — showed up to testify.

Highlights of the proposed draft are:

—Constitutional Revision. The legislature retains its present power to submit the question of calling a constitutional convention to the electorate if it passes the houses by a two-thirds majority.

However, unlike the present constitution, this article would allow voters to use the initiative to get the question of whether to call a convention on the ballot. At least 10 per cent of the voters must sign the petitions, which need at least 10 per cent of the legal voters in two-fifths of the state's legislative districts.

Another new feature of the proposed article is the automatic submission to the voters of whether to hold a convention every 20 years.

The method of submitting constitutional amendments also would be changed. No limits to the number of amendments submitted to the people would be imposed. At present no more than three amendments may be put to the voters at one time.

In addition, the legislature could take care of the amendments itself. If two-thirds of the total members of the legislature approved an amendment the legislature could wait until the next session, and if the two-thirds total approved again, the amendment would be passed. Legislators would still retain the option of submitting amendments to the public and the citizens could petition to get a constitutional amendment placed on the ballot.

Some delegates believed the

proposal would make it too easy to change the constitution. "I oppose the philosophy (of the change) which I maintain is an easing of the amendment process," said Donald Foster, I-Lewistown. He said the rights of minorities might be endangered.

One citizen, William Koerner, Hamilton, said the legislature would have too much power if it could pass amendments without putting them to the public. He also was unhappy over the number of proposed changes in the constitution. He said not much change is needed.

"It's quite a presumption to see that the founding fathers were so ignorant and unimaginative for delegates to propose 177 changes," he said. The committee has not yet decided on requirements for initiative, referendum and recall, but some delegates said they oppose the principle of recall.

It would allow a certain percentage of unhappy citizens to recall an elected official. A special election then would be held.

Chairman Mark Etchart, R-Glasgow, said the committee was leaning toward a recall provision.

Delegate Jerome T. Loendorf, R-Helela, said recall would give any large group leverage to pressure a public official.

The committee also recommended against holding a presidential primary election.

A mini-debate over lotteries also arose. Etchart said the committee generally favored removing any mention of lotteries from the constitution.

George Harper, I-Helela, a Methodist minister, said the ban should be continued.

Chet Blaylock, D-Laurel, agreed. He said the legislature might approve gambling.

"It will increase welfare, suicides and any other troubles," Blaylock said.

Others said the matter did not belong in the constitution.

Bruce Brown, I-Miles City, said: "If it's a legislative matter, we've got to trust the legislature."

Studer idea OK

The right to work proposal by R. J. Studer Sr. should be a part of our new Constitution. Every worker in the state of Montana should have the right to work when he wants to work, where he wants to work, and for whom he wants to work, without having to pay a tribute or tax to an organization or group for that privilege.

The workers should have the right to organize without coercion, to bargain for better working conditions, higher wages, and to elect their officers from among their organization.

—An employer should have the right to hire and keep qualified employees without the threat of being closed down by strikes. Strikes put people out of work and the final settlement is usually made around a bargaining table by arbitration and payment made retroactive. The worker is not the only one who loses; the economy of the community and state are also hurt. Union workers on strike compete for non-union jobs.

Unicameralism debate flares

HELENA (AP) — The unicameral-bicameralism debate flamed up anew Tuesday as two state representatives called for a one-house legislature while an influential senator urged that both houses be retained.

The arguments came out of a formal public hearing conducted by the Legislative Committee to the Montana Constitutional Convention. The committee has prepared alternative proposals for a unicameral and bicameral legislature.

Backing the one-house approach were two representatives — Brad Parrish, D-Lewistown, and Chase Patrick, R-Helela.

Sen. Bill Groff, D-Victor, who heads the Senate Finance and Claims Committee, defended the two-house system.

Parrish, a young attorney serving his first term, said state governments once were the essence of federalism but had deteriorated. He placed much of the blame on those constitutions written in the late 19th Century, as was Montana's 1889 document.

These restrictive constitutions "took giant steps backwards in the evolution of our democratic system," he said.

"They structured a legislature that was doomed to short term in effectiveness and long term in obsolescence. He praised the committee for recommending continuous sessions of the legislature, annual salaries and single-member districts. Parrish also said his experience in the legislature convinced him of the need for junking one house.

Patrick, a conservative Helela banker, said the pluses for a unicameral system outweighed the minuses.

Recalling the legislative deadlock of last year, Patrick said he was completing his third term and had served in four extraordinary sessions, adding: "I haven't been very happy."

Groff, a senator since 1955 and one of the most powerful figures in the legislature, said a unicameral chamber coupled with continuous sessions would result in an all-powerful legislative leader.

"You'll see a power in this hall no one ever dreamed of," he said. "The governor will have to bow down to him to get any appropriations."

Groff criticized the national study that last year rated Montana's Legislature as one of the 10 worst in the country.

"We were rated 41st, not on the product produced but on the number of committee rooms and staff members we had," he said.

Eliminating one house would not save any money, the Victor banker said, predicting it would cost more. Groff said one house served as a check on the other, noting that Democrats try to destroy a Republican governor and vice versa. The other house, often with the majority from the other party, has provided some balance, he said.

Groff also opposed cutting the size of the legislature. The committee proposal recommends a unicameral house of 75 to 100 members and a bicameral body with a house of 60 to 80 and a senate of 30 to 40.

"I don't want to see eastern Montana legislated out of this body," Groff said.

John Layne, Helena, representing the Montana Citizens Committee for the State Legislature, said his group was generally pleased with the committee drafts.

Let's have bill of rights

The new Montana constitution should have a strong, broad Bill of Rights.

The federal Bill of Rights is designed to restrain Congress, and does not wholly apply to state government.

It is true that the federal courts have extended federal rights to state law, but the process is far from complete, and in some sectors states are free to impinge upon the liberties of their citizens.

Moreover, there is no reason

why the state bill of rights cannot be more strict and inclusive than the federal one. It can include, for example, provisions against electronic snooping, or against polluters, that don't exist in the federal Bill of Rights.

The current revision of the constitution affords the opportunity to protect citizens against future menaces. If it is properly drafted, such a Bill of Rights can provide the legal basis for future suits aimed at protecting life, liberty, and the pursuit of happiness.

This unemployment raises the cost of the welfare payments in some counties and now these counties are proposing that there be a state-wide welfare tax to pay for the high cost of payments to workers who are on strike. The farmers and ranchers of Montana have been penal-

ized and taxed already for organized labor's transportation and dock worker's strikes.

It is time for the farmer and rancher of our state to evaluate our elected officials to see who is working to help pass legislation so that our products can move to cash markets instead of piling up in storage as surpluses.

Alvin L. Cantrell
Whitetail

Two-board plan backed

Gazette Staff Bureau

HELENA — Separate boards of education and regents and an elected state superintendent of public instruction are favored by the Constitutional Convention Education Committee in its tentative draft.

The two boards would meet jointly at times to coordinate their work, according to the draft.

Other committee conclusions are no public aid to nonpublic schools, a guarantee of equal educational opportunity and a flexible stance on the method of school financing.

The tentative committee report, which is subject to change, will be discussed in the committee's formal hearing at 1:30 p.m. Friday in Convention Hall in the capitol.

THE TWO BOARDS CONCEPT, advocated by students and administrators of the university system, would generally give greater recognition to both elementary and secondary education and higher education without bringing drastic change to the present system.

A board of public education would deal with elementary and secondary education and a board of regents would handle universities. When meeting in joint session, they would be called the board of education.

Each board would have seven members, appointed by the governor.

Community colleges and vocational education would not be assigned constitutionally to either board. To be flexible, the proposed constitutional provision would leave it to the discretion

of the Legislature.

THE BOARD OF regents would be a corporate body, giving the university system greater independence. Individual units of the system would not be named in the constitution, however.

The state superintendent would continue to be elected and would serve as an ex officio member of each board. The governor would continue as an ex officio regent but not an ex officio member of the elementary and secondary board, and the attorney general would no longer be an ex officio member of either board.

Other provisions in the tentative draft:

—GUARANTEES OF equal educational opportunity and a chance for each person to develop his full educational potential.

op his full educational potential.

—BY A 7 TO 2 VOTE, the committee reaffirmed the present constitutional language forbidding any public aid to nonpublic schools. The committee rejected substituting the more liberal federal provision, which under present court opinions allows some limited aid.

—CONSTITUTIONAL provision for public lands would leave the detailed classification system now in the constitution to the Legislature and would not make any statement of recreational use of public lands. The State Land Board would no longer include the secretary of state (but would consist of the governor, attorney general and state superintendent of public instruction) and would be allowed to exchange public lands to consolidate holdings.

—CONTINUED PROTECTION for the public school fund would be stated, along with provision for the trust and legacy fund. However, the committee leans toward elimination of the trust fund's statutory mechanics from the constitution.

—THE LEGISLATURE would be mandated to "establish and maintain" public education, including public libraries, but the mechanics would be left to the Legislature.

—THE PRESENT ratio of distributing 95 per cent of all school trust interest and income to schools would be retained but the method of distribution would be left to the Legislature.

CONSTITUTION SHOULD NOT BE AGAINST OR FOR LABOR

The Montana State AFL-CIO has asked ConCon delegates meeting in Helena to include the right for collective bargaining in the new Montana constitution.

A Billings man has asked in contrast that right-to-work become a part of the Constitution.

The two requests are completely contradictory.

Over in North Dakota they too are working on a new constitution, and the delegates voted 66-28 for a right-to-work measure.

Labor is disturbed, calls it "anti-worker," and says such measures

should be left to the Legislature.

Yet labor in Montana wants just the opposite made a part of the Constitution.

This is not editorial for or against right-to-work, nor is it one for or against collective bargaining, as there seems to be place for both.

But it is to suggest that neither collective bargaining or right-to-work should be included in the Constitution. They should be left instead to the deliberation and action of the Legislature according to the needs of the time.

The Lewistown Daily News

Group to push parliament

By DAVID T. EARLEY
Gazette Staff Writer

A local group has formed to aid in the campaign by Yellowstone Constitutional Convention delegate Robert Kelleher for a parliamentary form of government in Montana.

"People for Parliament" has begun a telephone campaign to stir up discussion of the proposal which Kelleher has introduced in the Con Con legislative committee on which he serves.

"A LOT of people are interested, some don't know what it's all about and some couldn't care less . . . unfortunately," says Sally Lind, 403 Glen Drive, president of the group.

"It is time to give the 'separation of powers' doctrine a de-

cent burial," Kelleher recently testified at a Con Con committee session.

"The legislature is the people. Any veto over the legislature is a veto over the power of the people."

Under the parliamentary form of government, a prime minister would be elected by the majority party of the legislature. This, says the Billings lawyer, would put an end to "petty bickering between the legislature and the governor."

"In one year former Gov. Babcock vetoed 20 bills. More recently, Gov. Anderson has feuded with the Republican House."

THIS COULDN'T happen under a parliamentary state government, he says.

And feuding runs both ways, the delegate adds. "Under the present system members of the opposing majority in the legislature have one job. They do everything possible to embarrass the governor . . . Look at the trouble (President) Nixon is having with the Democratic Congress."

Terming Montana's present system a "limited monarchy," Kelleher says "we elect a king with a veto power every four years. No matter how much he fights with the legislature he cannot be dethroned."

ON THE other hand, "because he is guaranteed a working majority in the parliament, the prime minister (would be) more powerful than a governor." This is necessary, says Kelleher, because the federal gov-

ernment cannot handle problems of education, poverty, welfare, health, transportation and urban renewal. "Only the states can, (and) Montana must have a jet-age government in order to tackle today's problems."

Kelleher cites former President Woodrow Wilson and Jesse Unruh, former speaker of the California Assembly, as advocates of the proposed system.

"MANY PEOPLE do not understand what a parliament is and hesitate to vote for a change," says Mrs. Lind, and People for Parliament will attempt to generate a better understanding of the issue through public discussion.

Other officers of the initial 12-member group, she says, are Roberta Dell, secretary, and Pauline Olson, treasurer.

The death penalty . . . other issues

At least three proposals before the Constitutional Convention are apparently aimed at the "rehabilitation," as opposed to "punishment" of criminals.

All are, or will be, controversial, and all will generate a lot of opposition as well as support.

The most widely publicized measure so far is Billings Delegate Jerome Cate's proposal to prohibit the death penalty in Montana.

Another proposal, introduced late last month by Delegate Bob Campbell and others, reads like this: "Laws for the punishment of crime shall be founded on the principles of reformation and prevention, and full rights shall be automatically restored upon termination of state supervision for any offense against the state."

A third proposal, by Robert Kelleher of Billings, is similar. It would restore all rights and remove all disabilities and disqualifications when a felon concludes his sentence.

Currently, a convicted felon can't vote or hold office in Montana.

Cate's proposal to do away with the death penalty has already been the subject of one hearing, where it generated predictable discussion.

Whether or not most Montanans favor a death penalty is hard to say. The fact that there hasn't been an execution in the state for nearly 30 years would seem to indicate that neither the judiciary nor the people are particularly gallows oriented. There has been a time or two in recent years when judges have hinted, just before passing life sentences, that they had been thinking quite hard about ordering a hanging. But for various reasons, they didn't.

Furthermore, the Supreme Court of the United States may well rule on the constitutionality of the death penalty by summer. If it decides that the penalty is cruel and unusual, then Cate's proposal would become moot. If it upheld the penalty, Montana could still prohibit it for non-federal crimes in this state.

Most supporters of the death penalty say it should be kept as a deterrent measure. Some figures from high crime states, however, indicate that the penalty is no more effective in deterring capital crimes than firearms control laws seem to be in deterring gun-related crimes.

We suspect that a big reason many would like to keep the death penalty on the books is that a "life sentence" is often a good deal less than that. It might be easier to forget about the death penalty if one could be assured that certain felons guilty of especially nasty crimes would not have a chance at relatively early parole. Many people only want to be sure a killer won't kill again and might be willing to support a life sentence when a life sentence means what it says.

Others would prefer to keep the death penalty but only for such crimes as torture-murders, child-killing, police-killing, etc.

Cate's contention is that hanging is a vengeful and emotional act and thus is not an appropriate function of a court of law.

He also contends that if the wrong man is hanged, it does no good to say you're sorry. And, with a few exceptions, most victims of capital punishment are either poor or from minority groups.

So, while Cate's arguments are controversial, they are also thought-provoking, and should be carefully considered by the convention.

The editorial above mentions that Billings Con-Con Delegate Robert Kelleher has introduced a measure which would restore all rights of citizenship to felons after they had served their sentences.

Kelleher, in fact, may be on his way to becoming one of the busiest and most innovative and imaginative delegates at the Convention.

Some of his proposals will undoubtedly get a lot of support and serious discussion.

Others, well....

There's his proposal to get rid of the state's governor — legislature system and create a parliament instead. Beyond the fact that the parliamentary system would take the election of the chief executive and his "cabinet" away from the people, we aren't sure there's anything wrong with this idea. It's just that where Mr. Kelleher sees it as revolutionary, we see it as a return to toryism and feel we could do without it.

Another Kelleher section would provide that "Appointed local and state government employees other than judicial officers shall receive no less pay than employees of the United States doing comparable work." This would be grossly inflationary. We know some appointed federal officials who might have a counterpart on the state level who are doing very little for \$16,000 to \$20,000 a year.

Another proposal by the Billings delegate would allow taxpayers to assign as much of their state income taxes to the political party of their choice as the legislature permits. On the same day, he introduced a measure to permit the legislature to appropriate money to finance legislative races.

But if there's one Kelleher-sponsored measure which offends us, it's the one that would strip us of our freedom to boycott the bums. We're talking about his proposal to make it a crime to fail to vote.

We don't condone ignoring civil responsibilities but can't agree the act should be a crime.

The real danger in forcing people to go to the polls is that it might backfire against the politicians. Some years ago in a South American country (time blurs the memory, but it might have been Brazil), the voters got so angry at the official candidates that they conducted a vigorous write-in campaign.

Again time blurs the memory, but it seems like the winner of that election was a rhinoceros.

One-house issue may go on ballot

BISMARCK, N.D. (AP) — Members of the Ballot Committee of North Dakota's Constitutional Convention agreed Monday that proposed establishment of a one-house legislature should be submitted to the voters as an alternate issue.

The committee members also agreed to consider further an alternate proposal dealing with initiative and referendum procedures, but voted against proposed alternatives pertaining to gambling and to election of 14 executive branch officials.

The meeting marked the ini-

tial session of the ballot committee, named to screen alternate proposals. Alternate proposals approved by the convention will be submitted to the people as side issues in the election to be called for voters to approve or reject the convention's work.

Meanwhile, the Style and Drafting Committee was nearing completion of its enormous task of examining and rewriting proposals already approved by the convention and of arranging the various proposals into full articles.

Delegate George Unruh, Grand Forks, chairman of the Style and Drafting Panel, said the committee had worked nearly 40 hours on the various proposals since the convention recessed last Thursday.

The proposals, as amended and arranged by the committee, were to be returned to appropriate substantive committees for review Tuesday. Unruh said his committee made style changes on about 90 per cent of the proposals approved for first passage by the convention before the convention recessed.

The convention is scheduled to reconvene Wednesday to consider the style and Drafting Committee's work. All proposals amended by that committee must come up for second reading during the six plenary session days legally remaining to the convention.

The convention already has approved a proposal calling for retention of the state's two-house legislative system. The proposed one-house alternate was introduced under the signatures of 58 of the convention's 98 delegates.

Delegates Spread the Word

Tribune Capitol Bureau

HELENA — Chairmen of Citizen Corps organizations throughout Montana have received the first packet of informational material from the Constitutional Convention.

Delegate Daphne Bugbee, R-Missoula, chairman of the Citizen Corps subcommittee of the convention's public information committee, told the Tribune that the packet includes a listing of convention telephone numbers, information on convention tours, a seating chart, a formal hearings schedule and other material.

Mrs. Bugbee told the Tribune that delegates and Citizens Corps organizations throughout the state are already engaged in informing the public about the work of the convention.

However, she said, "the primary responsibility for informing the Montana public is inevitably that of the delegates themselves. These are the people the public wants to hear from."

Purpose of the Citizen Corps of at least 200 members (twice the size of the 100-member convention) is to assist delegates in explaining the work of the convention.

A report on Citizens Corps activities and informational programs conducted by Con Con delegates on weekends was issued to the convention Saturday.

In delegate District 13 for Cascade County, for instance, the Forward Great Falls group is spearheading the Citizens Corps movement. The district's delegates will appear at a public meeting late this month. Delegate Arlyne Reichert has arranged half-hour interviews once a week over a local television station for the delegation.

One of the most active delegates in spreading the word about the convention is Catherine Penberton, R-Broadus, who telephones weekly reports to newspapers in Broadus, Hysam, Jordan and Circle. She also writes a "convention society column" for the Broadus newspaper.

Delegate Gene Harbaugh, D-Poplar, cuts tapes for a radio station in Wolf Point and prepares a column for weekly newspapers in Wolf Point, Culbertson, Poplar and Froid.

Delegate Magnus Aasheim, D-Antelope, taped a conversation with some of his constituents for use on radio stations in his district. The telephone conversation was between Aasheim in Helena and six citizens gathered in a living room in Antelope.

Delegate Lloyd Barnard, D-Saco, and Joe Eskildsen, D-Malta, write a weekly column for newspapers in the area.

Delegate Lloyd Barnard, D-Saco, and Joe Eskildsen, D-Malta, write a weekly column for newspapers in the area.

Delegates A. W. Kamhoi, D-Forsyth, and Archie Wilson, R-

Hysam, alternate in writing a column for weekly newspapers in the counties of Garfield, Rosebud, McCone and Treasure.

John Leuthold, R-Molt, and Richard Nutting, R-Silesia, write a weekly column for four weekly newspapers and have sent special invitations to all high schools in the district to have students attend the convention.

Delegate Thomas Ask, R-Roundup, phones the five weekly newspapers in his district to inform them on convention activities.

Delegates Douglas Delandy, D-Grass Range, and Donald Foster, I-Lewistown, have scheduled a public meeting this week in Lewistown to obtain citizen feedback on the convention.

Delegates from the Bozeman-Livingston area complete a five-minute program with local radio stations each day.

Delegate Betty Babcock, R-Helena, whose husband owns a television station, is planning regular hour-long "question and answer" sessions.

In the huge district of Hill, Chouteau, Judith Basin and Liberty, delegates Rachel Mansfield, D-Geyser, Erv Gyalor, R-Fort Benton, Edith Van Buskirk, D-Hill, and Carmen Skari, D-Chester, have divided the area for their informational activities. Mrs. Mansfield has set up a Citizens Corps chaired by the publisher of the Stanford weekly newspaper and is planning a town meeting there.

Delegate Robert Vermillion, D-Shelby, calls the local radio station once a week to tape a five-minute program. Vermillion also writes a column for 10 weekly newspapers in his district.

In the district for Flathead County, delegate Richard Champoux, D-Kalispell, sends weekly columns to one daily newspaper and three weeklies.

Delegate Robert Hanson, I-Ronan, writes articles called "Con Con Comments" for two weekly newspapers.

The Missoula delegates have already sponsored a "town meeting."

In the district for Madison and Beaverhead counties, delegate Carl Davis, D-Dillon, and John Anderson, R-Alder, are sending news releases to local newspapers and radio stations and have been making speeches.

The four delegates from the district for Lincoln, Mineral and Sanders counties, Marjorie Cain, George James, Franklin Arness, all Libby Democrats, and Paul Harlow, D-Thompson Falls, write a column for the six weekly newspapers.

ConCon staff protests action

HELENA (AP) — Constitutional Convention staff members circulated a petition Wednesday protesting the way in which a secretary was dismissed Tuesday.

The employees were upset over the release of Bartley Carson, the executive director's secretary.

Mrs. Carson was informed of her release as she took notes at the meeting at which she was dismissed.

President Leo Graybill Jr., D-Great Falls, recommended eliminating her position, saying the job was no longer needed.

The staff did not question whether her position should have been terminated, but staff members said they did not like the method Graybill took to inform her of the move.

At an Administration Committee meeting Wednesday, Graybill defended his move, saying he "considered it very deeply."

Telling Mrs. Carson in advance might have stirred up trouble, Graybill said, so he decided against it.

Thus she had to be informed

'Let's stop kidding ourselves'

Fred Johnston, a relative newcomer to Montana and an unsuccessful candidate for delegate to the Constitutional Convention, was extremely upset by the proposals made by some delegates that those persons not owning farms and ranches should nevertheless be allowed to enjoy the beauties of Montana, and even recreate in our own state.

Why don't Mr. Johnston and his cohorts urge the Constitutional Convention to change the state motto from "Silver and Gold" to something more recognizable by all of us in Montana, such as "NO TRESPASSING" or perhaps "POSTED," or even "KEEP OUT" or a combination of all three.

As one delegate stated, we need eagles and not sparrows and in the same vein I say, "Let's stop kidding ourselves and see our state as it is and adopt a motto accordingly."

DONALD VENETZ, 1400 7th St. S.

Education Sales Tax Has Merit

Tribune Capitol Bureau

HELENA — A Democratic Constitutional Convention delegate from Great Falls Wednesday said that a statewide sales tax may have merit for financing education and welfare.

Virginia Blend was testifying before the convention's education committee in support of her proposal to require the legislature to appropriate all funds for the support of the state's public schools. Mrs. Blend's proposal would also prohibit use of real or personal property taxes for schools. Mrs. Blend has also submitted a proposal prohibiting use of real or personal property taxes for financing public welfare.

She said that the proposals were her way of expressing her belief that the legislature must completely overhaul state taxation and revenue systems.

"Taxes on real and personal property are very regressive," she said. Mrs. Blend then said that taxes on income and sales are not regressive.

"Don't you think a sales tax is regressive?" asked delegate Dan Harrington, D-Butte.

Mrs. Blend replied that the sales tax proposal which the people voted on last year was regressive because it did not cover everyone. She said that it largely ignored sales to farmers and ranchers.

She said that a tax on federal subsidies paid to farmers and ranchers had occurred to her. But she conceded that such a tax would probably receive considerable opposition.

Delegate Carl Davis, D-Dillon said that out-of-state corporations owned huge tracts of land in his county of Beaverhead. Removal of property taxes would allow the corporations to virtually escape taxation because few of them now pay income taxes, he said.

at the committee meeting, he said.

"I either had to kick her out and talk behind her back or bring her in and talk about it," he said. He chose the latter method.

"I'm damned if I do, and damned if I don't," he said. "I'm taking the heat and I'm perfectly willing to."

Graybill emphasized that Mrs. Carson was not fired but said her job had been terminated. He also said he considered shifting Mrs. Carson, one of three secretaries released, to another convention job but ruled against it.

She had been with the convention and its preparatory commission from the outset.

"It's better not to bounce people around," he said.

The staff also wants to discuss treatment of personnel with Graybill and the Administration Committee. Some want to know exactly how long they will be retained so they can start looking for other jobs.

The committee members agreed to meet with the employees after the committee receives the petition.

Antidiversionary Amendment Would Be Retained

Con Con Wants to Tie Strings to Earmarked Road Funds

HELENA (AP)—A Constitutional Convention committee recommended Thursday that the antidiversionary amendment be retained but favored some legislative control over the earmarked highway funds.

The amendment, passed by voters in 1966 and earmarking gasoline tax revenue for highway purposes, has come under fire in the legislature in recent years. Since the funds go auto-

matically to the Montana Highway Commission, they are not able to control the purse strings.

At a public hearing members of the Revenue and Finance Committee said they favored expanding the scope of amendment but also giving the legislature some control.

Their rough draft proposal would include highway safety as one of the uses allowed of the funds. The 1971 legislature voted to take salaries of highway patrolmen out of the highway fund and the move has been challenged in court.

Committee Chairman Sterling Rygg, R-Kalispell, said members also believed the legislature ought to have some control. If 60 per cent of the legislators from both houses concur, the earmarked money could be appropriated for other purposes.

Rygg said the antidiversionary proposal was "the most controversial subject in the committee."

Delegate Mae Nan Robinson, R-Missoula, not a member of the committee, said the modified proposal did not go far enough.

Mrs. Robinson said the convention was trying to entrust the legislature with some power but the proposal inhibited the legislature.

She said 53 per cent of all state revenue was earmarked by constitutional or statutory law.

The Missoula woman said the antidiversionary amendment "invites waste and extravagance," and destroys checks and balances.

Delegate Leslie "Joe" Eskildsen, D-Malta, took issue with the committee's recommendation to remove the present sec-

tion outlining the procedure for county property assessment.

The draft simply leaves the mechanics up to the legislature, saying:

"Property which is to be taxed shall be appraised, assessed and equalized by the state in the manner prescribed by law."

"Taxation and equalization is very important," he said. "We don't want to change it (the procedure) every two years."

Eskildsen said he realized the constitution should be shortened but not at the expense of some sections.

"I really stand in fear of what the legislature might come out with," said Eskildsen, a former legislator.

Marian S. Erdmann, R-Great Falls, questioned whether one provision might prevent local governments from levying taxes, as some members of the

Local Government Committee envision.

Rygg advised her to present her ideas in writing for further consideration.

Only three public witnesses appeared and all said the proposal looked good.

Joining in their support were Mayor Larry Bjorneby of Kalispell, Mayor John McLaughlin of Great Falls and Mrs. John Hall, president of the Great Falls City Council.

The plan also would remove the present limit on county indebtedness and leave the matter to the legislature. Under the 1889 constitution, the limit is 5 per cent of the taxable property value.

Moreover any debt exceeding \$10,000 for a single purpose must be submitted to the voters under the present constitution. The proposal also would remove this limit and leave it to the legislature.

Committee Sets Forth Proposal for 'Rights of Individuals'

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA — The right of persons to examine state records, new guarantees of individual privacy and a prohibition against wiretapping are contained in the tentative draft released Thursday by the Constitutional Convention's Bill of Rights Committee.

"I don't think there is anything in here that is too controversial," Chairman Wade Dahood, R-Anaconda, told the committee.

Dahood later told the Tribune that the proposed new declaration of rights article basically reflects the committee's opinion that "the rights of persons should be expanded in this important area."

The committee has not yet decided what to recommend in the areas of capital punishment, eminent domain and environmental protection.

Committee vice chairman Robert Campbell, D-Missoula, said the committee will solicit the opinions of Montana church groups on the issue of abolishing the death penalty. "We've had people say that the Bible warns against the penalty, and people say that the Bible encourages the death penalty," Campbell said.

Left intact is the "right to bear arms" section in the present constitution.

Included in the rough draft, which was unanimously agreed upon by the 11-member committee, is the so-called "right to the basic necessities" proposal sponsored by Delegate Lyle Monroe, D-Great Falls.

The proposal, which was the subject of controversy during recent hearings, says that "all persons are born free and have certain inalienable rights which include the right of enjoying life and its basic necessities, defend-

ing, acquiring and protecting property and seeking safety, health and happiness in all lawful ways. In accepting these rights, the people recognize corresponding responsibilities."

Monroe said that he expected opposition to the proposal when there is a formal hearing on the committee's recommendations Saturday at 1:30 p.m. in Convention Hall in the capitol.

As originally proposed by Monroe and six other delegates, the right to basic necessities would have been spelled out to include the right to "adequate nourishment, housing and medical care."

"My position," Monroe told the Tribune, "is that every person in the United States has the right to these basic necessities. This is not socialistic. This is to get these people off welfare. If we neglect these people we will be paying their welfare check for the rest of their life."

New provisions in the tentative draft include:

—Individual dignity. Prohibition against discrimination is extended to include "sex and the choice of housing."

—Right of participation. The public would have the right to expect governmental agencies to give every feasible opportunity for citizen participation in operation of the government prior to a final decision.

—Right to know. No person would be deprived of the right to

examine documents or to observe the actions and deliberations of all public officials or agencies of state government and its subdivisions, except when the demand of individual privacy exceeded the merits of public disclosure.

—Right of privacy. This right would not be infringed upon without the showing of a compelling state interest. "The intention of this is to protect the citizen against expanding big government and indifferent big government," Dahood said.

—Searches and seizures. There are new protections listed

prohibiting the unauthorized interception of private communications and the use of electronic devices to intercept messages.

—Right to a high quality environment. Though the committee is waiting to see what the Committee on Natural Resources and Agriculture will do in this area, it suggests a statement obligating governmental and private parties to maintain and enhance a high quality environment for the public benefit.

—Rights under the age of majority. One of the committee's most important proposals, this would grant all rights not denied by law to these young persons.

—Rights of the convicted. Laws for the punishment of crime would be founded on the principles of reformation and prevention, and full rights would be automatically restored upon termination of state supervision for any offense against the state.

Choice proposed for government

Standard State Bureau

HELENA — Every local government in the state would get a chance to vote on its form of government, under a proposal of the Constitutional Convention Local Government Committee.

Under the committee's working draft, each local government would "review" its structure and submit one alternative form to the voters.

The review would come within four years of adoption of the constitutional provision. The proposal also would direct the legislature to provide for reviews every 10 years.

"It would give the people an opportunity to change — if they don't want to, they don't have to," delegate Thomas Ask, R-

Roundup, told fellow members of the committee.

The draft includes provision for the legislature to establish alternative structures of government.

One option which does remain in the constitution is the present form of county government, the "traditional form," in Ask's words. That option would continue to list elected county officials, through they would cease to be constitutional officers if their county voted for another form of government.

All changes in governmental structure would require a vote of the people.

The committee plans to polish the proposal before its formal public hearing Tuesday.

Condemnation Proposals Favor Landowners, Protests Heard

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — Two proposals to liberalize private property rights in eminent domain actions ran into stiff resistance Thursday from representatives of major utilities and the State Highway Department in a hearing before the Constitutional Convention's Bill of Rights Committee.

The Constitution presently says simply that "private property shall not be taken or damaged for public use without just compensation having first been made to or paid into court for the owner."

Bob Campbell, D-Missoula, proposes to extend it to require prior payment to the landowner "to the full extent of the loss," including court and appraisal costs. He also includes

"impaired use" as a compensable damage.

Jerome Cate, D-Billings, has a similar proposal except that he extends private property to what he calls "inherent environmental amenities."

Highway Department attorney Ronald Douglas testified that the proposals would cause delays in highway construction and more expensive highways. He said one recalcitrant landowner could stop an entire public project by refusing to accept compensation.

Chairman Wade Dahood, R-Anaconda, informed Douglas that the move to liberalize property rights was brought on by the attitude of the Montana Highway Department to Montana landowners.

Dahood, an attorney who indicated he has argued a number of condemnation cases, told Douglas that the citizenry is complaining of highway department despotism and added, "I've never had an experience where the highway department made a genuine, lawyer-like attempt to negotiate a just compromise."

When Douglas took affront, asking, "do you mean to impugn the professional integrity of the highway department staff?" Dahood pointed out that witnesses are not allowed to ask questions.

Douglas explained that the department is limited by the federal government in how far it can go in a condemnation proceeding, but is free to compromise with a landowner if it can be justified over a court action.

He disputed Dahood's suggestion that little regard is paid to appraisals obtained by the own-

ers, saying the department has settled on competent ones and in fact welcomes them.

Campbell, also an attorney, criticized the state's treatment of the landowner as the "enemy" who has to fight back at his own expense. He argued that just compensation should mean the actual cost to the landowner of the state taking his property, not just the value of the property itself.

But Douglas said the people of the state expend money in determining that they are not paying more nor less than the property is worth. "It doesn't seem unfair that if a landowner wants to challenge it, he should pay the initial cost of preparing the challenge," said Douglas.

Great Falls attorney Charles Lovell, representing Great Falls Gas Co., warned that too many state restrictions could shift highway condemnations onto the federal government where the potential for abuse is greater.

And he said making impaired use subject for compensation could raise all kinds of questions, such as compensation for blocked views.

Donald Foster, I-Lewistown, asked Lovell if he felt there should be no compensation to the owner of a \$100,000 home which was reduced to \$10,000 because of a new highway nearby. Lovell replied, "who is to say it was first worth \$100,000 and then worth only \$10,000." Such things get very speculative, he said, and while it "sounds unjust if you presume a \$90,000 loss," there just isn't a workable way to handle it.

Helena attorney Gene Picotte, representing Montana-Dakota Utilities and General Telephone

Co., denounced both proposals as "simply unworkable." He said the impaired use concept would open up all kinds of things such as zoning changes and vacated streets to "reverse condemnation" damages.

To require prior payment of compensation before land could be taken over, he said, would permit "one landowner owning 40 feet of ground to hold up 100 miles of highway for years in the courts."

He also criticized the phrase "full extent of the loss" as a tautology — "just compensation extent by definition," he said, and the new phraseology "doesn't do a thing for you."

He acknowledged that the highway department is to blame, along with a lot of other people, for unsatisfactory condemnation proceedings, but a lot of trouble is with juries, he said. "Juries don't want to pay the gasoline tax to the highway department," Picotte blasted

the term "environmental amenity" as a metaphysical concept that has no foundation in Anglo-Saxon law and that could be argued over for a hundred years.

But Rep. George Darrow, R-Billings, said the term or something like it is necessary if private property is to amount to more than "an inert surface to be paved over or built on."

He said invasion of property can come from activities on neighboring properties in the form of noise, air and water pollution, and so on, in addition to actual physical invasion.

Another legislator, Rep. John Staigmillier, D-Great Falls, defended the proposals as remedies for rural property owners who sometimes have to travel 15 to 20 miles around a

highway to get to their property that's only a block across the road.

He also complained that highways go through the most productive lands, while the owners are paid only for the land without consideration for future production value and the disruption of their farming operations. Another example of injustices, he said, is where a farmer's water is cut off by a road, but the only compensation is for the actual land taken.

Opposition to the proposals was also voiced by spokesmen for Montana Power, the Montana Railroad Association, and Montana Associated Utilities.

Handbills bring angry reaction

Standard State Bureau

HELENA — Handbills warning against creation of a "state oligarchy," which mysteriously appeared on Montana windshields this week, have provoked an angry reaction from the Constitutional Convention Bill of Rights Committee.

The handbills are the work of Gerald L. McCurdy of Hamilton, who says he is concerned that the public know about certain delegate proposals which in McCurdy's view would take government away from the people.

McCurdy is a registered lobbyist for the National Health Federation, but he said he, along with a few friends, put out the handbills as a private citizen "because I just think the people should be aware of this."

THE HANDBILLS claim that proposals introduced would provide for state ownership of all land, remove the Bill of Rights, prevent local government self-determination and surrender rights to the federal government.

Bill of Rights Committee members charged that the handbills contained blatant lies and are the product of "a conspiracy of ignorance" which is convinced that the convention is "a plot against the people."

No proposal has been made to abolish the Bill of Rights, and in fact, the committee's rough draft adds a number of new rights to it.

McCurdy told the State Bureau that a proposal has been introduced to make it a crime not to vote. He said he considers that proposal an infringement of his rights. If one right can be abolished, all can, he said.

HE ALSO EXPRESSED concern over proposals to establish a "public trust" requiring that all land be used to the benefit of the people. Although some have criticized the public trust concept as doing away with private property rights that is not the intent.

McCurdy also singled out a proposal which would require cities writing charters to have city members. That proposal has been rejected in concept by the local government committee.

McCurdy said he did not want to attack individuals or committees and said he hopes the committees will write a decent constitution. He said he would reserve judgment on it as a whole until he has seen the finished product.

He said that thousands of the handbills are being distributed throughout the state, but he declined to identify others who are assisting him.

Metcalf Sees Need for Flexible Utility Laws

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — U. S. Sen. Lee Metcalf, a frequent critic of high utility rates, recommended today that a new state constitution provide for flexibility in regulating utilities.

The Montana Democrat opposed even mentioning the Public Service Commission in the new document, preferring to leave the matter up to the legislature.

Metcalf, appearing before a Constitutional Convention committee, said changing the constitution is a slow process while the legislature can make changes much easier.

Disagreeing was Chairman George B. Heliker of the Public Health, Welfare, Labor and Industry Committee. He sponsored a proposal that would create a one-man commission appointed by the governor and allow for the creation of public utility districts.

Heliker, D-Missoula, noted that the legislature had turned

down attempts to permit the establishment of public utility districts and asked Metcalf if he could foresee legislators changing their minds.

"Yes, I do," the senator said. "When I ran for the legislature in 1936 one issue was that the Railroad and Public Service Commission was too aggressive in cutting rates." Companies such as Montana Power then favored reforming the commission, he said.

Today the tables are turned, Metcalf said, with many Montanans questioning the efficiency of the regulatory process. Metcalf backed the one-member commission setup, which Oregon and Vermont have adopted, but said it ought to be left to the legislature.

He criticized the present three-member elected commission, saying: "You would probably get just as much regulation if you didn't have any commission at all."

Metcalf said the legislature should be allowed to determine

the type of rate base used by the commission. Members presently are bound by the much criticized fair-value system.

Metcalf also said the Montana Power Co., an old foe, paid a higher than average percentage of federal taxes because its profits are greater than the national average. The utility has applied for an increase in gas and electric rates and a decision is pending.

The senator did call for including several constitutional provisions relating to utility regulation — the right to be informed, the right to be heard, and the right to choose.

The right to be informed means the public should be able to learn who owns utility corporations and the details of company expenditures, Metcalf said.

"I think it was Brandeis who said that electric lights are a good policeman," he said. "Illumination is a dynamic regulatory concept."

Metcalf said the right to be

heard would require adversary proceedings during rate hearings. Those protesting an increase should be "financed as liberally as the company is," the senator said. Metcalf noted that utilities spend a great deal of time and money preparing their cases, which the public finances by paying the utility bills.

The right to choose, he said, means allowing Montanans to determine what kind of utility they want.

He said Montana is the only continental state without any municipal electric system. The state is served only by rural electric cooperatives or large investor-owned utility corporations.

"I do not believe that our constitution should include any preference for a particular type of utility system," he said.

"But I strongly believe that it should provide sufficient authority for any entity within the state, and the state itself, to engage in generation, trans-

mission and distribution of energy and to enter into other utility fields."

Corporate Giants at Odds With Plans to Shuffle Utility Regs

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP)—Representatives of Montana's corporate giants have turned out at the Constitutional Convention to protest a proposed change in utility regulation.

Spokesmen for the Montana Power Co., Montana-Dakota Utilities Co., Montana Railroad Association, Pacific Power and Light Co. and Mountain Bell Telephone Co. all opposed a measure that would overhaul the Montana Railroad and Public Service Commission.

The plan, introduced by George B. Heliker, D-Missoula, and others, would replace the present three-member elected commission with a commissioner appointed by the governor. It also would allow for the creation of public utility districts, a move the corporations have resisted successfully in recent legislatures.

The corporation lobbyists and executives have appeared at a series of public hearings conducted by Heliker's committee—the Public Health, Welfare, Labor and Industry Committee.

Robert D. Corette, Butte, a director and lobbyist for the Montana Power Co., said Heliker's plan and a public utility proposal introduced by Paul K.

Harlow, D-Thompson Falls, were legislative matters. Thus they were not measures the convention should consider, he said.

Moreover, Corette said the legislature created the present Railroad and Public Service Commission.

The Butte attorney also opposed doing away with the fair-value rate base, an often-criticized means used to help determine rates.

"A change in midstream from a fair-value rate base to any other rate base would immediately endanger the confidence of the financial community and the soundness of the utilities affected," he said. The Heliker plan would not bind the commissioner to any set formulas.

He defended the company's request for gas and electricity rate increases, pending before the commission, saying they were necessary because of increased costs.

The company's president, George W. O'Connor, Butte, focused on the public utility district portion of the plan.

"You are here to avoid the clutter, not to add to it," O'Connor pointed out that bills to provide for public utility districts were introduced but killed in the legislature in 1959,

1967, 1969 and 1971.

He said the Heliker plan "instructs" the legislature to provide for the organization and financing of public corporations.

"It seems absurd then that we should attempt to cement into the constitution an instruction that government get into the business of providing heat, light, water and power."

If the present system of privately owned utilities were replaced with public utilities, the state and its subdivisions would

face a "staggering loss" of tax revenue, according to O'Connor. He said Montana Power paid about \$10.5 million in taxes to state and local governments in 1970.

He also said the Heliker plan didn't mention regulation of public utilities, which could put the consumer at a distinct disadvantage.

O'Connor said power service in Montana was now remarkably reliable and adequate in every way.

Edwin S. Booth, representing the Montana Railroad Association, said an appointed commissioner would not provide the stability needed in utility regulation.

He criticized a portion of the proposal that says the commissioner shall protect consumer issues as being unfair.

"To charge the commissioner with protecting the public is the same as stating that you are going to try a case before a fair and impartial jury which will only look after the interests of one party," Booth said.

Henry Loble, Helena, who represented the Montana-Dakota Utilities Co., agreed with the other witnesses, calling the proposals legislative.

Loble said allowing creation of public utilities would lead to "governmental businesses" under no real control.

"They would be super-powers with an autonomy which could not be successfully challenged," he said.

James F. Maher, Helena, vice president and general manager for Mountain Bell, defended the existing system.

He said telephone service "is an even greater bargain today than it was ten years ago." Tracing the increased number of customers, Maher said it appeared obvious that "our product is priced at a level which has stimulated its acceptability and enhanced its value to our subscribers."

Montanans Drafting New Constitution

BY CHARLES HILFINGER
Times Staff Writer

HELENA, Mont. — An unusual mix of people from all over Montana descended on this small, mountainous, snow-shrouded capital this week.

They came from ranches and mining camps, from hamlets and tiny towns.

They came from Montana's two biggest cities, Billings and Great Falls—both with populations of only 60,000—and from scores of smaller places.

Numbering 100, the group includes 19 women, 24 attorneys, 19 cattlemen and farmers.

There are miners, ministers and merchants. There's a baker, an accountant, a used car dealer, a social worker, a radio announcer, a bookkeeper, a pilot and a railroad engineer.

They've come to write a new constitution for Montana.

The one issue stirring up the most excitement is unicameralism.

If Montana replaces its 83-year-old Senate and House of Representatives with a one-house legislature, the act will interest lawmakers across the nation.

Of the 50 states, only Nebraska has a unicameral, or one-house, legislature.

'Time Has Come'

"Many Montanans believe the time has come for this state to take the step Nebraska took in 1937," said Dale Harris, 26, the youthful executive director of the constitutional convention.

"Since the U.S. Supreme Court ruled in 1964 that both houses must be apportioned on a population basis, many question the need for a second house.

"Traditionally, representation in the upper house was based along geographic lines, the lower house according to population."

Rural areas controlled the state senate; the cities and towns controlled the lower house.

The original idea was that each house should represent different interests—that each house would serve to check the other.

George Washington once was asked why the United States had copied England in having a select as well as a popular house in Congress. He replied, as he set down a cup of tea that he had been drinking:

"This cup is the House of Representatives. Its contents have come directly from the people, who may be in a state of great excitement.

Until It Cools

"This saucer is the Senate in which I can hold the scalding liquid till its heat has subsided enough to make it safe to drink."

"Now both houses in all states are made up of the same sort of representation," maintained George Harper, 48, Methodist minister and convention delegate.

"There really is no difference between the two houses. The reason for a bicameral or two-house legislature was washed away with the 1964 Supreme Court ruling—at least so far as Montana is concerned.

"And I'm certain the same holds true for most of the other states."

Unicameralism is also a key issue in North Dakota's current constitutional convention. Last week a committee considering unicameralism voted in favor of its adoption in the new constitution.

Nebraska at Top

Nebraska State Sen. Jerome Warner noted recently that the National Citizens Conference on State Legislatures rated his state's one-house law-making body "as the first in the nation in 1970 in accountability."

Warner claimed it is much easier for citizens to know what their legislators are doing at all times with a unicameral body.

"The shifting of responsibility back and forth between two houses," he insisted, "is the one single item which generates more voter distrust than any other."

"Each step in enactment of legislation in Nebraska is simple, responsible and open to public scrutiny.

The constitutional convention in Montana is costing the 694,000 citizens of the state \$690,000—about \$1 a head.

Delegates receive the same pay as legislators, \$45 a day.

Votes in Favor

The vote last year for a constitutional convention was an overwhelming 133,482 in favor, 71,643 against.

No officeholder could serve as a delegate. Running as candidates for the 100 spots as authors of the new constitution were 532 men and women.

Convention president is Leo Graybill Jr., 47, a Great Falls attorney.

Mae Van Robinson, 24, a pretty University of Montana graduate student, is the youngest delegate; Lucille Spear, retired librarian, at 73 is the oldest. The average age is 50.

The 19 women delegates represent the largest bloc of women ever to serve on

a state constitutional convention in this country. Women's rights is one of the major issues of the convention.

"The constitution Montana has been operating under since 1889 is not a constitution," said Dale Harris, the executive director. "It is a code of laws.

"Local governments in this state have no inherent political authority. They have only that authority specifically granted them by the constitution.

City Business

"One-third of the legislative business is acting as city council for cities and towns throughout Montana.

"Augusta, population 500, for example, wanted to build a youth center. It couldn't do it, even though the town had adequate financing, without getting permission from the legislature.

"The constitution has a \$100,000 ceiling on the state's debt. The state has been operating illegally for years.

"Obviously, the constitution's an archaic instrument. The state has existed by means of subterfuge since the turn of the century."

The Montana Legislative Council reported two years ago that 85 of the 262 sections in the constitution should be repealed entirely, another 53 drastically revised.

The whole political spectrum will be examined by delegates.

There's a proposal for a written guarantee in the constitution that Montanans have a right to clean, healthy environment.

Delegates will look at the possibility of legalized gambling.

Plans are to reshape and reorganize the executive as well as the legislative branch.

Once written and adopted by delegates, the new constitution will go to the voters for approval later this year.

During Judiciary Panel's Deliberations 'Status' for JPs Elected Judges, Gain Nod

HELENA (AP) — A majority of the members of the Judiciary Committee at the Constitutional Convention backed a proposal that would provide for elected judges and retain constitutional status for justices of the peace.

These two provisions are exactly the opposite of those advocated by supporters of the Montana Plan, which generally fell by the wayside in the committee.

The committee discussed its tentative majority report, a minority report and an alternative to the minority report at a hearing.

Among the provisions of the majority plan are:

The legislature can increase the size of the Montana Supreme Court from five to seven if necessary.

Supreme court justices would be elected to six-year terms and district court judges to four-year terms. No mention of whether the judges will continue to run on nonpartisan labels was made.

Clerks of the supreme court and district courts would continue to be elected.

Justices of the peace would be retained. Cedar B. Aronow, D-Shelby, who presented the plan, said he hoped lawyers would be elected or appointed as JPs in more populous counties.

A judicial standards commission would be made up of five persons, three of them judges, to consider disciplining, removing or retiring judges.

If there is a vacancy on the bench, a replacement would be named but he could not run for election. At present, four of the five supreme court justices and 20 of the 28 district court judges first reached the bench by appointment. They then run for election and few are ever defeated.

Ben E. Berg Jr., R-Bozeman, offered a much shorter plan as a minority proposal.

It eliminated any reference to justices of the peace, leaving it up to the legislature to establish lower courts.

The legislature would also determine how a governor would appoint nominees to fill vacancies on the bench. The replacements would have to be confirmed by the Senate. The newly appointed judge would have to run in a contested primary election if any other candidates filed. If not, citizens would vote whether to retain or remove the judge.

Berg's plan also provides for the commission to review charges against lawyers as well as judges.

An alternative proposal was submitted by John Schiltz, D-Billings, who ran for the Montana Supreme Court in 1970.

Under his plan, the legislature would appropriate funds for general election campaigns for candidates for judges. No other money could be spent.

Schiltz said lawyers donate much of the campaign funds, which did not further the cause of justice.

When Schiltz, he would not accept any contributions from lawyers, although he received some anonymously.

Schiltz said if his plan is adopted, he foresees it being extended to other state elective offices in the future.

Catherine Pemberton, R-Broadus, who unsuccessfully fought for the Montana Plan in committee, submitted an amendment to the minority plan.

She prefers selection of judges by the governor from a list submitted by a commission. The judges would run uncontested the next and subsequent elections. Voters would simply decide whether he should be retained or removed.

Only a few persons appeared to comment on the proposal.

Francis Mitchell, Helena, representing Montana Common Cause, commented on the various plans and said his group favored partisan election of Supreme Court judges, an idea not incorporated directly in any of the proposals.

"Certainly we are pleased with the committee's endorsement of the elective process and I would urge you to go further on brevity," he said.

Delegate Robert L. Kelleher, D-Billings, also called for partisan elections.

Delegates Plan Tougher Strip Mining Provision

Tribune Capital Bureau

HELENA — A tough new provision aimed at curbing strip mining abuses not guarded against by the legislature has been proposed to the Constitutional Convention by its Committee on Natural Resources and Agriculture.

Committee chairman Louise Cross, D-Glendive, told the Tribune Friday that one reason for the proposal was that Senate Bill 70, the surface mining reclamation act passed by the 1971 legislature, would give "negligible" protection to the land.

The committee's proposal, which was contained in its tentative draft, says: "The legislature must require that all lands disturbed by strip mining of coal be restored to as good a use, or to a better use, than it was before commencement of mining operations."

One problem with SB 70, Mrs. Cross said, is that it does not allow the state to prohibit strip mining if coal companies are unable to restore the mined land to its original use.

The thrust of the proposal, she said, is to require the legislature to pass adequate land reclamation laws.

"There will be increasing strip mining in Montana, especially in eastern Montana," Mrs. Cross said.

Mrs. Cross said that the consensus of the committee was that adequate reclamation of strip mined land must be guaranteed, even though some persons say that this is a statutory matter best left to the legislature.

No Interest in Interest

HELENA A— The Constitutional Convention Committee studying proposals to place a ceiling on interest rates has not interest in the issue.

Mark Etchart, R-Glasgow, chairman of the General Government Committee, said Friday that the committee unanimously voted to oppose the proposal submitted by delegate Jerome Cate, D-Billings, which would have placed a 12 per cent interest on interest rates.

"The committee felt this was a legislative matter, not a constitutional matter," Etchart said.

Committee member Paul Harlow, D-Thompson Falls, said that about half the committee members thought that interest rates were a legitimate issue. "But they felt this issue had no place in the constitution," Harlow said.

Lawyers Reveal Opinions

HELENA — A poll of lawyers throughout Montana reveals a small margin of support for electing judges.

A much more decided majority are in favor of appointing district clerks and the clerk of the Supreme Court, rather than electing them.

An overwhelming majority are for taking justice of the peace courts out of the constitution.

And most of the lawyers apparently have no fear about giving more power to the Supreme Court for administration and rule making.

The results are based on responses of more than half the lawyers in the state to a poll sent out by the Constitutional Convention's judiciary committee. Of 1,033 questionnaires sent out, 532 returns had been received Friday.

Of those favoring election, 152 favor retaining a non-partisan ticket, 52 favor a partisan ticket, and 49 favor an election providing approval or rejection in an uncontested general election on a non-partisan ballot.

The vote for leaving JPs under the constitution went badly for the JPs — 67 for and 434 against. However, 417 were in favor of authorizing the legislature to provide for lower court favor of authorizing the legislature to provide for lower court systems, and only 71 were opposed.

The magistrate system in lieu of justice courts, as proposed by the Citizens Conference for Court Improvement, drew 303 votes in favor and 184 opposed.

The vote for appointing rather than electing district court clerks was 284 to 218. For appointing the clerk of the Supreme Court, it was 264 for and 229 against.

An integrated system of court administration under the supervision of the Supreme Court drew 280 votes in favor and 210 opposed.

A controversial environmental proposal submitted by Louise Cross, D-Glendive, drew the support Thursday night of Sen. Lee Metcalf, D-Mont., who told a committee hearing that the proposal "should provide the right to sue."

Calling for strongly worded environmental article in the Constitution, Mrs. Cross' proposal has drawn attack for its provisions calling for a "public trust" and the right of the private citizen to sue the polluter.

Metcalf led off an array of some 30 witnesses by urging the assembly attending the hearing of the Natural Resources and Agriculture Committee to adopt a strongly worded provision so that "we can lock up our resources now."

"The public has an overriding interest in all land...when someone pollutes there should be some way to protect it," Metcalf told the crowded Senate chambers at the state Capitol.

Metcalf pointed to the heavy coal reserves in eastern Montana and urged flexibility to protect future surface mining in the area, at the same time praising a proposal on reclamation submitted by Art Kamhoot, R-Forsyth.

Kamhoot's proposal says that the legislature "must require that all lands disturbed by strip mining of coal be restored to as good a use, or to a better use, than it was before commencement of mining operations."

Private Property Infringement

Opponents to the proposal condemned the public trust provision for its concept that it infringes on the private property owner, giving the state considerable say over the use of the private property.

Others feared "trivolt" or "harrassment" suits.

William Cunningham, a faculty member at the University of Montana forestry school, testi-

Environment Proposal Draws Fire

fied that 35 suits were filed after the adoption of a public trust concept and "all but two seemed to be legitimate."

Another forestry staff member, William C. Hollenbom, charged the state's industries with showing that "big company concern for people is one of exploitation."

"Montana has been under totalitarian corporate control too long," he continued.

Gov. Forrest H. Anderson also drew accusations of "corporate manipulation," and Hollenbom criticized some delegates who, he said, "prostitute their obligations with meaningless compromises."

Corporate Representatives

Carrying the banner for at least two corporations was Gene Picotte, a Helena lawyer, who told the assembly the proposal "isn't legal in any sense of the tradition of Anglo-Saxon law."

Representing Montana-Dakota Utilities Co. and General Telephone Co. of the Northwest,

Picotte said providing the provision so "the people can institute lawsuits willy nilly is a metaphysical concept that will create chaos in government."

Picotte said his clients are for a clean environment, but "not necessarily a high-quality environment."

The heavy influx of testimony on the controversial Cross proposal precluded tentative drafts of a Cultural Resources article, a section on water rights and an agricultural article that called for a department of agriculture, directed by a board appointed by the governor, and including responsibilities for research and operational management.

On her article, Mrs. Cross preceded the lively hearing by saying, "I've been hearing the same arguments for 13 days..."

"Storm warnings are up all over the nation and in Montana," Mrs. Cross said. "We would all be fools to ignore them."

Convention Favors Two Board Education Concept

BY DENNIS E. CURRAN
IR State Bureau

Separate boards of education and regents and an elected State Superintendent of Public Instruction are favored by the Constitutional Convention education committee in its tentative draft.

The two boards would meet jointly at times to coordinate their work, according to the draft.

Other committee conclusions are no public aid to nonpublic schools, a guarantee of equal educational opportunity and a flexible stance on the method of school financing.

The tentative committee report, which is subject to change, will be discussed in the committee's formal hearing at 1:30 p.m. Friday in convention hall in the Capitol.

The two boards concept, advocated by students and administrators of the university system, would generally give greater recognition to both elementary and secondary education and higher education without bringing drastic change to the present system.

A board of public education would deal with elementary and secondary education and a

board of regents would handle universities. When meeting in joint session, they would be called the board of Education.

Each board would have seven members, appointed by the Governor and confirmed by the Senate. Montana presently has an eight-member appointed board of education and regents.

Community colleges and vocational education would not be assigned constitutionally to either board. To be flexible, the proposed constitutional provision would leave it to the discretion of the legislator, Champoux said.

The board of regents would be a corporate body, giving the university system greater independence. Individual units of the system would not be named in the constitution, however.

Two Prexies Endorse Suggestion for 2 Education Boards

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Several education officials endorsed a draft of an education article at the Constitutional Convention Friday, but a school board lobbyist opposed part of the plan.

Nineteen witnesses testified before the Education and Public Lands Committee hearing, including several favoring or opposing public aid to church schools.

Two college presidents, Larry Blake of Flathead Valley Community College and Carl W. McIntosh of Montana State University, limited their comments to the provision that would create two separate boards of education.

Both endorsed the plan to establish a board of public education to handle elementary and secondary school matters and a board of regents to set policy for the University System.

The two boards would meet jointly periodically and make up the state board of education, if the convention and voters approve.

Presently, the same persons sit as the board of education and the board of regents.

Blake pointed out that having two distinct boards has worked well in other states. The combined board, he said, would allow coordination of all educational matters.

McIntosh, speaking for the presidents of the other five units of the University System, favored strengthening authority in the board of regents as the plan proposes.

Backing the entire plan was Public Instruction Supt. Dolores Colburg. She said the plan incorporated the three major themes she has advocated: an expression of the importance of education in Montana, a mandate for financial support and the authority for the establishment and administration of education.

Mrs. Colburg also said she was pleased the committee had decided to remove some of the restrictions in the present education article.

Chadwick Smith, Helena, lobbyist for the Montana School Boards Association, opposed the two-board system.

"A two-board system at the state level is unnecessary," Smith said. "There are many inherent dangers in the fragmentation of the supervision of education."

Creating two boards is inconsistent with the concept of executive reorganization, passed last year, which seeks to cut down on the number of boards.

The debate over whether private schools should receive state aid surfaced again Friday.

The committee recommended retaining in total a section prohibiting state aid to any parochial school.

A University of Montana education professor, Dr. Bill Fisher, favored state aid, saying: "If these schools get no public money, it amounts to de facto elimination."

Several Indians and a lobbyist for the Inter-Tribal Policy Board wanted some mention of

Indians in the opening section that guarantees equality of educational opportunity.

Earl Barlow, Helena, who supervises Indian education in the superintendent of public instruction's office, said statements attributed to delegate R. S. Hanson, I-Ronan, showed the

need to mention Indians in the constitution.

Barlow was quoted as Thursday as saying Indians were poor risks as renters.

Barlow said education was the vehicle for Indians to escape "this morass the dominant culture has imposed upon us."

'Service Charge' Protested

HELENA — Representatives of churches, schools and hospitals Friday challenged a proposal to levy "service charges" against now tax-exempt property.

They told the Constitutional Convention's Revenue-Finance Committee that committee's proposal threatened the future existence of the institutions.

Leo Walsh, comptroller at Helena's Carroll College, suggested that private education has been making some "substantial contributions" to the community in return for governmental services.

Tax exempt property generally receives such free services as fire and police protection and street maintenance.

A Helena lawyer representing Montana Catholics, explained that tax exempt property is not hurting government revenue. While government has doubled and tripled many quasi-public institutions have closed, he said.

The closing of the Catholic schools in Helen have cost the taxpayers \$1.8 million during the past three years, John Frankino, Helena, representing the Montana Catholic Conference, told the Tribune.

Paul Keller, Helena, a lawyer representing the Deaconess home, said that churches are "barely surviving."

Keller said that government services are a contribution to non-profit institutions. "But they're all afraid that the Catholics will get a nickel while they (all churches) have had their foot in the door," he said.

Keller said that when the Catholic schools closed in Helena that taxes went up 18 per cent.

During Appearance Before Con Con Committee

Metcalf Supports 'Right to Sue' in Environmental Proposal

HELENA (AP) — A controversial environmental proposal submitted by Louis Cross, D-Glendive, drew the support of Sen. Lee Metcalf, D-Mont., who told a committee hearing that the proposal "should provide the right to sue."

Calling for strongly worded environmental article in the Constitution, Mrs. Cross' proposal has drawn attack for its provisions calling for a "public trust" and the right of the private citizen to sue the polluter.

Metcalf led off an array of some 30 witnesses by urging the assembly attending the hearing of the Natural Resources and Agriculture Committee to adopt a strongly worded provision so that "we can lock up our resources now."

"The public has an overriding interest in all land ... when someone pollutes there should be some way to protect it," Metcalf told the crowded Senate chambers at the state capitol.

Metcalf pointed to the heavy coal reserves in eastern Montana and urged flexibility to protect future surface mining in the area, at the same time praising a proposal on reclamation submitted by Art Kamhoot, R-Forsyth.

Kamhoot's proposal says that the legislature "must require that all lands disturbed by strip mining of coal be restored to as good a use, or to a better use, than it was before commencement of mining operations."

Opponents to the proposal condemned the public trust provision for its concept that it infringes on the private property owner, giving the state considerable say over the use of the private property.

Others feared "frivolous" or "harassment" suits.

William Cunningham, a faculty member at the University of Montana forestry school, testified that 35 suits were filed after the adoption of a public trust concept and "all but two seemed to be legitimate."

Another forestry staff member, William C. Hollenbom, charged the state's industries with showing that "big company concern for people is one of exploitation."

"Montana has been under totalitarian corporate control too long," he continued.

Gov. Forrest H. Anderson also drew accusations of "corporate manipulation," and Hollenbom criticized some delegates who, he said, "prostitute their obligations with meaningless

compromises."

Carrying the banner for at least two corporations was Gene Picoite, a Helena lawyer, who told the assembly the proposal "isn't legal in any sense of the tradition of Anglo-Saxon law."

Representing Montana-Dakota Utilities Co. and General Telephone Co. of the Northwest, Picoite said providing the provision so "the people can institute suits willy nilly is a metaphysical concept that will create chaos in government."

The heavy influx of testimony on the controversial proposal precluded tentative drafts of a Cultural Resources article, a section on water rights and an agricultural article that called for a department of agriculture, directed by a board appointed by the governor.

'People's Advocate' Proposal Okayed

By JOHN KUGLIN

Tribune Capital Bureau
HELENA — A Constitutional Convention committee voted Friday for a new constitutional officer called a "people's advocate" to assist citizens with complaints about the action or inaction of public agencies.

While the legislative committee agreed to the so-called "ombudsman" proposal, they disagreed about the method of his appointment.

The committee did agree on the following wording: "The legislature shall appoint a people's advocate. The people's advocate shall have the duty to provide information to any person upon request relating to government and shall have sub-

stant power and authority to investigate any complaint on his own, initiate any act of omission of any agency of government and take appropriate action.

"He shall have such other duties as may be prescribed by law. The legislature shall provide for this office and its operation."

The ombudsman proposal, drafted by delegate Robert Kelleher, D-Billings, was an amended version of two proposals dealing with the issue.

The issue of partisan politics surfaced when the legislative committee worked over Kelleher's proposal. Kelleher thought the majority and minority leaders of the legis-

lature should appoint the "people's advocate."

Delegate George Harper, 1-Helena, wondered why leaders of the majority and minority parties should appoint the advocate, Harper thought the leadership, without reference to minority or majority parties, should have the appointing power.

Delegate Jerome Cate, D-Billings, thought that "leadership is too nebulous a term." Cate thought the legislature should decide the method of appointment.

Delegate John Leuthold, R-Molt, said he did not oppose the ombudsman suggestion. However, he questioned whether the legislature would accept another manner of selection. Other

committees are knocking out for an ombudsman or people's advocate through statutory law, he usually does not investigate complaints concerning the judicial or legislative branches, the governor and his staff and the many state agencies. He does not give legal advice, usually operates informally without the need for official forms and guides citizens to appropriate federal agencies when necessary.

"This might be called the wave of the future. If we don't put this in the Constitution it will come later in the form of a referendum," predicted delegate Daphne Bugbee, D-Missoula.

Delegate Grace Bates, D-Montana, thought the proposal should be referred to the convention's Executive Committee for study.

The committee planned another session to wrestle with the other manner of selection question. In states which have provided

The office of ombudsman is not mentioned in any of the 50 state constitutions. Hawaii and Nebraska have established this office by legislative statute. Ombudsman offices in Oregon and Iowa were created by gubernatorial action.

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Though 'Graybill is boss,' a committee is involved too

By CHARLES S. JOHNSON
HELENA (AP)—The Constitutional Convention Administration Committee agreed Friday to have two staff members meet with the convention president to determine their duties.

Some problems had arisen over the duties of Dale Harris, formerly the convention's executive director, and Max Baucus, who filled in for Harris as acting executive director. Harris took a leave last week and returned as research coordinator. Baucus has moved from acting executive director to his former position of committee coordinator.

The two men are to meet with President Leo Graybill Jr., D-Great Falls, to determine their duties. There had been some problems with overlapping duties, Graybill said. Both Baucus and Harris agreed

to meet with Graybill. Harris, however, said he hoped the Administration Committee also would continue to work with the staff, "even though Mr. Graybill is the boss."

Earlier in the week Harris accused Graybill of trying to centralize power at a stormy meeting between the Administration Committee and convention employees.

The meeting was called as the staff protested the "rude and arrogant manner" in which secretary Bartley Carson was dismissed from her job Tuesday. She was informed of her release while taking minutes at the Administration Committee meeting.

Administration Committee Chairman John Toole, R-Missoula, sent a letter of explanation and apology to Mrs. Carson which was distributed to administration committee

members Friday. Toole, the convention vice-president, said: "You may consider this letter as an apology from the entire committee as well as from me personally."

The vice-president said he was personally "extremely sorry" over the manner in which Mrs. Carson was dismissed. He said the entire committee shared his feelings.

At the meeting at which she was dismissed, Graybill recommended that Mrs. Carson's job be terminated for economic reasons and the committee concurred.

The committee also approved a recommendation on staff termination which criticized fair-value system. A staff subcommittee will handle the matter.

Metcalf also said the Montana Power Co., an old foe, paid a higher than average percentage of federal taxes because its profits are greater than the national average. The utility has applied for an increase in gas and electric rates and a decision is pending.

The senator did call for including several constitutional provisions relating to utility regulation—the right to be informed, the right to be heard, and the right to choose.

The right to be informed means the public should be able to learn who owns utility corporations and the details of company expenditures, Metcalf said.

"I think it was Brandeis who said that electric lights are a good policeman," he said. "Illumination is a dynamic regulatory concept."

Metcalf said the right to be heard would require adversary proceedings during rate hearings. Those protesting an increase should be "financed as liberally as the company is," the senator said. Metcalf noted that utilities spend a great deal of time and money preparing their cases, which the public finances by paying the utility bills.

The right to choose, he said, means allowing Montanans to determine what kind of utility they want.

He said Montana is the only continental state without any municipal electric system. The state is served only by rural electric cooperatives or large investor-owned utility corporations.

"I do not believe that our constitution should include any preference for a particular type of utility system," he said. "But I strongly believe that it should provide sufficient authority for any entity within the state, and the state itself, to engage in generation, transmission and distribution of energy and to enter into other utility fields."

Lee talks utility rules

By CHARLES S. JOHNSON
HELENA (AP) — U. S. Sen. Lee Metcalf, a frequent critic of high utility rates, recommended Thursday that a new state constitution provide for flexibility in regulating utilities.

The Montana Democrat opposed even mentioning the Public Service Commission in the new document, preferring to leave the matter up to the legislature.

Metcalf, appearing before a Constitutional Convention committee, said changing the constitution is a slow process while the legislature can make changes much easier.

Disagreeing was Chairman George B. Heliker of the Public Health, Welfare, Labor and Industry Committee. He sponsored a proposal that would create a one-man commission appointed by the governor and allow for the creation of public utility districts.

Heliker, D-Missoula, noted that the legislature had turned down attempts to permit the establishment of public utility districts and asked Metcalf if he could forsee legislators changing their minds.

"Yes, I do," the senator said. "When I ran for the legislature in 1936 one issue was that the Railroad and Public Service Commission was too aggressive

in cutting rates." Companies such as Montana Power then favored reforming the commission, he said.

Today the tables are turned, Metcalf said, with many Montanans questioning the efficiency of the regulatory process. Metcalf backed the one-member commission setup, which Oregon and Vermont have adopted, but said it ought to be left to the legislature.

He criticized the present three-member elected commission, saying: "You would probably get just as much regulation if you didn't have any commission at all."

Metcalf said the legislature should be allowed to determine the type of rate base used by the commission. Members

Dakota ConCon complete

BISMARCK, N.D. (AP) — Barring possible amendments next week, North Dakota's Constitutional Convention has completed what may become a new constitution for the state.

The delegates left the Capitol Friday for a weekend rest after adopting two amendments to articles approved earlier.

One amendment would allow the legislature to provide by law for juries of less than 12 persons trying cases other than felonies.

The other amendment would leave it to the legislature to arrange as nearly as practicable that half the members of each house of legislature are elected every two years.

The major business remaining for the three more plenary sessions days allowed by law is adoption of alternate proposals.

Alternate measures are those that will appear on the ballot separately from the body of the proposed new constitution.

In addition, the convention must approve a transition timetable for provisions of the new constitution to go into effect if the constitution is approved by the people.

Control of funds favored

HELENA (AP)—A Constitutional Convention committee recommended Thursday that the antidiversionary amendment be retained but favored some legislative control over the earmarked highway funds.

The amendment, passed by voters in 1956 and earmarking gasoline tax revenue for highway purposes, has come under fire in the legislature in recent years. Since the funds go automatically to the Montana Highway Commission, they are not able to control the purse strings.

At a public hearing members of the Revenue and Finance Committee said they favored expanding the scope of amendment but also giving the legislature some control.

Their rough draft proposal would include highway safety as one of the uses allowed of the funds. The 1971 legislature voted to take salaries of highway patrolmen out of the highway fund and the move has been challenged in court.

Committee Chairman Sterling Rygg, R-Kalispell, said members also believed the legislature ought to have some control. If 60 per cent of the legislators from both houses concur, the earmarked money could be

appropriated for other purposes.

Rygg said the antidiversionary proposal was "the most controversial subject in the committee."

Delegate Mae Nan Robinson, R-Missoula, not a member of the committee, said the modified proposal did not go far enough.

Mrs. Robinson said the convention was trying to entrust the legislature with some power but the proposal inhibited the legislature.

She said 53 per cent of all state revenue was earmarked by constitutional or statutory law.

The Missoula woman said the antidiversionary amendment "invites waste and extravagance," and destroys checks and balances.

Delegate Leslie "Joe" Eskildsen, D-Malta, took issue with the committee's recommendation to remove the present section outlining the procedure for county property assessment.

The draft simply leaves the mechanics up to the legislature, saying:

"Property which is to be taxed shall be appraised, assessed and equalized by the state in the manner prescribed by law."

"Taxation and equalization is very important," he said.

Gazette State Bureau

HELENA — A controversial proposal to put a tighter clamp on utilities will be going to the Constitutional Convention floor as a minority rather than majority proposal.

The proposal by delegate George Helker, D-Missoula, to create a single-member Public Service Commission to regulate utilities, and a proposal to create public utility districts were killed Thursday by the Public Health, Welfare, Labor and Industry Committee.

HOWEVER, HELKER, who is chairman of the committee, mustered enough support to get minority reports on both proposals.

The committee will present its

tentative recommendations to the convention in a formal hearing at 7 p.m. Friday in convention hall.

Among other proposals killed by the committee are proposals to require minimum wages for all employees, to make the state the employer of last resort, to equalize local and state pay with national levels and to establish a merit system for the state.

"WE'RE MOSTLY in the killing business," Helker said of his committee.

The committee tentatively agreed to delete much of the present section on corporations but retain provisions protecting people from harmful practices of corporations, watered stock and corporate charter regulation.

ConCon in uproar No Bill of Rights?

Gazette State Bureau

HELENA — Handbills warning against creation of a "state oligarchy," which mysteriously appeared on Montana windshields this week, have provoked an angry reaction from the Constitutional Convention Bill of Rights Committee.

The handbills are the work of Gerald L. McCurdy of Hamilton, who says he is concerned that the public know about certain delegate proposals which in McCurdy's view would take government away from the people.

MCCURDY IS A registered

lobbyist for the National Health Federation, but he said he, along with a few friends, put out the handbills as a private citizen "because I just think the people should be aware of this."

The handbills claim that proposals introduced would provide for state ownership of all land, remove the Bill of Rights, prevent local government self-termination and surrender rights to the federal government.

BILL OF RIGHTS Committee members charged that the handbills contained blatant lies and are the product of "a conspiracy

of ignorance" which is convinced that the convention is "a plot against the people."

No proposal has been made to abolish the Bill of Rights, and in fact, the committee's rough draft adds a number of new rights to it.

McCurdy told the State Bureau that a proposal has been introduced to make it a crime not to vote. He said he considers that proposal an infringement of his rights. If one right can be abolished, all can, he said.

HE ALSO EXPRESSED concern over proposals to establish a "public trust" requiring that all land be used to the benefit of the people. Although some have criticized the public trust concept as doing away with private property rights, that is not the intent.

McCurdy also singled out a proposal which would require cities writing charters to have city members. That proposal has been rejected in concept by Local Government Committee.

MCCURDY SAID he did not want to attack individuals or committees and said he hopes the committees will write a decent constitution.

"We don't want to change it (the procedure) every two years."

Eskildsen said he realized the constitution should be shortened but not at the expense of some sections.

"I really stand in fear of what the legislature might come out with," said Eskildsen, a former legislator.

Marian S. Erdmann, R-Great Falls, questioned whether one provision might prevent local governments from levying taxes, as some members of the Local Government Committee envision.

Rygg advised her to present her ideas in writing for further consideration.

Only three public witnesses appeared and all said the proposal looked good.

Joining in their support were Mayor Larry Bjorneby of Kalispell, Mayor John McLaughlin of Great Falls and Mrs. John Hall, president of the Great Falls City Council.

McLaughlin said the proposal looks "very good," adding that he had no objections.

The plan also would remove the present limit on county indebtedness and leave the matter to the legislature. Under the 1889 constitution, the limit is 5 per cent of the taxable property value.

Moreover any debt exceeding

\$10,800 for a single purpose must be submitted to the voters under the present constitution. The proposal also would remove this limit and leave it to the legislature.

After airing their proposal Thursday, the committee members will consider final changes before submitting a report to the entire convention.

Delegates then will debate the report, along with those of the other nine committees, and come up with the new constitution. The new document will be submitted to voters June 6.

Sunday Smorgasbord

THE Convention

Well, here we go again.

The Constitutional Convention has been running quite smoothly. The delegates have kept their noses to the grindstone and their shoulders to the wheel (that's a difficult position, try it sometime), but once again Chairman Leo (Graybill) is threatening to upset the applecart.

The first big flap was over the convention's public information ideas. Graybill was in the middle of that. And now, we have another tidal wave in the making in the form of some unhappy convention employes. We can't say that we blame them.

It all started when Graybill fired a secretary by the name of Bartley O. Carson. That isn't bad in itself. However, we violently disagree with Chairman Leo and his unconscionable act.

Mrs. Carson was not forewarned that she was going to lose her job. She learned that she was being fired while taking minutes of the Administration Committee meeting.

Subsequently, 58 employes of the convention signed a petition, including Elizabeth Harrison who figured in his first debacle, condemning the firing of Mrs. Carson, "particularly the arrogant and rude manner of her dismissal."

The issue is apparently resolved now. Hereafter, recommendations on staff reductions will go to the administration subcommittee and the employe involved will be notified in advance. That's the reasonable way to do it; but why must the powers that be create problems that need not exist?

Delegate Fred Martin of Livingston (who is a newspaperman), said that "the longer it (the squabble) goes on and the longer it blows up in the press, the people of Montana are going to think we're a bunch of damn fools."

How right you are Fred, but don't blame the press. We've said it before and we'll say it again: The convention is going to create its own image. If Graybill wants it in his own likeness, that's not our fault.

So far, he's the only man who has really goofed.

We are compelled to add that the convention, as a whole, has done an excellent job. We hope the actions of one man do not tarnish an otherwise excellent image.

More Convention

The Constitutional Convention had commissioned a promotional film on the constitution to help sell the finished product, but has been forced to cancel the project due to the early vote on the new document.

Delegates decided to put the new constitution to a vote of the people on June 8 which does not give the producers enough time to make the movie.

Cancellation is probably a good thing. The convention, which is \$14,000 in the red, had budgeted \$11,000 for the film, which can be put to good use elsewhere. Besides, there is a Citizens Corps which has been formed to help tell the people what the new, or revised, constitution is all about. A movie smacks too much of out and out propaganda. The public probably wouldn't buy it anyway.

Don't Panic

It was bound to happen.

A new, or revised, constitution is a long way from being written and adopted by the Constitutional Convention, but already the wrong kind of literature is being distributed. We're referring to certain handbills which are full of innuendoes.

This is what the propagandists say:

"Did you know?

"Did you know... There is a proposal before the Montana State Constitutional Convention for state ownership of all water and mineral rights including all land?

"Did you know... There is a proposal before the Montana State Constitutional Convention... To remove your Bill of Rights from the constitution?

"Did you know... There is a proposal before the Montana Constitutional Convention to remove your rights as a sovereign state and surrender those rights to the federal government?

Then, there is a telephone number which you can call to get the "alleged" straight scoop.

All we can say is that there are a lot of proposals before the Constitutional Convention. Some are good and some aren't worth the paper they are written on. However, before we start distributing "anti" literature we think it would be best to wait until the convention comes up with a finished product.

These handbills should be relegated to the garbage can. Our convention delegates are too intelligent to create a state oligarchy. Forget the detractors; they don't deserve your time or attention.

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Con Con 'Great Debates' To Begin on Thursday

HELENA (AP) — Constitutional Convention leaders decided Saturday to stand by their original plan and start the so-called "great debates" Thursday.

During the first four weeks, the 100 delegates have spent their time holding extensive public hearings and settling organizational matters.

Each committee's final recommendations will come to the floor beginning Thursday. Delegates will then debate, amend, approve or reject the reports, which will be compiled in a proposed constitution.

Some of the chairman had preferred to delay the start of the debates until Feb. 22 so committees could concentrate on finishing their reports next week.

But they agreed that the pressures of time necessitated starting the debates as soon as possible.

President Leo Graybill Jr., D-Great Falls, said he estimated the debate on each report would take two days. He is figuring the debate on the bill of rights article may take three days because of its diverse aspect.

The \$500,000 budget restricts the convention to nine or ten weeks.

The last public hearing will be 7 p.m. Tuesday when the Local Government Committees gives over its tentative proposals.

Because of a rule requiring that committee reports be given delegates 48 hours before debate begins, the first debate

will not start until Thursday, when the General Government and Constitutional Revision Committee reports out its recommendations on suffrage and elections.

After the opening debate, the committee reports will be heard in the following order:

Legislative, judiciary, executive, natural resources and agriculture, revenue and finance, bill of rights, education and public lands, public health, welfare, labor and industry, local government and the rest of general government.

The leaders also discussed ways delegates may bring proposals up on the floor.

Graybill said the rules allow three methods: through committee proposals, through minority reports to committee proposals and through amendments on the floor.

Wade J. Dahood, R-Anaconda, said he did not approve of the idea of delegates being able to amend from the floor after similar proposals already had been killed in committee.

"We'll be here until the end of the year," he said.

Disagreeing with Magnus Aasheim, D-Antelope, who said everyone must be allowed to speak on controversial issues.

Leaders also discussed the procedure for isolating certain controversial issues and placing them before the electorate separately.

Graybill said putting too many options on the ballot might confuse voters.

"The real test is if something will endanger the constitution

as a whole unless we put it out as an alternative," he said.

The Style and Drafting Committee will make some recommendations which will be subject to delegate approval, but the alternatives must be considered on the floor too, for the committee does not have the power to draft them.

"We would like some reticence on the part of committee chairmen not to be too chauvinistic about their little lambs," John M. Schiltz, D-Billings, said.

Graybill also asked committee chairmen to determine when their secretaries and research analysts would no longer be needed so a subcommittee can work out termination procedures.

The president, whose recommendation that a secretary be dismissed this week created an uproar among staff members, said he wanted to keep employees on as long as they were needed.

Graybill also told committee chairmen that it was up to them, not the staff, to determine what was in the committee report.

He said Research Coordinator Dale Harris was free to make suggestions, but added that the final decision was theirs.

"You don't have to pass any muster," he said. "You're the chairmen. But when you get to the floor, that's another matter."

Earlier in the week, Harris, the former executive director, accused Graybill of trying to centralize authority.

Guidelines for new constitution

While Constitutional Convention delegates deserve credit for the conscientious manner in which they are working to fashion a modernized state document, a word of warning may be in order.

The delegates will have to be especially selective about the large number of proposals made at convention hearings.

Many of the proposals have no place in a constitution and properly fall in the field of responsibility for the legislature.

Delegates will find it useful to make frequent comparisons of the federal constitution that has guided the nation for two centuries with the archaic and restrictive 1889 constitution that has handicapped state and local government in Montana for eight decades.

The federal constitution outlines the fundamental principles and concepts of government in less than 8,000 words and provides for flexibility needed to meet changing conditions. In contrast, the present Montana constitution, a wordy and cumbersome document of

28,000 words, is loaded with statutory provisions that have no place in a constitution.

It would be a serious mistake for delegates to write provisions into the new constitution that are aimed at many current problems and fears. It would be advisable to write a strong bill of rights, outline the principles of government and establish a legislative system that would have the power and flexibility to meet the needs of a changing society. A new constitution should remove most of the shackles imposed on Montana cities and counties by the 1889 constitution.

Delegates have an obligation to future generations to include a provision in the new constitution to permit continuing modernization of the document by amendments. Although it would not be advisable to make the amendment process too easy, it would be well for delegates to realize how difficult it has been to change the 1889 constitution. Montana is one of five states that limit the number of constitutional amendments to three on a general election ballot.

Citizens to vote on constitution

Despite the vast amount of space and time the news media has devoted to the Montana Constitutional Convention and the steps leading to it, some Montanans apparently still don't realize they will have the right to approve or reject the proposed constitution.

The delegates are well aware of the fact that the voters will decide if a new state document is to replace the restrictive 1889 constitution. The delegates are trying to hammer out a con-

stitution that will be a vast improvement over the present one—and one that will not be rejected by voters.

The election is scheduled as of now for June 6, the state primary election date. A majority of the voters casting ballots on the issue will have to approve the document before it becomes the new state constitution. If 200,000 citizens vote on the issue, it will take at least 100,001 yes votes to put the modernized constitution into effect.

Cascade County May Gain From Welfare Proposal

Tribune Capitol Bureau
HELENA — Consumer protection and education is provided for in the rough draft proposal of the Constitutional Convention's Public Health, Welfare, Labor, and Industry Committee. But the eight-hour day provision of the present constitution has been dropped, along with the prohibition against employment of minors as miners.

The consumer provision is in a section of the proposed article on non-municipal corporations titled "protection for citizenry." It directs the legislature to provide for "protection and education for the people against harmful practices and unfair economic activity" by corporations, individuals, and associations.

The entire article on non-municipal corporations is a model of brevity, containing only six sections (including the new consumer protection section). The present constitution's non-municipal corporation article runs 20 sections.

The proposed welfare article has been written to give the legislature the duty of providing for the indigent. The present Constitution makes indigent care the duty of the individual counties. While the committee has acknowledged that their proposed wording would leave the legislature free to return the "poor fund" to the counties, it was felt that it would be unwise to rigidly specify that the state should handle the problem, even though that is the intent. The fear is that federal welfare requirements might change in the future or for some other reason the legislature might need some flexibility in this area.

Cascade County with its poor fund levy exceeding \$1.3 million each year would be one of the counties to gain the most from an equalization of the poor fund on all the counties.

A proposal to recognize the right to the basic necessities of life, including the right to ade-

quate nourishment, housing, and medical care, was rejected by the committee.

Chairman George Heliker's public utilities proposal was also turned down by the committee, although a minority report for a one-man public utilities commissioner, who would be equipped with an expert staff, and who would not be required to consider any particular theories, evidence, or methods in determining rates. In addition, the legislature would be directed to provide for public corporations for the furnishing of heat, light, water, and power. His proposal has been the subject of extended hearings in recent days upon which Montana's public utilities descended in opposition.

The committee proposal deletes four of the five sections of the present constitution's labor article. The one it retains directs the legislature to provide for a department of labor and industry.

One of the deleted sections prohibits the contract use of state prison labor. Another makes it unlawful to employ children under the age of 16 years in underground mines.

Deletion of the eight-hour work day amendment of the present constitution may draw some repercussions from labor. That was the warning from state AFL-CIO executive director Jim Murry last month when he said, "the eight-hour day has now won universal acceptance. I need not remind you that many of our union members will consider its removal as an antagonistic act."

The committee has not taken a vote yet on the right-to-work proposal of committee member R. J. Studer, R-Billings.

A minority report will come out on a proposal by Chairman Heliker extending collective bargaining rights to public employees.

The committee also rejected a number of other labor proposals, including a statewide merit system, equal pay for local, state, and federal employees, and a directive to the legislature to provide for a minimum hourly wage.

Gun Lobbyists Take Potshots at 'Rights' Proposal

HELENA (AP) — Members of several rifle and environmental groups fired away at different sections of a proposed bill of rights at a Constitutional Convention hearing Saturday.

The rifle club representatives were upset because the rough draft of the bill of rights did not forbid licensing, taxing and registering firearms.

Equally critical were environmentalists, one of whom called the environmental section "an expression of meaningless words."

Some of the 23 witnesses before the Bill of Rights Committee pressed for a stronger section banning illegal wiretapping during the four-hour hearing.

Not all of testimony was critical as others praised the right-to-know section and some endorsed the portion that would give anyone 18 or older the right to hold public office.

The committee will take the 25 sections back for more work before submitting a final committee report this week. Their proposals then will be debated by the 100 convention delegates, who will forge the new bill of rights.

While the gun lobbyists were pleased that the committee retained the present section on the right to bear arms, they threatened to oppose the new document if the antiregistration section is not included.

"We, the firearms fraternity of Montana, are essentially one-issue voters," Daniel J. Masse, Clinton, warned.

Masse spearheaded the Citizens Against Mansfield movement in 1970, trying to defeat the Senate majority leader because of his endorsement of gun control measures.

Masse said an antiregistration clause was necessary because the 1968 federal gun control law, passed in the wake of the assassination of Robert F. Kennedy, "could well set the foundation of a police state."

He was supported by Lewis E. Yearout, Great Falls; H. W. C. Newberry, Kalispell, and Dan Neal, Great Falls. All represented various rifle groups.

State Reps. George Darrow, R-Billings, and Dorothy Bradley, D-Bosman, criticized the proposed environmental section, which does not include the right to the right to sue.

Darrow, a geologist, said the proposed section was "an expression of meaningless words" and offered his own proposal.

Charges that a public trust doctrine would lead to "harassment suits" are not true, she said, citing Michigan, which recently passed an environmental protection act.

Earlier in the day, one of the authors of the environment article, delegate Donald R. Foster, I-Lewistown, defended the section, saying:

"At best this section is a goal to be set before government and citizens which we expect to be striven for."

Patty Meier, representing the Missoula Gals Against Smog and Pollution, said the section "is so watered down it is ineffectual."

Several witnesses criticized the section barring unlawful searches and seizures, which also prohibited wiretapping without court orders.

Rep. Thomas Towe, D-Billings, said, the section would have the effect of authorizing wiretapping and bugging, which presently is not mentioned.

"You don't have to authorize wiretapping to control it," Towe said, calling for a constitutional ban.

Helena attorney Mike Meloy agreed, citing statistics that showed wiretapping was not an effective means to catch criminals.

Two Montana Common Cause members, Francis Mitchell and Don Holtz, both of Helena, and Noel Larrivee, Missoula, backed the right-to-know provision. It allows for access to public documents and open meetings except when the "demand for individual privacy exceeds the merits of public disclosure."

Mitchell said the right-to-know section would help make government more accountable and responsible.

Multiple-Choice Proposal For Government Drafted

Tribune Capitol Bureau

HELENA — A "design your own" proposal for government at the city, county or any other local level, containing provision for self-government charters, intergovernmental cooperation and voter review had been drafted by the Constitutional Convention's local government.

Because of the number of options available to local voters, committee member Marian Erdmann, the former Republican mayor of Great Falls, describes the proposed new local government article as "cafeteria" style government.

Flexibility is the key to the proposal, says committee chairman Oscar Anderson, I-Sidney.

Input into the article was provided from 3½ weeks of testimony from county and municipal officials, plus a 222-page study on local government prepared by the committee's research analyst Jerry R. Holleran.

The new article is favored by seven members of the 11-member committee. A minority report, supported by three committee members, supports a plan for district government for Montana, proposed by Franklin Arness, D-Libby.

The local government committee will be the last of the convention's 10 substantive committees to conduct a formal public hearing. The hearing is scheduled for 7 p.m. Tuesday in "Convention Hall" in the Capitol.

Mrs. Erdmann said that new forms of government may become more attractive in areas facing population losses. She pointed out that 55 of Montana's 56 counties have similar courthouse structures, with the exception of Petroleum County, the least populated, which has a county manager form of government.

The 10-section local government article would replace the present article in the constitution, dealing with counties, municipal corporations and offices.

"Local government units" would include, but not be limited to counties, cities and towns. Other local government units could be established by the legislature.

County boundaries would not be tampered with. The county boundaries as they exist when the constitution is adopted

People may get advocate

HELENA (AP) — The Legislative Committee of the Constitutional Convention gave its approval Friday to the creation of a new appointive office called a "people's advocate" to assist citizens with complaints about public agencies.

The people's advocate, similar to the Scandinavian ombudsman, would be appointed by the legislature. His duties would require him to provide information to any person upon request pertaining to government.

would be unaltered. It would take a vote of the majority of those casting ballots to relocate a county seat or change county boundaries.

The legislature would provide for government in local units and for procedures for incorporating, classifying, merging, consolidating and dissolving such units, and of altering their boundaries.

The legislature would also provide for optional forms of government for each unit or several units.

A group of county officials, labeled the "courthouse gang" by some delegates, were very insistent that the long list of county officials continue to be spelled out in the constitution.

An optional form of county government, under the proposal, could include the following elected officials: Three county commissioners, a clerk-recorder, sheriff, treasurer, surveyor, county school superintendent, assessor, coroner and public administrator. The county commissioners could consolidate two or more offices. Commissioners in two or more counties could provide for a joint office and for the election of one official.

As Anderson explains it, several counties could hire a highly-qualified school superintendent.

Under general powers, cities and towns as municipal corporations would have their powers liberally construed. Counties would have legislative, administrative and such other powers as provided by law. Other local government units would have such power as provided by law. Local government units could levy taxes and participate in revenue sharing, as provided by law.

Units of local government, or combinations of units, with the approval of a majority of voters casting ballots, could adopt self-government charters. Units

The ombudsman would be granted subpoena power and authority to investigate any complaint on his own.

The committee left responsibility for other duties as well as provisions for the office and its operation up to the state legislature.

Robert Kelleher, D-Billings, is the author of the measure, an amended version of two delegate proposals on the issue. There was disagreement in the committee as to the method of appointment.

Kelleher favored leaving the appointment up to the legislative majority and minority leaders. George Harper, I-Helena, thought reference to majority and minority parties should be stricken in the proposal. He advocated appointment of the ombudsman by the legislature's "leadership". Jerome Cate, D-Billings, said, "leadership is too nebulous a term." He advocated leaving the decision of method of appointment to the legislature.

adopting such charters could exercise all powers not prohibited by the constitution, by law or by charter.

There are provisions for intergovernmental cooperation between such units as school districts, other governmental units and the federal government.

Within four years after the constitution was adopted, the legislature would be required to provide procedures for each unit to review its structure and submit one alternative form to the voters. The legislature would be required to provide for a review procedure every 10 years after the first election.

Cate backs trust idea

A proposal before the Constitutional Convention would make maintaining environment quality a matter of public trust.

"This is the only one of several environmental protection proposals that means anything," Jerome Cate of Billings, District Eight Democratic delegate says.

"This doctrine would require that the State of Montana maintain and endorse a high quality environment as a public trust," he says. "This trust responsibility would apply to all aspects of environmental quality including but not limited to air, water, land, wildlife, minerals, forests and open space."

THE PROPOSAL, introduced as a minority report by Mrs. Louise Cross, Glendive delegate and chairman of the Natural Resources Committee, says, in effect, "You can't destroy our environmental support system in the use of private or public property because the public good — the future existence of man — requires that it not be destroyed," Cate says.

Urging Montanans to enter what is shaping up to be a "good-buys-in-the-white-hats" versus "bad-guys-in-the-black-hats" fray, Cate points out that "the lobby of Constitution Hall is filled with lobbyist from the Anaconda Co., the Montana Power Co., the wood product industry, and other industries working day and night to defeat this environmental trust proposal."

"It is time for us to decide who is writing this Constitution and who is running the state of Montana," he says. "Is it the corporations or the people?"

THE PUBLIC TRUST doctrine, he says, is practical. "It takes nothing away from free and honest men. It is only those who would sacrifice the public interest to their own gain that would lose under the Public Trust Doctrine," he says.

Under terms of the proposal, Montana citizens would have the right to "protect the quality environment by appropriate legal proceedings against private entities" bolstered by legislative action to "provide by law for the implementation and enforcement

'Public trust' vs. property rights

The Montana Constitutional Convention is considering the environmental "public trust" doctrine as a viable answer to pollution. Nothing could be more impractical.

To safeguard the environment they would institute common ownership of property: Land, water and air. Not only would this render the market economy useless but would also negate the individual's attempt to safeguard his own well-being and property.

What is needed instead is tough enforcement of property rights. Each individual has a right to the land, air or water he has legally purchased or rented; and this land, air or water should be protected from pollution by other people.

Example: If a factory emits polluting gases into someone else's air, then the factory owners should be tried in a court of law, just as if they had dumped garbage on someone's front lawn. The same standards can and should be applied throughout the environment. A more strict definition of property rights is badly needed.

To depend on state ownership of property for environmental protection is ridiculous and dangerous; because state and city owned public utilities are notorious polluters and both display an incredible lack of desire to enforce existing laws uniformly. One has simply to remember that it is the state which declares the right of eminent domain, and then one can extrapolate how safe his property will be under the public trust doctrine.

JOHN BRUNT BAKER, Rte. 1 South

Sunday, February 13, 1972

The Billings Gazette

Morning Edition

ment of such legislation as may be necessary to more fully protect this public trust."

"All citizens would be beneficiaries of this trust," Cate says. And, he points out, public trust doctrines are nothing new on the scene. "The State of Michigan has such an environmental protection provision in its constitution — public trust has existed in England for centuries."

Radio Listeners May Call in To Convention

Radio listeners around Montana will be able to call in testimony on lotteries, bingo and gambling tonight to a Constitutional Convention committee.

The General Government and Constitutional Revision Committee will conduct the hearing at 8 p.m. from the studios of a Helena radio station. The program will go out to Inter Mountain Network stations across the state.

Listeners may call in testimony or ask questions by calling 442-9670, collect. Bob Vermillion, D-Sheley, said the convention is paying for the telephone calls. Vermillion is a member of the committee and also a member of the Public Information Committee.

On Feb. 21, the Bill of Rights committee will conduct a similar hearing. The topic will be whether to grant adult privileges to 18-year-olds, including the right to hold public offices.

District Delegates Report Progress Made by Con-Con

Calhoun County residents Sunday night received first hand information on what is happening at the Constitutional Convention when five of the six District 11 delegates made a public report.

The district's delegates are working on four committees: Ben Berg and Mason Melvin, judiciary; Grace Bates, legislative; Dorothy Eck, Bill of Rights; and Richard Roeder and Fred Martin, executive.

Martin was the only delegate not at the meeting. "He is at the capital building burning the midnight oil," said Roeder.

The meeting room of the courthouse was filled to capacity by people wanting to hear the delegates. Dorothy Eck began the meeting saying, "Our projection was that we might have a dozen or maybe 20 people here tonight. This looks very good."

As the meeting progressed, it became clear that nothing definite has been decided at the convention yet. Said Mrs. Eck,

"Now is a very critical time. Practically all of the proposals are in and next week the final reports will be printed. There is still time for a few changes."

Ben Berg pointed out that in two weeks the delegates would be able to give more complete answers to questions but that presently most delegates were only aware of what was happening in their own committees. He said, "There are many committees on which some of us are members. Right now we are not very well informed on what other committees are doing. In a couple of weeks, after we have met as a committee of the whole and debated the issues, we will be able to give more adequate answers than we can tonight."

Berg outlined the report that will probably come from the judicial committee. "Actually it is two reports, a majority and minority presentation. Principle area of contention between the two reports is on the selection of judges for the higher courts," he said.

"In the majority report, the procedure for selecting judges remains as is. In the minority report a complex procedure is set up. A committee is created by the legislature to recommend at least two names to the governor. His choice must be confirmed by the senate. The appointed judge runs in a primary election against any other qualified candidate who wants to challenge him. The top two winners of the primary election stand for general election. The successful candidate of the general election runs on the question of whether a judge should be retained to hold his seat on the bench."

Berg explained that other than the proposed change in choosing judges the report simply streamlines the existing judicial statutes of the Montana Constitution.

Mrs. Eck said the Bill of rights committee wasn't applying the right of public trust to the degree that the rights of private property and water rights would be eliminated. "The public trust is that everyone is entitled to a clean environment. Government agencies charged with protecting will be liable for suit by private citizens if they don't enforce the laws," she said.

The gun lobby has been before the bill of rights committee repeatedly Mrs. Eck said. "At the beginning of the convention we got all of these letters threatening to kill the whole constitution if the clause referring to the right to bear arms was amended or taken out. Recently we have been getting letters saying that things should be added to it. That we should prevent licensing, taxing, or confiscation of guns and that there should be clauses about the right of sportsmen to carry arms."

"Personally, I don't think anything has to be said about it. If we ever get a legislature that would pass a bill like that Montana would be a different state from the one I know."

Grace Bates explained how the legislative committee would be unique in making two majority recommendations and many minority ones.

"The unicameral and bicameral legislature proposals will probably be presented side by side. Since it only takes four signatures for a minority report on a section, we will have many. Our committee has been divided since the very beginning."

Mrs. Bates said the Legislative Committee unanimously endorsed the idea of adding an ombudsman to the legislative staff. An ombudsman is charged with investigating complaints of misconduct on the part of government employees toward citizens.

Mrs. Bates said, "Whatever happens it is clear the legislature is going to have more power and more responsibility than ever before. It is up to the people of Montana to see that they are a capable body."

Talking about executive law, Roeder said that the Executive Committee wants to reduce the number of elected offices at the top of the state bureaucracy.

"The executive branch is very confused. We have many jobs that are elected that never worked out like they were supposed to. The original plan was for the governor, the lieutenant governor, the secretary of state, the attorney general and the auditor to sit around the capital playing a five handed poker game. They were supposed to watch each other. It hasn't work-

ed that way, it only gives an illusion of checks and balances."

"We propose the governor and lieutenant governor run as a team, letting the superintendent of education remain an elected official but allowing the legislature to change this in the future, and making state treasurer and auditor appointed offices."

It was pointed out the present plan for updating city and county government requires that the legislature develop alternatives for towns and cities to choose from. The people living in the area affected would have final say in the matter.

Mason Melvin recapped what has come out of the education committee. He said, "a proposal for two boards of education has received strong support. One board would deal with the problem of grade schools and high schools while the board of regents would be retained to deal with the problems of higher education. The proposal calls for the retention of the state superintendent of schools as a constitutionally protected officer."

Melvin was critical of what he called "elements that would kill this effort (the convention) even before we see what we have."

He said anyone wishing to talk to their delegates could call 1-449-3730 and ask that the delegate be given a message and the delegate would call back. He also said anyone wishing to write to a delegate should address his letter; delegate's name, Montana Constitution-Constitution, Helena, Mont. 59601.

For 'More Profit and Less Cost'

Delegate Wants State Out of Liquor Business

Tribune Capitol Bureau

HELENA — Constitutional Convention delegate Arnold Jacobsen, R-Whitefish, thinks the state could make more money if it dumped its liquor monopoly, and that at the same time the price of booze would go down and independent operators would still be able to make a nice profit. In addition, he says, the state liquor monopoly by its very nature provides opportunities and temptations for graft and the only way to remove the temptation is to remove the monopoly.

And, Jacobsen told the convention's General Government Committee, state liquor employees wouldn't suffer because there would probably be more of them in a free enterprise situation.

Both Jacobsen and Torrey

Johnson, R-Libby, defended their proposals for a constitutional prohibition against the state engaging in a monopoly business, with the liquor business specifically in mind.

Johnson said any type of competitive business is going to channel revenue into the state by way of taxation and that it would be free to spread and grow and give better service. The liquor consumer in Montana is entitled to a little better service, he said.

Jacobsen agreed that a free enterprise atmosphere would be more conducive to growth, recalling that he started a retail business in Butte with \$330 and parlayed it into eight stores doing half a million dollars worth of business annually in 11 years.

He went over liquor board

figures in detail and agreed that the state could be at least half a million dollars ahead each year by turning the liquor business and all its operating expenses over to private enterprise.

Otto Habedank, R-Sidney noted the previous attempts to accomplish the same thing in the legislature and wondered how Jacobsen figured the people would vote for it in the constitution.

But Jacobsen said he has yet to run onto one person who wants to keep the state in the liquor business if for no other reason than the scandals associated with it. He said the reason the legislature has failed to act is because of "no guts," and said time has come to tell the legislature to get the state out and get it out by 1974.

On the other hand, liquor

board administrator Joseph Shea contends that the liquor monopoly is a good thing. In a statement to the committee, Shea suggests that to eliminate liquor profits would cause an increase in either property or income taxes.

He says the state realized a total of over \$13 million from the liquor department last year and that there are several free enterprise states which are now trying to become monopoly states. He says statistics show Montana derives more liquor revenue per capita while its residents consume less liquor per capita than in open states.

Water rights and Con-Con

Daily Clipping Sheet
February 16, 1972

Con-Con By the Delegates from District 23

Constitutional convention delegate Marian Erdmann made a telling point when she suggested to the Great Falls Kiwanis Club Monday that the convention will have justified its existence if it does no more than to establish Montana control over Montana water rights.

She directed attention to the fact that the Colorado River Basin Act, which placed a 10-year moratorium on all talk of diverting northern water to southwestern states, expires in six years. Then Montana water could go for developments in downstream states which have filed claims on it, and Montana would not be able to get rights to enough of its own water for its own irrigation projects, the former Great Falls mayor explained.

Water is this state's most valuable resource, much more so than its metals, coal, oil and timber. The right to use it here at home must be protected. The new constitution can help do this.

Con Con Panel Receives Unintended Rap

Tribune Capitol Bureau

HELENA — One adjective is not as good as another adjective to describe, a Constitutional Convention committee — even though two adjectives may sound similar.

A news analysis last Sunday described the convention's Local Government Committee as "feckless."

Webster defines feckless as "weak in mind or body, helpless, incompetent, inefficient, having no real worth or purpose, lazy, unskilled, unthinking, shiftless," etc.

The intention of the writer of the analysis was to describe the committee as "feckful," which Webster defines as efficient, effective, vigorous," etc.

By Frank Arness

During the week just past, the Committee on Local Government has considered several draft proposals for an article to be included in the constitution dealing with local government.

The Committee was divided on the issue raised by the proposal which would make the basic unit of local government a district rather than keep our present traditional concepts embodied in the cities, town and counties. Those delegates favoring a continued attempt to deal with municipal problems with the traditional form of government seem to have taken their positions based upon a belief that their constituents would reject a change, whether it be beneficial or not. Because of this attitude, which is being frequently expressed by other delegates in the Convention, I would appreciate hearing from you in District 23 concerning your opinions about city and county merger.

The proposal made is to merge all functions of local government, including schools, into a single unit or district, which would be administered by five elected supervisors. With some exceptions, the western districts seem to favor the plan and the eastern districts to disfavor the plan. Everyone, however, seems to conclude that it proposes a practical solution to some dilemmas facing cities and towns that are experiencing or expecting growth. I would appreciate receiving your comments and criticisms, whether favorable or not, concerning the proposal.

I have been pleased to see that all the state newspapers have given this proposal for district local government wide publicity and that they have so well and so completely described the workings of the proposal.

If you call, please call me at 449-3750 or write me at Capitol Station, Constitutional Convention, Helena.

General debate is scheduled to begin on Feb. 17; by that date

the proposals now being discussed in Committee should be narrowed down to the issues that will be argued by the Convention. Committee hearings in all committees will continue all next week.

By Marjorie Cain

The majority of the work of the Constitutional Convention this week has been hearings. Each committee has endeavored to hear from each group that may have a concern with the constitutional articles as assigned to that committee.

The Educational Committee has heard the proposal and statements from the School Boards Association, Montana Education Association, State Superintendent of Public Instruction, American Federation of Teachers, County Superintendents, Community Colleges, University System, Vocational and Technical Education, Indian Education, various student educational groups, church schools, private colleges, American Association of University Women, League of Women Voters, innumerable private citizens and students.

If I have inadvertently left out any group, I apologize.

The feelings of each interest group have been noted and the Citizens' Proposals and all correspondence has been read by the Committee. Some of our hearings have been joint with other committees and several have been so large that the Senate or House Chambers have been used. We have appreciated the interest shown and hope that it continues.

This is an exhausting task but I cannot conceive of an exercise in government that could be a better education. I do appreciate being privileged to be a part of the Convention.

By Paul Harlow

Our committee is working on proposals to improve the constitutional article on suffrage and election. We are receiving practically no opposition to simplifying the article by taking out all the extra words, and being specific in our definitions of elections and voters.

It's a different story when we come to deciding what to do with the section on lotteries, bingo and other games of chance. Everybody has a suggestion. They range all the way from leaving it in to taking it out, with all kinds of amendments in between.

The Bill of Rights committee has a deluge of proposals or all kinds of rights for the individual. In looking over all these proposals, I find too many of them concerned with the rights of the aggressor, and too little concern for the right of peaceable, law abiding people to be safe from violence. As one example, there is a proposal to protect the "rights" of drunken drivers against the implied consent law. I feel it is much more important for the people to

have the right to use the highways without being endangered by drunken drivers. Most of these extreme proposals will be defeated by the good sense of the convention as a whole.

We had the pleasure the past week of having Miss Debbie McCallum of Hot Springs as one of our pages.

I am looking forward to meeting with the various high school classes that are planning on coming over to visit the convention.

By George James

The past week saw the termination of public hearings, and the end of the flood of delegate proposals and citizens suggestions. We are now attempting to digest these and to discriminate between that which is constitutional material from that which should properly be the province of the legislature. While many proposals are worthwhile, some are novel or thought provoking and others are in my estimation, well meaning but impractical. If we were to incorporate all we would not accomplish our objective of a guide to our present and future state governments and people, but would encumber it with restrictions and "pie in the sky" proposals.

The early surge of unicameralism has lost some of its initial thrust, and the proponents of a revised bicameral system are much in evidence.

The Bill of Rights Committee has heard testimony from a number of young people on the right of 18-year-olds to hold public office. We were impressed with the caliber of most of them.

We have held joint hearings with the Natural Resources Committee on a section to provide environmental protection. Other groups have asked that we include the right to adequate health, housing, nourishment, etc., that there be no discrimination because of sex, and that the present ordinance protecting the lands of the Indians be retained.

Mrs. George Franks of Alberton testified before our committee on the right to a dignified death, and Joe Roberts of Libby, president of the Student Bar Association, spoke before the Judiciary Committee on the Montana Plan. Debbie McCallum of Niarada has served our district ably the past week as a page, she has informed me that her classmates from Hot Springs High will be with us during the session. I do hope that other schools will take advantage of this, perhaps, once in a lifetime opportunity.

We were happy to be visited by the Paul Applegates, and Representative and Mrs. Art Shelden, all of Libby.

My request for your opinions has had a good response and I will evaluate them along with other evidence in making my decisions.

Call-in Favors Gambling

HELENA (AP) — A statewide call-in hearing on gambling Monday night attracted 49 callers to the Constitutional Convention's General Government Committee program, with 38 in favor of gambling and 11 voting thumbs down.

Although the issue was whether the gambling question should be handled by the convention or by the legislature, callers appeared more interested in the basic question of whether or not gambling should be allowed in the state.

Two senior citizens expressed their wish for the legalization of bingo while other in favor of gambling asked what right the state has in delegating morals.

Those opposed to gambling in any fashion opposed it on moral grounds. One woman said she feared it would mean more

people going on welfare while others said the underworld would become involved.

Still other callers opposed state control of gambling but said it should be operated on the city and county level.

Calls came from all the major population centers in the state, with the exception of Butte and Billings. Those two cities have been the sites of gambling raids in recent months.

Bob Vermillion, D-Sheley, a member of the General Government Committee, was moderator of the program.

The hearing was conducted over the Inter Mountain Network and its 16 member radio stations.

A similar hearing is planned for next Monday by the Bill of Rights Committee on whether 18-year-olds should be allowed to hold public office.

'Public Trust' Proposal Falls Flat

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA — The Constitutional Convention's Natural Resources-Agriculture Committee Saturday successfully bottled-up an environmental protection provision drafted by their own chairman.

"I couldn't even get a courtesy minority report from my own committee," a disappointed chairman Louise Cross, D-Glendale, told the Tribune.

Mrs. Cross, a housewife, said that her proposal for an environmental "Public trust" doctrine for Montana, which is strongly supported by some conservation groups, was only supported by other member of the committee, Henry Siderius, D-Kallispell. Siderius, a farmer, is an outspoken critic of forest clear-cutting, who has repeatedly challenged statements made by timber interest representatives appearing before the committee.

Under the convention's rules, which environmentally-oriented delegates plan to try to change next week, Mrs. Cross needed the votes of at least 25 per cent of the members of her committee — three — to force out her proposal as a minority report.

Delegates blocking the public trust proposal were Jeff Brazier, D-Helena; John Anderson, R-Alder; A. W. Kambhoot R-Forsyth; Douglas Delaney, D-Grass Range; Charles McNeill, R-Polson and Donald Rebal, D-Great Falls.

Mrs. Cross said that she would rather than no proposal for environmental protection emerge from the committee "if the committee wants to write a proposal that doesn't mean anything."

Under the so-called public trust doctrine, air, water, land — the total environment — would be common property held in a trust fund perpetually for all. Standards would be imposed to insure that resources would be managed properly.

The Bill of Rights Committee has also rejected a public trust doctrine in its tentative draft of proposals. Subcommittees from both the Bill of Rights and Natural Resources Committees met Saturday, but were unable to reach agreement on a mutually-acceptable environmental proposal.

One aspect of Mrs. Cross' Natural Resources committee proposal, which has been resisted by some of the convention's attorney delegates, is the provision that "citizens of the state shall have the right to

protect the quality environment by appropriate legal proceedings against private entities."

Also disturbing to some defenders of private property rights is the public use provision that says "the highest of public uses of any property within the state shall be only those uses consistent with a high quality environment . . ."

Environmentalists, during a formal hearing conducted by the Bill of Rights Committee Saturday, attacked that committee's proposal as being too weak to be effective. Instead, they generally endorsed the public trust doctrine.

Cecil Garland, Lincoln, a fighter for wilderness status for the Lincoln Back Country, strongly-criticized the committee for its five-minute limit on citizen's testimony.

Garland also criticized the committee's "hostile attitude" toward environmental issues. "If the public needs more time, the public should be given more time," Garland said.

Garland reminded that the environment was the most discussed issue when the delegates sought convention seats last year.

"Five minutes is not time for a witness to develop continuity of thought," he said. Garland said the convention should take an entire day next week to hear a University of Michigan professor knowledgeable in the area of

the public trust concept, who would be available to address the convention.

"This is the most important issue of our time," Garland said. In defense of the bill of rights committee, vice chairman Chet

Blaylock, D-Laurel, said that the committee had listened to "hours and hours of testimony" concerning environmental issues during previous hearings, including testimony concerning the public trust doctrine.

The Billings Gazette

Tuesday, February 15, 1972
Morning Edition

Remarkable compromise

The ConCon legislative committee has welded together a remarkable compromise between those who want to limit legislative activity and those who don't.

The compromise is simply to permit the legislature to set by statute the time and length of its sessions. In addition, the proposal would enable a majority of members to call the legislature into session, and make it a continuous body for two years, so bills have carryover status from one session to the next.

The draft article has unicamer-

al and bicameral alternatives, which will permit the whole convention to settle that crucial issue.

The compromise is excellent, not only because it shows the willingness of delegates to pull together as a team, but also because it is highly practical. Given the freedom to set its own schedule, the legislature need never become the "pressure cooker" that boiled the life out of so much reform in Montana in recent years.

The compromise is good constitutional law.

Constitution taking shape

By DANIEL J. FOLEY
Gazette State Bureau

HELENA — Montana's new Constitution began to take shape this week, with an expanded bill of rights, legislative reform and more power for cities and counties among the significant proposals.

Most of the Convention's 10 substantive committees culminated three weeks of committee work by drafting tentative articles for public hearings during the week. Committees are now modifying and polishing those proposals for submission to the entire Convention.

Full-scale debate by the 100 delegates probably will begin on Thursday and last for four or five weeks. The final document is scheduled to be submitted to voters on June 6.

Most of the proposals are still very much tentative and therefore subject to change. But here is a brief summary of the most recent thinking of each committee:

BILL OF RIGHTS: The Committee recommends new rights to privacy, to a high quality environment and to freedom from discrimination. It also proposes a right-to-know about government through access to records and meetings and it is suggesting that the legal age be reduced to 18 from 19.

LEGISLATIVE: The committee will propose two alternatives to the Convention, one calling for a unicameral legislature of 75 to 100 members and one calling for a bicameral assembly of 30 to 40 senators and 60 to 80 representatives. The committee

has often changed its mind about legislative time limits. Its most recent thinking is to replace the biennial 60-day sessions with annual 90-day sessions. Any Legislature would be permitted to extend the time limit for future assemblies, but not for itself. The committee also favors open meetings, adequate notice of hearings and recorded votes in all phases of the legislative process.

EXECUTIVE: The committee is split on how many executive branch members should be in the Constitution and on how many should be elected. The committee has endorsed limiting the executive branch to 20 departments and having the governor and lieutenant governor run as a team.

JUDICIARY: A majority of the committee favors election of judges and retention in the Constitution of the office of justice of the peace. A minority favors elimination of JPs, leaving lower court structure to the Legislature. At least one committee member favors appointment of judges under a so-called merit selection process.

LOCAL GOVERNMENT: The committee wants to give cities, towns and counties whose voters approve a "local self government charter" all powers not prohibited by the Legislature. Under the existing Constitution, local government has only those powers specifically granted by the Legislature. The committee also wants to expand the ability of local voters to change the structure of their government.

NATURAL RESOURCES: The committee has rejected a

proposal that would declare the environment a "public trust" to be managed in accordance with standards imposed by the state.

EDUCATION: The committee favors a separate board of public education and a separate board of regents to replace the single board now performing both functions. The committee also favors retaining a strict prohibition against public aid to parochial schools.

REVENUE AND FINANCE: The committee favors continued "earmarking" of gasoline taxes solely for highway purposes, although expanding that purpose to include highway safety. But it proposes that three-fifths of the Legislature could remove that earmarking and divert highway taxes to other purposes. The committee also favors elimination of the ban on state aid to local government and elimination of the mining tax exemption.

PUBLIC HEALTH, WELFARE, LABOR AND INDUSTRY: A majority of the committee has rejected proposals for collective bargaining for public employes, for a right-to-work section and for revamping public utility regulation. Minority reports are expected on each subject.

GENERAL GOVERNMENT: The committee appears to be leaning toward eliminating the constitutional ban on lotteries, but has reached no final decision. The committee also has several proposals for making it easier to amend the Constitution.

degradation of natural resources.

The statement originally referred to the state's "unique"

with citizens in Chester.

Gysler said that the majority of the proponents of the doctrine failed to understand it.

additional environmental proposals, including a suggested constitutional statement on strip mining and recycling.

Mahoney for Treasurer?

By J. D. HOLMES | Mahoney criticized Graybill the Citizens Committee in the art. former treasurer of Yel-

Wednesday, Feb. 16, 1972 Great Falls Tribune 11

'Strange Bedfellows' Found Elsewhere on Panel

Political Execs Join Con Con Citizen Corps

HELENA (AP) — Sixteen Montanans, including the chairmen of both political parties, have accepted appointment as members of the Constitutional Convention Citizen Corps Executive Committee.

The announcement was made Thursday by delegate Daphne Bugbee, D-Missoula, who is chairman of the Citizen Corps Subcommittee at the convention. She said the membership included John Bartlett, Whitefish, chairman of the Montana Democratic Party, and William Holter, Great Falls, chairman of the Montana Republican Party. Also included are the heads of the Montana State AFL-CIO and the Montana Chamber of Commerce, two groups rarely on the same side of any issue.

Local citizen corps are organized in most of the legislative districts around the state to promote citizen interest and involvement in convention work.

Named as members were: Mrs. Jean Anderson, Billings, president, Montana League of Women Voters; Bartlett; Alexander Blewett Jr., Great Falls, Chairman, Montana Constitutional Convention Commission; Vincent J. Bash, Great Falls, president, Montana AFL-CIO.

Bruce M. Brown, convention delegate, 1-Miles City; Mrs. Bugbee; Bernard J. Harkness, Dell, president, Montana Farm Bureau Federation; Holter; Dallas Howard, Missoula, president, Montana State Low Income Organization; Clyde T. Jarvis, Great Falls, president, Montana Farmers Union; Lyle Leeds, Havre, president, Montana Chamber of Commerce; Eugene H. Mahoney, Thompson Falls, vice chairman, Montana Constitutional Convention Commission;

Sen. Jack McDonald, D-Belt, chairman, Montana Constitutional Revision Commis-

sion; Cliff McKay, Browning, associate director, Association on American Indian Affairs; Rep. James Murphy, R-Kalispell, vice chairman, Montana Constitutional Revision Commission; May Opitz, Great Falls, Montana Student Presidents Association.

Mrs. Bugbee said she hoped some of the members would be able to speak to groups about the convention.

"The groundwork is being laid, and this is how the Citizen Corps is really helping us in evaluating the public reaction," she said.

Mrs. Bugbee said the activity of the local groups varied. Some were holding public meetings featuring the delegates. Other delegates were writing columns for weekly newspapers or taping radio shows to help stir interest.

The local groups will be assisted when they receive final committee majority and minor-

ity reports, which will be debated later in the convention.

Until the tentative proposals and final drafts were published, Mrs. Bugbee said it was difficult to send the chairmen of the local groups anything concrete for their discussions.

These reports, which are being printed this week, not only include the proposals but also comments by committee members justifying the recommendations.

State Merit System Given Con Con Nod

Tribune Capital Bureau
HELENA — A Constitutional committee late Tuesday reversed an earlier position and recommended adoption of a controversial merit system for state employees.

The vote was 5-3, in the committee on Public Health, Welfare, Labor and Industry.

Delegate Charles Mahoney, I-Clancy, was vocal in his opposition to a state merit system, under which employees in all agencies would have their jobs protected from political change.

Why do we have to have a merit system? This state has operated beautifully," Mahoney said.

Mahoney thought it would be wrong if a new governor had to work with the staff employed by the previous governor. Mahoney also said he was worried

about the "monstrosity" of the federal civil service.

Delegate will Swanberg, D-Great Falls, said state civil service tests under a merit system could remove "a lot of competent people who couldn't pass."

Delegate R. J. Studer Sr., R-Billings, said that a merit system would improve the quality of Billings city employees. He described the present Billings city service as a "pretty good conglomeration of incompetents."

There was some discussion over the wording of the final adopted proposal, submitted by delegate Jerry Loendorf, R-Helena, of the legislative committee, which said "the legislature shall establish a system under which the merit principal will govern the employment of persons by the state."

Committee chairman George Heliker, D-Missoula, pointed out "there is no way you can force the legislature to act, only nudge them." However, Heliker supported such a nudge.

In adopting Loendorf's proposal, the committee reversed its earlier position against recommending a merit system. Killed by the committee Tuesday was a more detailed merit system proposal by delegate Lucile Speer, D-Missoula.

The committee also voted to delete some sections from the present constitution, including a section referring to the eight-hour day.

The Montana AFL-CIO several weeks ago told the committee that removal of the eight-hour day would be regarded as "an antagonistic act."

I am not trying to champion volcanoes and run away fires, I am just trying to stress that every puff of smoke may not be a pollutant.

In comparison to the above though, a mere trickle of man's concoctions seems to have nature. Maybe a guide line could be, if a thing is found in nature and at a certain level, don't fright, but study nature's ways and try to work with her. As an example, vaccines are a product where man has worked hand in hand with nature.

An idea, lobbying as it is known in the U. S. should be abolished.

As a proposition, the constitution of the U. S., which is a famously good document, was created by 55 men, from May 25 to Sept. 17. Much of that time they worked short handed, that is, due to various reasons many could not be present all of the time. But there men were left quite alone to argue and discuss the issues without much interference. In that atmosphere the Constitution of the U. S. was written, and later the first 12 amendments, known as the Bill of Rights, were added. A point, no lobbyist.

If they had all of the distractions that you delegates have I wonder whether they could have written such a document. Also, the glare and publicity of the TV and news cameras must be a detriment to good work. You can do nothing in these regards to help your convention but you could set guide lines for the future legislators.

Lobbying should be confined to public letters such as this. Then a sort of a discussion might result, via those public letters. A sort of a forum would result, which could be followed by the legislators. Ideas might be uncovered which would benefit the general public. More equitable legislation would happen with this type of lobbying, and the legislators would more fairly represent the ordinary man, who after all is the one who elects him.

This idea of no lobbyists would be an innovation, but as some one once said, "innovation mixed with common sense is the handmaid to progress."

Sincerely yours,
Carl O'Hara

THE RIVER PRESS

PEOPLE'S COLUMN

Dear District 14 delegates to the CON CON:

I believe you have asked for letters of opinion to help you fashion a document that will be acceptable to the voters when presented. This is probably more than asked for but will try and keep it as brief as I can.

On pollution.—To pollute is defined in Webster's Dictionary as: to make or render unclean; to defile; desecrate; profane. Syn. See contaminata.

On the editorial page of the Dec. 29/71 issue of the River Press, there was an interesting article called "Pollution and Perspective". On pollution, the author reminds people that three volcanic eruptions in the past 90 years, ejected more dust, ashes and gases into the atmosphere than has all of mankind since the beginning of time.

A pretty strong statement, but I believe that the author used the wrong perspective when he termed the ejections as pollution.

I have looked up some data on a few famous forest fires. Beginning on page 257, in the book, The Big Blowup, 18 famous fires are listed. They occurred in the U. S. between 1825 and 1947. The period is a relative short length of time and the area is a comparatively small part of the world.

The 18 fires burned an estimated 12,000,000 acres. One of the fires listed, burned 3,000,000 acres and destroyed more than 7 billion board feet of lumber, so it is certain that a tremendous amount of smoke, ash, and gases, were ejected into the atmosphere. The listed fires do not count the thousands of other fires that have occurred, or the prairie fires that must have swept across the plains before the land was parceled and broke up.

My point, can those volcanic eruptions and burning organic matter, as forest, prairie, and stubble fires, or burning wood chips and saw dust, be classified as pol-

lution, as it is defined in Webster's Dictionary? I claim not. Although locally catastrophic, the fires were a cleansing agent. A vigorous new growth followed, free of disease, blight, or fungi.

Nature is like that, it can coddle and handle with care the most delicate situation, then with equal fervor she repairs. Many times she does not spare the parts when curling the whole. Also, maybe if it were studied, the smoke, gases, and ashes may be a settling agent or a factor in cleansing the atmosphere of undesirable pollutants. And of course it is well known that dust particles form a nuclei for rain and snow fall, which of course does clear the air, colored rain has been known to fall.

Remember, nature has been guided so that a one time fiery ball has evolved to the abundant earth that we now know. Also, a nothing, or a best a near naught, has been nurtured to evolve into the modern man. All this happened in an atmosphere that must have been quite hazy and nearly dark at times, even at midday.

Water rights and Con-Con

Daily Clipping Sheet
February 16, 1972

Con-Con By the Delegates from District 23

Constitutional convention delegate Marian Erdmann made a telling point when she suggested to the Great Falls Kiwanis Club Monday that the convention will have justified its existence if it does no more than to establish Montana control over Montana water rights.

She directed attention to the fact that the Colorado River Basin Act, which placed a 10-year moratorium on all talk of diverting northern water to southwestern states, expires in six years. Then Montana water could go for developments in downstream states which have filed claims on it, and Montana would not be able to get rights to enough of its own water for its own irrigation projects, the former Great Falls mayor explained.

Water is this state's most valuable resource, much more so than its metals, coal, oil and timber. The right to use it here at home must be protected. The new constitution can help do this.

Con Con Panel Receives Unintended Rap

Tribune Capitol Bureau

HELENA — One adjective is not as good as another adjective to describe, a Constitutional Convention committee — even though two adjectives may sound similar.

A news analysis last Sunday described the convention's Local Government Committee as a "feckless."

Webster defines feckless as "weak in mind or body, helpless, incompetent, inefficient, having no real worth or purpose, lazy, unskilled, unthinking, shiftless," etc.

The intention of the writer of the analysis was to describe the committee as "feckful," which Webster defines as efficient, effective, vigorous," etc.

Call-in Favors Gambling

HELENA (AP) — A statewide call-in hearing on gambling Monday night attracted 49 callers to the Constitutional Convention's General Government Committee program, with 38 in favor of gambling and 11 voting thumbs down.

Although the issue was whether the gambling question should be handled by the convention or by the legislature, callers appeared more interested in the basic question of whether or not gambling should be allowed in the state.

Two senior citizens expressed their wish for the legalization of bingo while other in favor of gambling asked what right the state has in delegating morals.

Those opposed to gambling in any fashion opposed it on moral grounds. One woman said she feared it would mean more

people going on welfare while others said the underworld would become involved.

Still other callers opposed state control of gambling but said it should be operated on the city and county level.

Calls came from all the major population centers in the state, with the exception of Butte and Billings. Those two cities have been the sites of gambling raids in recent months.

Bob Vermillion, D-Shelby, a member of the General Government Committee, was moderator of the program.

The hearing was conducted over the Inter Mountain Network and its 16 member radio stations.

A similar hearing is planned for next Monday by the Bill of Rights Committee on whether 18-year-olds should be allowed to hold public office.

By Frank Arness

During the week just past, the Committee on Local Government has considered several draft proposals for an article to be included in the constitution dealing with local government.

The Committee was divided on the issue raised by the proposal which would make the basic unit of local government a district rather than keep our present traditional concepts embodied in the cities, town and counties. Those delegates favoring a continued attempt to deal with municipal problems with the traditional form of government seem to have taken their positions based upon a belief that their constituents would reject a change, whether it be beneficial or not. Because of this attitude, which is being frequently expressed by other delegates in the Convention, I would appreciate hearing from you in District 23 concerning your opinions about city and county merger.

The proposal made is to merge all functions of local government, including schools, into a single unit or district, which would be administered by five elected supervisors. With some exceptions, the western districts seem to favor the plan and the eastern districts to disfavor the plan. Everyone, however, seems to conclude that it proposes a practical solution to some dilemmas facing cities and towns that are experiencing or expecting growth. I would appreciate receiving your comments and criticisms, whether favorable or not, concerning the proposal.

I have been pleased to see that all the state newspapers have given this proposal for district local government wide publicity and that they have so well and so completely described the workings of the proposal.

If you call, please call me at 449-3750 or write me at Capitol Station, Constitutional Convention, Helena.

General debate is scheduled to begin on Feb. 17; by that date

the proposals now being discussed in Committee should be narrowed down to the issues that will be argued by the Convention. Committee hearings in all committees will continue all next week.

By Marjorie Cain

The majority of the work of the Constitutional Convention this week has been hearings. Each committee has endeavored to hear from each group that may have a concern with the constitutional articles as assigned to that committee.

The Educational Committee has heard the proposal and statements from the School Boards Association, Montana Education Association, State Superintendent of Public Instruction, American Federation of Teachers, County Superintendents, Community Colleges, University System, Vocational and Technical Education, Indian Education, various student educational groups, church schools, private colleges, American Association of University Women, League of Women Voters, innumerable private citizens and students. If I have inadvertently left out any group, I apologize.

The feelings of each interest group have been noted and the Citizens' Proposals and all correspondence has been read by the Committee. Some of our hearings have been joint with other committees and several have been so large that the Senate or House Chambers have been used. We have appreciated the interest shown and hope that it continues.

This is an exhausting task but I cannot conceive of an exercise in government that could be a better education. I do appreciate being privileged to be a part of the Convention.

By Paul Harlow

Our committee is working on proposals to improve the constitutional article on suffrage and election. We are receiving practically no opposition to simplifying the article by taking out all the extra words, and being specific in our definitions of elections and voters.

It's a different story when we come to deciding what to do with the section on lotteries, bingo and other games of chance. Everybody has a suggestion. They range all the way from leaving it in to taking it out, with all kinds of amendments in between.

The Bill of Rights committee has a deluge of proposals or all kinds of rights for the individual. In looking over all these proposals, I find too many of them concerned with the rights of the aggressor, and too little concern for the right of peaceable, law abiding people to be safe from violence. As one example, there is a proposal to protect the "rights" of drunken drivers against the implied consent law. I feel it is much more important for the people to

have the right to use the high ways without being endangered by drunken drivers. Most of these extreme proposals will be defeated by the good sense of the convention as a whole.

We had the pleasure the past week of having Miss Debbie McCallum of Hot Springs as one of our pages.

I am looking forward to meeting with the various high school classes that are planning on coming over to visit the convention.

By George James

The past week saw the termination of public hearings, and the end of the flood of delegate proposals and citizens suggestions. We are now attempting to digest these and to discriminate between that which is constitutional material from that which should properly be the province of the legislature. While many proposals are worthwhile, some are novel or thought provoking and others are in my estimation, well meaning but impractical. If we were to incorporate all we would not accomplish our objective of a guide to our present and future state governments and people, but would encumber it with restrictions and "pie in the sky" proposals.

The early surge of unicameralism has lost some of its initial thrust, and the proponents of a revised bicameral system are much in evidence.

The Bill of Rights Committee has heard testimony from a number of young people on the right of 18-year-olds to hold public office. We were impressed with the caliber of most of them.

We have held joint hearings with the Natural Resources Committee on a section to provide environmental protection. Other groups have asked that we include the right to adequate health, housing, nourishment, etc., that there be no discrimination because of sex, and that the present ordinance protecting the lands of the Indians be retained.

Mrs. George Franks of Alberton testified before our committee on the right to a dignified death, and Joe Roberts of Libby, president of the Student Bar Association, spoke before the Judiciary Committee on the Montana Plan. Debbie McCallum of Niarada has served our district ably the past week as a page, she has informed me that her classmates from Hot Springs High will be with us during the session. I do hope that other schools will take advantage of this, perhaps, once in a lifetime opportunity. We were happy to be visited by the Paul Applegates, and Representative and Mrs. Art Shelden, all of Libby.

My request for your opinions has had a good response and I will evaluate them along with other evidence in making my decisions.

District Delegates Report Progress Made by Con-Con

Gallatin County residents Sunday night received first hand information on what is happening at the Constitutional Convention when five of the six District 11 delegates made a public report.

The district's delegates are working on four committees: Ben Berg and Mason Melvin, judiciary; Grace Bates, legislative; Dorothy Eck, Bill of Rights; and Richard Roeder and Fred Martin, executive.

Martin was the only delegate not at the meeting. "He is at the capitol building burning the midnight oil," said Roeder.

The meeting room of the courthouse was filled to capacity by people wanting to hear the delegates. Dorothy Eck began the meeting saying, "Our projection was that we might have a dozen or maybe 20 people here tonight. This looks very good."

As the meeting progressed, it became clear that nothing definite has been decided at the convention yet. Said Mrs. Eck,

"Now is a very critical time! Practically all of the proposals are in and next week the final reports will be printed. There is still time for a few changes."

Ben Berg pointed out that in two weeks the delegates would be able to give more complete answers to questions but that presently most delegates were only aware of what was happening in their own committees. He said, "There are many committees on which none of us are members. Right now we are not very well informed on what other committees are doing. In a couple of weeks, after we have met as a committee of the whole and debated the issues, we will be able to give more adequate answers than we can tonight."

Berg outlined the report that will probably come from the judicial committee. "Actually it is two reports, a majority and minority presentation. Principle area of contention between the two reports is on the selection of judges for the higher courts," he said.

"In the majority report, the procedure for selecting judges remains as is. In the minority report a complex procedure is set up. A committee is created by the legislature to recommend at least two names to the governor. His choice must be confirmed by the senate. The appointed judge runs in a primary election against any other qualified candidate who wants to challenge him. The top two winners of the primary election stand for general election. The successful candidate of the general election runs on the question of whether a judge should be retained to hold his seat on the bench."

Berg explained that other than the proposed change in choosing judges the report simply streamlines the existing judicial statutes of the Montana Constitution.

Mrs. Eck said the Bill of Rights committee wasn't applying the right of public trust to the degree that the rights of private property and water rights would be eliminated. "The public trust is that everyone is entitled to a clean environment. Government agencies charged with protecting will be liable for suit by private citizens if they don't enforce the laws," she said.

The gun lobby has been before the bill of rights committee repeatedly Mrs. Eck said. "At the beginning of the convention we got all of these letters threatening to kill the whole constitution if the clause referring to the right to bear arms was amended or taken out. Recently we have been getting letters saying that things should be added to it. That we should prevent licensing, taxing, or confiscation of guns and that there should be clauses about the right of sportsmen to carry arms."

"Personally, I don't think anything has to be said about it. If we ever get a legislature that would pass a bill like that Montana would be a different state from the one I know."

Grace Bates explained how the legislative committee would be unique in making two majority recommendations and many minority ones.

"The unicameral and bicameral legislature proposals will probably be presented side by side. Since it only takes four signatures for a minority report on a section, we will have many. Our committee has been divided since the very beginning."

Mrs. Bates said the Legislative Committee unanimously endorsed the idea of adding an ombudsman to the legislative staff. An ombudsman is charged with investigating complaints of misconduct on the part of government employees toward citizens.

Mrs. Bates said, "Whatever happens it is clear the legislature is going to have more power and more responsibility than ever before. It is up to the people of Montana to see that they are a capable body."

Talking about executive law, Roeder said that the Executive Committee wants to reduce the number of elected officials at the top of the state bureaucracy.

"The executive branch is very confused. We have many jobs that are elected that never worked out like they were supposed to. The original plan was for the governor, the lieutenant governor, the secretary of state, the attorney general and the auditor to sit around the capital playing a five handed poker game. They were supposed to watch each other. It hasn't work-

ed that way, it only gives an illusion of checks and balances."

"We propose the governor and lieutenant governor run as a team, letting the superintendent of education remain an elected official but allowing the legislature to change this in the future, and making state treasurer and auditor appointed offices."

It was pointed out the present plan for updating city and county government requires that the legislature develop alternatives for towns and cities to choose from. The people living in the area affected would have final say in the matter.

Mason Melvin recapped what has come out of the education committee. He said, "a proposal for two boards of education has received strong support. One board would deal with the problem of grade schools and high schools while the board of regents would be retained to deal with the problems of higher education. The proposal calls for the retention of the state superintendent of schools as a constitutionally protected officer."

Melvin was critical of what he called "elements that would kill this effort (the convention) even before we see what we have."

He said anyone wishing to talk to their delegates could call 1-449-3750 and ask that the delegate be given a message and the delegates would call back. He also said anyone wishing to write to a delegate should address his letter; delegate's name, Montana Constitutional Convention, Helena, Mont. 59601.

For 'More Profit and Less Cost'

Delegate Wants State Out of Liquor Business

Tribune Capitol Bureau

HELENA — Constitutional Convention delegate Arnold Jacobsen, R-Whitefish, thinks the state could make more money if it dumped its liquor monopoly, and that at the same time the price of booze would go down and independent operators would still be able to make a nice profit. In addition, he says, the state liquor monopoly by its very nature provides opportunities and temptations for graft and the only way to remove the temptation is to remove the monopoly.

And, Jacobsen told the convention's General Government Committee, state liquor employees wouldn't suffer because there would probably be more of them in a free enterprise situation.

Both Jacobsen and Torrey

Johnson, R-Libby, defended their proposals for a constitutional prohibition against the state engaging in a monopoly business, with the liquor business specifically in mind.

Johnson said any type of competitive business is going to channel revenue into the state by way of taxation and that it would be free to spread and grow and give better service. The liquor consumer in Montana is entitled to a little better service, he said.

Jacobsen agreed that a free enterprise atmosphere would be more conducive to growth, recalling that he started a retail business in Butte with \$330 and parlayed it into eight stores doing half a million dollars worth of business annually in 11 years.

He went over liquor board

figures in detail and argued that the state could be at least half a million dollars ahead each year by turning the liquor business and all its operating expenses over to private enterprise.

Otto Habedank, R-Sidney noted the previous attempts to accomplish the same thing in the legislature and wondered how Jacobsen figured the people would vote for it in the constitution.

But Jacobsen said he has yet to run onto one person who wants to keep the state in the liquor business if for no other reason than the scandals associated with it. He said the reason the legislature has failed to act is because of "no guts," and said time has come to tell the legislature to get the state out and get it out by 1974. On the other hand, liquor

board administrator Joseph Shea contends that the liquor monopoly is a good thing. In a statement to the committee, Shea suggests that to eliminate liquor profits would cause an increase in either property or income taxes.

He says the state realized a total of over \$13 million from the liquor department last year and that there are several free enterprise states which are now trying to become monopoly states. He says statistics show Montana derives more liquor revenue per capita while its residents consume less liquor per capita than in open states.

Hearings End, Con Con Debate to Begin Today

HELENA (AP) — After a month of listening patiently to dozens of witnesses, Constitutional Convention delegates will become orators again Thursday when debate begins.

They first will tackle a fairly noncontroversial report on voting, elections and constitutional revision. After they forge a new constitutional article embracing these subjects, delegates will move into the legislative article, which should spark some lively debates.

Actually delegates have spent little time—about one-half hour a day—on the floor except for the three-day organization session in November and December and the first few days of the convention in January.

Their time has been occupied with extensive public hearings on all aspects of constitutional change. While the 100 delegates also have deliberated and drafted committee reports, none have been debated on the floor.

How the first two debates go could well determine the story of the money-pressed convention. A \$500,000 budget limits its duration to nine or 10 weeks, and delegates are in the middle of the fifth week.

Convention President Leo Graybill Jr., D-Great Falls, is hoping that debate on most of the 10 committee reports will be limited to two days apiece.

Committees with a host of sections such as the Bill of Rights Committee may need three days, he said.

During the few other debates that have transpired so far, delegates have shown no reluctance to speak. When they decided to put the constitution before Montana voters June 8, more than a quarter of the 100 men and women stood up and voiced their opinions.

If the debate schedule holds down, Graybill said, the Rules Committee might have to come up with some kind of "gag" rule to limit the speaking.

Delegates also will need to be familiar with the rules they adopted for they soon will be facing numerous parliamentary maneuvers.

Each committee's report can be amended on the floor and some could be junked entirely if delegates choose.

The end-product will go to the Style and Drafting Committee, which will assemble the parts into a constitution. Delegates will then vote on the entire document, before submitting it to the public in June.

Highlights on the majority proposal on voting are:

—Secret ballot. The committee believes this guarantee of secret election, not included in the present constitution, merits inclusion.

—18-year-old vote. The article embodies the 23rd Amendment to the U.S. Constitution, ratified last year, allowing anyone 18 or older to vote in all elections.

—Registration. Committee members would leave residency requirements, registration and election administration up to statutory law.

—Office holders. Anyone 18 or older would be eligible to seek any public office except, as otherwise provided in the document or by the legislature. The present constitution sets certain age limits for offices.

A minority report signed by Bob Vermillion, D-Shelby, and Peter Lorella, D-Anaconda, would allow anyone to register to vote right up to election day. While the primary purpose for registration laws is to prevent fraud, the minority report points out that North Dakota has had poll-booth registration without complaints since 1951.

All eight members of the committee agreed to the report on constitutional revision, which includes provisions on these topics:

—Calling constitutional conventions. By a two-thirds vote, legislators could submit the question of whether to have a convention to voters, as they can now. Unlike existing provisions, however, voters could call a convention by initiative.

Another change would put the question before the voters automatically every 20 years.

—Constitutional amendment. Like the present provisions, the legislature could refer to the electorate. A new provision would allow the constitution to be amended without ever going to the voters.

Two-thirds of the total members would have to approve two separate legislative sessions.

Voters, however, could use referendum measures to force the amendment of the ballot.

—Initiative. Voters would gain the right to initiate constitutional amendments under the proposal.

—No limit on amendments. No more than three amendments may be placed before voters under the present constitution.

—No gubernatorial veto. The governor would no longer be able to veto proposed constitutional amendments.

Quick! Let Con-Con Know What Scenery You Prefer

By GARY LANGLEY
Miscellaneous Staff Writer

It all must boil down to a question of rolling plains or rolling grasslands.

Or one of rugged mountains or the grandeur of mountains.

All the above, none of the above or some of the above isn't just a matter of western scenery. It's part of the mental agony Constitutional Convention delegates are suffering in an attempt at a new preamble.

And it all must be decided by week's end.

In fact, Bob Campbell, a delegate from Missoula, says the Bill of Rights Committee is so deadlocked over mountains, plains and grasslands it wants opinions from the public.

One was introduced by Campbell and Delegate Mae Nan Robinson, also of Missoula. Besides borrowing from John Steinbeck's rolling grasslands, they also used the prayer of Chief Joseph, and the spirit of Charles M. Russell as if would be described by the novelist.

And here is what they came up with:

"We, the people of Montana, instilled with the Spirit of our Creator, gathering our strength from the grandeur of our mountains and the richness of our rolling grasslands, with a reverence for the quiet beauty of our state, with the desire to live in peace, in order to improve the quality of life and equality of opportunity for this and succeeding generations, do hereby ordain and establish this Constitution."

Another, signed by three other delegates, prefers rugged mountains and rolling plains.

It says:

"We, the people of Montana, inspired by the Spirit of

Creation, mindful of our rich heritage, thankful for our rugged mountains and rolling plains, and desiring to secure the blessings of liberty for ourselves and future generations, do hereby ordain and establish this constitution."

Campbell said the Bill of Rights Committee is deadlocked over the two, and in a haste to test public opinion, invites letters of preference.

But he quickly added a final draft is due on the convention floor by Friday "so we've got to know right now."

If the rolling grasslands and rugged mountains aren't enough, the committee also has two other preambles sitting before it.

One keeps the rolling plains, but scraps the grandeur and ruggedness for "shining mountains."

Campbell said the entire thing has been scrapped by the committee, not because of the shining mountains, but because of a provision recognizing responsibilities and obligations to secure rights. That proposal, he said, is contained in another section.

Another proposed preamble also has been scrapped. It doesn't even refer to mountains or prairies or grasslands or plains either.

But it does "recognize the rights and duties of this state as part of the federal system of government and reaffirm our adherence to the Constitution of the United States of America."

That apparently was its downfall.

"Some people rightly or wrongly feel we are losing our sovereignty" under it, Campbell said.

So the question boils down to A or B above, and you must decide by Friday whether you prefer rolling plains or rolling grasslands or rugged mountains to the grandeur of mountains.

Proposal Would Give Solons Power to Legalize Gambling

By JOHN KUGLIN

Tribune Capital Bureau

HELENA — A Constitutional Convention committee Wednesday approved a proposal that would allow the legislature to legalize gambling in Montana.

The action by the General Government Committee followed a telephone poll earlier this week in which callers by almost a 4-1 majority favored legalized gambling.

The proposal, an amended version of one submitted by delegate Donald Belcher, D-Roundup, says that "all forms of gambling, lotteries and gift enterprises are prohibited unless authorized by act of the legislature or by the people through initiative or referendum."

This would replace a present

section of the Constitution that says "the legislative assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state."

The committee voted 6-3 for the amended Belcher proposal. Committee members Lyman Choate, R-Miles City, and Paul Harlow, D-Thompson Falls, voted to issue a minority report to simply delete the present restraint on the legislature.

"Most of the comments we have received from around the state favor deletion of this from the constitution," Choate said.

Several committee members said they feared that the word "gambling" in Belcher's proposal might invalidate the present statutes concerning racing meets and pari-mutuel bets. Under the pari-mutuel system, the willing bettors share the total amount bet minus a per-

centage to the operators.

The present pari-mutuel statutes limit this type of betting only to horse races and prohibit independent race pools, book making, betting or wagering on any race licensed by the Horse Racing Commission.

Committee member Bruce Brown, I-Miles City, said that the committee could protect pari-mutuel horse racing by mentioning it in the Constitution. However, Brown said this would "clutter up the Constitution" with excess words.

Committee member Robert Vermillion, D-Shelby, also said he feared that the courts would think that the convention was trying to get rid of pari-mutuel betting if it adopted Belcher's proposal with the reference to "gambling."

Also debated was whether the legislature had the power to permit pari-mutuel betting on horse races without violating the present Constitution.

Defending the amended version of Belcher's proposal, delegate Otto Habedank, R-Sidney, said that if the pari-mutuel statutes were not illegal, the constitutional proposal would not affect them.

The committee also decided to recommend that the convention consider submitting the question of opening the legislative doors to legalized gambling to the voters as a separate issue.

The committee, in its final report to the convention prior to the start of full floor debate Thursday, rejected several delegate proposals to end the state liquor monopoly. In urging the committee to reject the proposals, Choate said, "the legislature can presently change this." Harlow agreed, saying that the liquor monopoly was established by the legislature. The committee did not refer the issue to the Legislative Council for further consideration.

Resource Panel Toughens Reclamation Proposal

Constitutional changes need backing: lobbyist

Tribune Capital Bureau

HELENA — A strongly worded proposal aimed at guaranteeing proper reclamation of strip-mined land was adopted Wednesday by the Constitutional Convention's Natural Resources-Agriculture Committee.

The proposal, passed by a 6-3 vote, says that "all lands disturbed by the taking of natural resources must be reclaimed to as good a condition or use as prior to the disturbance. The condition or use to which the land is to be reclaimed and the method of enforcement of the reclamation

must be established by the legislature."

Though the proposal did not specifically mention coal strip mining, earlier discussion by the committee centered on problems associated from this type of natural resource extraction.

Committee member Jeff Brazier, D-Helena, one of the three delegates voting against the proposal, thought the entire issue should be left to the legislature. To go beyond this, he said would be legislating instead of adopting broad constitutional language.

Committee members John Anderson, R-Alder, Louise Cross,

D-Glendive, Erv Gysler, R-Port Benton, C. B. McNeil, R-Polson, and A. W. Kamhoot, R-Forsyth, expressed alarm over present strip mining practices.

Kamhoot said that as much as half a million acres in Montana may be strip mined.

Brazier suggested that the 1973 legislature could enact new strip mining restrictions. "We can't wait that long. We can't wait forever. Wait until they start mining your mountains and you'll have a different attitude," Mrs. Cross, the committee chairman, said.

The committee also issued a minority report to the convention, by a 4-5 vote, that says, "any Montana resident has the right to appropriate legal proceedings against any govern-

mental agency charged by law with the implementation and enforcement of any provision of this article."

The minority report was in addition to a broad-based environmental policy approved by the committee Tuesday.

By GEORGANNE LOUIS
Gazette Staff Writer

One of the most important contributions a citizen can make to the Constitutional Convention is stating his willingness to accept changes, a lobbyist said in Billings Monday night.

Francis Mitchell, lobbyist for the citizen's group, Common Cause, said delegates are vitally concerned about writing a constitution that will be passed by the voters.

"Some groups have already told the delegates if they do this or don't include this, that group is going to work for the constitution's defeat."

"ONE OF the most important things you could do is to convey your willingness to accept some changes...to shore up the confidence and courage of the delegate."

Mitchell and his wife, Carol, a young husband-wife lobby team from Helena, explained the goals of the 500-member state Common Cause group.

The group wants in a constitution:

—A unicameral (one-house) legislature.

—Annual, unlimited legislative sessions allowing the legislature the right to set its own deadline.

—Single-member districts.

—Appointment of the auditor, treasurer and secretary of state with the group split over appointment of the school superintendent and attorney general.

—Team election of the governor and lieutenant governor.

—Partisan election of Supreme Court justices with the establishment of lower courts (district, justice and police) to the justices and legislature.

—Appointment of the clerk of the Supreme Court.

—Inclusion of a right-to-know (public disclosure) in the Bill of Rights.

THE ISSUE of partisan elections drew questions from some of the 12 members at the meeting in First Congregational Church.

"The only one who doesn't know a judge's party affiliation is the average voter," Mrs. Mitchell said.

"It was also thought this would place a burden on the parties to select competent candidates and would provide a way of getting financial backing, a lot depends on lawyers before a certain judge contributing to his campaign."

Francis Mitchell said Common Cause also seeks legislative checks on court rulings on procedural law, involving, for instance, evidence and search and seizures.

To provide further organization, the group is also planning a statewide workshop in Helena.

"It's our reading now that the Montana plan (providing for appointment of judges and the abolition of justice of the peace and police courts) for practical purposes is dead.

Both Mitchells agreed the convention so far has been open to all views from the public, and that they were impressed by the dedication of delegates.

ASKED ABOUT lobbying by groups such as utilities, Mitchell said, "It's just beginning to surface now. Their main interest is in environment and the hottest issue now is the public trust idea."

The pair also was asked why other goals hadn't been included in the Common Cause platform.

"We can't extend ourselves too far with 500 members concerned about every aspect of a constitution. We have to limit ourselves to get anything done," Mrs. Mitchell said.

THE PLATFORM was selected by a steering committee based on the essential aims of Common Cause nationally—in-

creased citizen participation in government and increased accountability, accessibility and responsiveness by the government to the public.

Mitchell cited a lack of communication by citizens to their delegates and stressed Common Cause's need for more funds and more publicity.

'Strange Bedfellows' Found Elsewhere on Panel

Political Execs Join Con Con Citizen Corps

HELENA (AP) — Sixteen Montanans, including the chairmen of both political parties, have accepted appointment as members of the Constitutional Convention Citizen Corps Executive Committee.

The announcement was made Thursday by delegate Daphne Bugbee, D-Missoula, who is chairman of the Citizen Corps Subcommittee at the convention. She said the membership included John Bartlett, Whitefish, chairman of the Montana Democratic Party, and William Holter, Great Falls, chairman of the Montana Republican Party. Also included are the heads of the Montana State AFL-CIO and the Montana Chamber of Commerce, two groups rarely on the same side of any issue.

Local citizen corps are organized in most of the legislative districts around the state to promote citizen interest and involvement in convention work.

Named as members were: Mrs. Jean Anderson, Billings, president, Montana League of Women Voters; Bartlett; Alexander Blewett Jr., Great Falls, Chairman, Montana Constitutional Convention Commission; Vincent J. Bash, Great Falls, president, Montana AFL-CIO.

Bruce M. Brown, convention delegate, I-Miles City; Mrs. Bugbee; Bernard J. Harkness, Dell, president, Montana Farm Bureau Federation; Holter; Dallas Howard, Missoula, president, Montana State Low Income Organization; Clyde T. Jarvis, Great Falls, president, Montana Farmers Union; Lyle Leeds, Havre, president, Montana Chamber of Commerce; Eugene H. Mahoney, Thompson Falls, vice chairman, Montana Constitutional Convention Commission;

Sen. Jack McDonald, D-Belt, chairman, Montana Constitutional Revision Commis-

sion; Cliff McKay, Browning, associate director, Association on American Indian Affairs; Rep. James Murphy, R-Kalispell, vice chairman, Montana Constitutional Revision Commission; May Opitz, Great Falls, Montana Student Presidents Association.

Mrs. Bugbee said she hoped some of the members would be able to speak to groups about the convention.

"The groundwork is being laid, and this is how the Citizen Corps is really helping us in evaluating the public reaction," she said.

Mrs. Bugbee said the activity of the local groups varied. Some were holding public meetings featuring the delegates. Other delegates were writing columns for weekly newspapers or taping radio shows to help stir interest.

The local groups will be assisted when they receive final committee majority and minor-

ity reports, which will be debated later in the convention.

Until the tentative proposals and final drafts were published, Mrs. Bugbee said it was difficult to send the chairmen of the local groups anything concrete for their discussions.

These reports, which are being printed this week, not only include the proposals but also comments by committee members justifying the recommendations.

State Merit System Given Con Con Nod

Tribune Capitol Bureau
HELENA — A Constitutional committee late Tuesday reversed an earlier position and recommended adoption of a controversial merit system for state employes.

The vote was 5-3, in the committee on Public Health, Welfare, Labor and Industry.

Delegate Charles Mahoney, I-Clancy, was vocal in his opposition to a state merit system, under which employes in all agencies would have their jobs protected from political change.

Why do we have to have a merit system? This state has operated beautifully," Mahoney said.

Mahoney thought it would be wrong if a new governor had to work with the staff employed by the previous governor. Mahoney also said he was worried

about the "monstrosity" of the federal civil service.

Delegate will Swanberg, D-Great Falls, said state civil service tests under a merit system could remove "a lot of competent people who couldn't pass."

Delegate R. J. Studer Sr., R-Billings, said that a merit system would improve the quality of Billings city employes. He described the present Billings city service as a "pretty good conglomeration of incompetents."

There was some discussion over the wording of the final adopted proposal, submitted by delegate Jerry Loendorf, R-Helena, of the legislative committee, which said "the legislature shall establish a system under which the merit principal will govern the employment of persons by the state."

Committee chairman George Heilker, D-Missoula, pointed out "there is no way you can force the legislature to act, only nudge them." However, Heilker supported such a nudge.

In adopting Loendorf's proposal, the committee reversed its earlier position against recommending a merit system. Killed by the committee Tuesday was a more detailed merit system proposal by delegate Lucile Spear, D-Missoula.

The committee also voted to delete some sections from the present constitution, including a section referring to the eight-hour day.

The Montana AFL-CIO several weeks ago told the committee that removal of the eight-hour day would be regarded as "an antagonistic act."

I am not trying to champion volcanoes and run away fires, I am just trying to stress that every puff of smoke may not be a pollutant.

In comparison to the above though, a mere trickle of man's concoctions seems to havoc nature. Maybe a guide line could be, if a thing is found in nature and at a certain level, don't fright, but study nature's ways and try to work with her. As an example, vaccines are a product where man has worked hand in hand with nature.

An idea, lobbying as it is known in the U. S. should be abolished.

As a proposition, the constitution of the U. S., which is a famously good document, was created by 55 men, from May 25 to Sept. 17. Much of that time they worked short handed, that is, due to various reasons many could not be present all of the time. But these men were left quite alone to argue and discuss the issues without much interference. In that atmosphere the Constitution of the U. S. was written, and later the first 12 amendments, known as the Bill of Rights, were added. A point, no lobbyist.

If they had all of the distractions that you delegates have I wonder whether they could have written such a document. Also, the glare and publicity of the TV and news cameras must be a detriment to good work. You can do nothing in these regards to help your convention but you could set guide lines for the future legislators.

Lobbying should be confined to public letters such as this. Then a sort of a discussion might result, via those public letters. A sort of a forum would result, which could be followed by the legislators.

Ideas might be uncovered which would benefit the general public. More equitable legislation would happen with this type of lobbying, and the legislators would more fairly represent the ordinary man, who after all is the one who elects him.

This idea of no lobbyists would be an innovation, but as some one once said, "innovation mixed with common sense is the handmaid to progress."

Sincerely yours,
Carl O'Hara

THE RIVER PRESS

PEOPLE'S COLUMN

Dear District 14 delegates to the CON CON:

I believe you have asked for letters of opinion to help you fashion a document that will be acceptable to the voters when presented. This is probably more than asked for but will try and keep it as brief as I can.

On pollution.—To pollute is defined in Websters Dictionary as: to make or render unclean; to defile; to desecrate; profane. Syn. See contaminate.

On the editorial page of the Dec. 25/71 issue of the River Press, there was an interesting article called 'Pollution and Perspective'. On pollution, the author reminds people that three volcanic eruptions in the past 90 years, ejected more dust, ashes and gases into the atmosphere than has all of mankind since the beginning of time.

A pretty strong statement, but I believe that the author used the wrong perspective when he termed the ejections as pollution.

I have looked up some data on a few famous forest fires. Beginning on page 267, in the book, The Big Blowup, 18 famous fires are listed. They occurred in the U. S. between 1825 and 1947. The period is a relative short length of time and the area is a comparatively small part of the world.

The 16 fires burned an estimated 12,000,000 acres. One of the fires listed, burned 3,000,000 acres and destroyed more than 7 billion board feet of lumber, so it is certain that a tremendous amount of smoke, ash, and gases, were ejected into the atmosphere. The listed fires do not count the thousands of other fires that have occurred, or the prairie fires that must have swept across the plains before the land was parceled and broke up.

My point, can those volcanic eruptions and burning organic matter, as forest, prairie, and stubble fires, or burning wood chips and saw dust, be classified as pollution, as it is defined in Websters Dictionary? I claim not. Although locally catastrophic, the fires were a cleansing agent. A vigorous new growth followed, free of disease, blight, or fungi.

Nature is like that, it can coddle and handle with care the most delicate situation, then with equal fervor she repairs. Many times she does not spare the parts when curing the whole. Also, maybe if it were studied, the smoke, gases, and ashes may be a settling agent or a factor in cleansing the atmosphere of undesirable pollutants.

And of course it is well known that dust particles form a nuclei for rain and snow fall, which of course does clear the air, colored rain has been known to fall. Remember, nature has been guided so that a one time fiery ball has evolved to the abundant earth that we now know. Also, a nothing, or a best a near naught, has been nurtured to evolve into the modern man. All this happened in an atmosphere that must have been quite hazy and nearly dark at times, even at midday.

Con-con committee urges cut in elective offices

By CHARLES S. JOHNSON
HELENA (AP)—A majority of the members of the Constitutional Convention's Executive Committee have recommended that the state auditor and treasurer be deleted from the new constitution.

However, research analyst Karen Beck said omitting them from the constitution would not preclude the legislature from providing for the offices in the statutes.

The majority report, which will be debated on the floor later in the convention, also provides that the governor and lieutenant governor run as a team.

It also calls for an elected attorney general and secretary of state.

How the superintendent of public instruction is to be chosen would be left to the legislature. The office presently is elective, but some delegates believe it should be filled by appointment.

Those signing the majority report are Chairman Thomas F. Joyce, D-Butte; vice chairman J. C. Gerlington, R-Missoula; Harold Arbanas, D-Great Falls; Fred Martin, R-Livingston; Richard D. Roeder, D-Bozeman and Margaret S. Warden, D-Great Falls.

Two delegates — Betty Babcock, R-Helena, and Archie O. Wilson, R-Hyattsville—will submit a minority report that would retain all present executive posts, including the auditor and treasurer, and keep them elected. Mrs. Babcock is the wife of former Gov. Tim Babcock.

Delegate James R. Felt was absent when the votes were taken.

It is believed, though, that the majority report consensus is a loose one, and that several members will fight for a short ballot on the floor.

Two of the delegates, Roeder and Arbanas, introduced separate proposals that would shorten the ballot and make some of the positions appointive.

Other highlights of the major report are:

—No age restrictions. The present constitution requires that candidates for governor, lieutenant governor, attorney general and public instruction superintendent be at least 30 years old at the time of election, and that candidates for secretary of state, auditor and treasurer be at least 25.

The majority report provides only that candidates meet a two-year residency requirement, those running for attorney general must have practiced law for five years prior to the election.

—Compensation. Unlike the present constitution, the report would permit the executive officials salaries, which are set by the legislature, to be increased during their term in office.

—Vacancies. The governor would be permitted to appoint a new lieutenant governor if a vacancy because of death, resignation or disability occurred. At present, no such provision exists.

—Departments. As approved by the voters in 1970, and enacted into law in 1971, no more than 20 departments, not including the office of the governor, secretary of state, attorney general and public instruction superintendent could be created by the legislature.

—Votes. Under the plan, the governor would be required to sign or veto each bill passed by the legislature thus eliminating the pocket veto. He would have five days to sign or veto a bill while the legislature is in session and 25 days if it had adjourned.

—Special Session. The governor would be able to call a special session of either house of the legislature or both houses. Moreover, two-thirds of the members of each house also could vote to convene a special session.

—Pardons. Under the proposal, the governor would retain his power to grant clemency and pardons but the Board of Pardons would be eliminated as a constitutional office, the minority report would keep the board as a constitutional entity.

—Succession. If the governor is disabled, the lieutenant governor and attorney general could declare that he was unable to discharge his duties thus convening the legislature. If two-thirds of the legislators agree, the lieutenant governor would become acting governor.

The governor, however, could declare that he was not disabled and resume the office unless the legislature overruled him by a two-thirds vote.

By DENNIS E. CURRAN
Standard State Bureau

HELENA — A water rights provision seeking to protect Montana's water for agriculture, industry and trout was adopted unanimously Tuesday by the Constitutional Convention natural resources committee.

The provision, an expansion of the present constitutional section on water rights, will be included in the natural resources report to be debated by the convention later this month.

All existing water rights would be confirmed, protecting industrial and agricultural users. But for the first time, recreation, scenic waterways and habitat for wildlife would be considered "beneficial uses" of water.

And for the first time, under the proposal, Montana's water would be owned — by the state "for the use of its people."

THE PRESENT water section bestows the right to use water but not own it. Neighboring states provide that either the state or the people own all water.

The committee proposal was drafted mainly by delegate C. B. McNeil, R-Polson, from combinations of delegate proposals and the Montana and Wyoming water rights sections.

McNeil told the committee Tuesday that declaring all water, including subsurface, flood and atmospheric waters, to be property of the state for use of the people is needed to protect the state's water from being gobbled up by downstream users in the future.

stream users in the future. "If it isn't claimed someday, somewhere, the downstreamers will claim it," he said. "If we don't (claim it) before this moratorium ends in 1977, the downstream states will file claims to this unappropriated water, and it'll be lost forever."

A part of the provision specifically declares recreation to be a beneficial use of water. It would overrule an existing law by allowing recreational right to water use without need for a "diversion" or "development works."

BESIDES RECREATION, the provision recognizes as beneficial uses domestic, municipal, agricultural, stockwatering and industrial uses as well as other uses defined by law and future uses determined by the legislature or courts.

Industry and agriculture would not necessarily be denied water rights because of recreation "though trout will now be permitted to stand in line with them," McNeil said.

The provision also would direct the legislature to provide for the administration, control and regulation of water rights and establish a system of centralized records. The legislature would be able to designate priorities for future rights if necessary.

For existing rights, whether adjudicated or not, priority of appropriation would be deemed the "better right."

Adoption of the provision Tuesday came after committee members, prompted mainly by delegate Jeff Brazier, D-Helena, suggested minor wording changes to a rough draft tentatively approved by the committee earlier.

McNeil noted that the entire section on water rights could be considered statutory. But he said that some parts of the provision, especially recognizing recreation as a beneficial use of water, would accomplish what the legislature had repeatedly refused to do because of fear of agricultural and industrial users.

Environmental Statement Approved Minus Worrisome 'Public Trust'

Tribune Capital Bureau
HELENA — The Constitutional Convention's Natural Resources-Agriculture Committee finally approved an environmental statement after hours of argument.

The committee first succeeded in tabling a controversial proposal for a "Public Trust" Doctrine by its chairman Louise Cross, D-Glendive. Mrs. Cross' proposal would have allowed citizens to bring class actions against polluters.

The finally-adopted proposal says:

— The state and each person must maintain and enhance the environment of the state for present and future generations.

— The legislature must provide for the administration and enforcement of this duty.

— The legislature is directed to provide adequate remedies for the protection of the environmental life support system from degradation and to provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

The statement originally referred to the state's "unique"

environment. Leading a successful fight to delete this wording was delegate Douglas Delaney, D-Grass Range. The final vote on the proposal was 7-1 in favor, with Chairman Cross abstaining from the vote.

In earlier discussion, before an amended version of Mrs. Cross' Public Trust Doctrine proposal was tabled, delegate C. B. McNeil, R-Polson, referred to it as "a complete socialization of private property in the United States."

"This isn't socialism, it's anarchy," said delegate Jeff Brazier, D-Helena.

Brazier said that after he explained his opposition to the Public Trust Doctrine at a meeting in Broadwater County Monday night. "I thought they were going to anoint me king."

Delegate Ery Gysler, R-Fort Benton, said the Public Trust Doctrine — under which the total environment would be held in a trust fund for the state — came under attack when Con delegates met Monday night with citizens in Chester.

Gysler said that the majority of the proponents of the doctrine failed to understand it.

Delegate John Anderson, R-Alder, said that in Madison County "people are scared to death of this."

The committee did adopt its formal recommendations to the convention concerning water rights, including a section which, as McNeil explained it would give trout an equal chance with other demands on water.

The proposal lists beneficial water uses, including domestic, municipal, agriculture, stockwatering, industry, recreation, scenic waterways, habitat for wildlife and all other uses presently recognized by law, together with future beneficial uses as determined by the legislature or courts in Montana. Priority of appropriation for beneficial uses shall give the better right.

The proposal apparently would benefit cattle in addition to trout. Stockwatering and recreation are not now recognized beneficial uses of water.

The committee may still adopt additional environmental proposals, including a suggested constitutional statement on strip mining and recycling.

Con-con committee adopts water rights provision

Misquoted

Editor, Independent Record:

The Independent Record has inadvertently quoted me as favoring the partisan election of judges. In order to guarantee an independent judiciary in Montana, our judges:

- (1) Should be appointed to serve during good behavior and;
- (2) Receive adequate salaries.

Robert L. Kelleher
Delegate, District 8

Delegates Offer Tongue-in-Cheek Document

Pixies Propose Preamble's Preamble

HELENA — The Constitutional Convention's Bill of Rights Committee Wednesday adopted a proposed new preamble to the Constitution.

Although there is some question as to the value of having a preamble at all, the subcommittee that came up with the final draft went a dazzling extra mile in drawing up a nice preamble to its preamble.

The preamble says, "We, the people of Montana, grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution."

But before presenting the preamble to the committee, subcommittee chairman George James, D-Libby, read the preamble's preamble which was graven in a curious script on tablets of stone:

"We, the delegate members of the subcommittee of the Bill of Rights, gathered under the aegis of the Great Spirit, near the copper-clad dome of the capitol of the Treasure State, on the wind-swept slopes of the Big Sky country, this 15th day of February, 1972, A.D., second day of the Year of the Rat, 4570; first day of the year of the Prophet Mohammed, 1362, on the anniversary of the birth date of Susan B. Anthony, do hereby submit this completed draft of the Preamble to the Constitution of the State of Montana.

"This preamble, an amalgam of the thought processes, research and inspiration of delegates Don Foster, Mae Nan Robinson, and Bob Campbell, edited by delegate Chet Blaylock and protected from the insertion by delegate Lylo Monroe by the mention of basic necessities by the divisor of compromise, subcommittee chairman George James, shall remain inviolate from the ravages of any other member or combination thereof of the Bill of Rights Committee."

After listening to the preamble to the preamble, chairman Wade D. Hood, R-Anaconda, said, "what's left? let's just put that in as the preamble."

Constitution may have antigambling provision

HELENA (AP) — Gambling and lotteries would be forbidden if a Constitutional Convention committee report is approved, but the committee left the door open for the legislature or voters to legalize them in the future.

The General Government and Constitutional Revision Committee voted Wednesday to include an antigambling provision in the constitution. It would outlaw gambling and lotteries unless authorized by the legislature or approved by the electorate.

Some members favored omitting any references to gambling and lotteries in the new document, but others feared the public might misunderstand the feeling of committee members toward gambling.

The present constitution explicitly forbids the legislature from enacting any law "to authorize lotteries or gift enterprises for any purpose..."

Delegate Bob Vermillion, D-Shelby, said most of the committee believed the constitutional section is necessary to allay fears that gambling would be implemented if the constitution passes.

If the section is approved and the constitution adopted, he said state legislators would be responsible for deciding whether

gambling and lotteries ought to be legalized. Citizens also could start action through an initiative or force a referendum if the legislature approves gambling.

Two of the eight committee members, Lyman W. Choate, R-Miles City, and Paul K. Harlow, D-Thompson Falls, favored removing any constitutional reference to gambling and lotteries. They plan to file a minority report.

The committee's recommendations on suffrage, elections and constitutional revision will be debated by the 100 delegates beginning Thursday.

Their report on gambling and miscellaneous provisions will be taken up after the other nine committee reports are debated.

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Their report on gambling and miscellaneous provisions will be taken up after the other nine committee reports are debated.

Civil service for state employes

The civil service principle as applied to employment by the state under the merit system label goes to the floor of the Constitutional Convention with 5-3 approval of the convention's committee on Public Health, Welfare, Labor and Industry.

An objection to the proposal, voiced by Delegate William Swanberg of Great Falls, is that state civil service examinations under a merit system might result in elimination of some persons who do a good job but who might not pass a formal test because of the strain under which it is taken. This objection probably could be met by inclusion of a "grandfather clause" exempting persons already employed from the necessity of passing the examination.

Another possibility would be to give such persons additional percentage points on their grade, in the same way that veterans' preference adds a certain number of points to the grade of an applicant for a federal position under civil service.

Delegation asks tax assurance

By DANIEL J. FOLEY
Gazette Staff Writer

HELENA — A delegation from Silver Bow County asks a Constitutional Convention committee Wednesday to insure that the tax on net proceeds of mines remain with counties and not be diverted to the state.

Among those appearing before the Revenue and Finance Committee were Butte Mayor Mike Niccone, Silver Bow County Atty. Lawrence G. Stimatz, County Assessor George D. McGrath and Butte Chamber of Commerce President R. E. "Shag" Miller.

The committee has been considering having the transfer of all metals and other minerals to the Legislature rather than setting forth any right formula in the constitution.

BUT THE BUTTE delegation and some county leaders might want to use the net proceeds for the state budget, thus depriving Silver Bow County of a major part of its tax base. Under the present method of taxing, the tax on the net proceeds of mines is used instead of a property tax on the value of metals and minerals.

Proponents of that method of taxation believed that it is impossible to determine the property value of minerals buried in the ground because no one knows the extent of any deposit. They say that the net proceeds, the value of the minerals after subtracting expenses of removal, is a more equitable tax and one that can be accurately determined.

CRITICS CONTEND that the present constitution leaves the mining industry a big tax break.

But the Silver Bow delegation did not argue the merits of the net proceeds tax. The group simply wanted to insure that the money from the Anaconda Co. continues to go to the county.

Stimatz said that the net proceeds from Anaconda Co. mines added up to 22 percent of the county's taxable valuation in 1971 and 15.3 percent the year before.

Niccone said that he believes the money should go to the counties, not the state, because it is the county which has to deal with the problems of living on the surface.

NICONE SAID he was sure that Butte could successfully fight any attempt by the Anaconda Co. to have the Legislature repeal the net proceeds tax, but he said he's not so sure that all counties could beat back a similar attempt by big oil companies.

Miller said loss of the net proceeds revenue would add an additional 60 mills to the tax levy of other Silver Bow property at a time when the county was trying to attract new industry.

The committee informed the delegation that it is considering a proposal which reads: "No oil, minerals or property tax shall be levied upon mines in the state, but the net proceeds of all minerals produced in this state shall be taxed as provided by law."

Delegate Charles Mahoney of Glancy declared that it would be wrong for a new governor to have to work with the staff employed by the previous governor. Here again exception could be made so that the merit system need not necessarily apply to members of a governor's personal staff.

Neither of the objections raised should stand in the way of adoption of a system which could not help being beneficial in what should be a continuing effort to upgrade the efficiency level of state employes.

Mahoney said he was worried about the "monstrosity" of the federal civil service system. The antidote for possible development of such a situation in Montana state government should be the executive reorganization carried out under mandate of the voters in 1980, that the 160 existing state departments and agencies should be condensed into not more than 20.

Environmental

statement approved

STANDARD STATE BUREAU

HELENA — An environmental statement which backs away from some of the controversial over environmental protection has been approved by a majority of the Constitutional Convention Natural Resources committee.

Meanwhile, the convention's Bill of Rights Committee has dropped its environmental provision "in deference" to the natural resources committee.

The natural resources provision has three parts:

—The state and each person "must maintain and enhance the environment of the state for present and future generations."

—The legislature must provide for administration and enforcement of this duty.

—The legislature must "provide adequate remedies for the protection of the environmental life support system" and prevent

"unreasonable depletion and degradation of natural resources."

THE PROPOSAL, which will be part of the natural resources report to be debated by the convention as a whole later this month, won the approval of seven of the nine committee members after a full day of argument in committee Tuesday.

The statement rejects any mention of the public trust doctrine. The trust concept, which was vigorously advanced by committee chairman Louise Cross, would put the total environment in a trust fund to be managed for the benefit of the people of the state.

The committee proposal also does not give citizens the right to sue polluters without actually suffering monetary damages.

Environmental groups had backed strongly both the public trust and citizen suit provisions as being necessary to protect the environment. Committee members expressed concern that private property rights would be lost under the trust and that frivolous law suits would result from the citizen suit proposal.

ANOTHER compromise by the committee was the deletion of any descriptive adjectives before the word "environment." Earlier proposals had used such modifying words as "quality," "healthful" or "pleasing," and the draft first considered by the committee

Tuesday referred to maintaining a "unique environment."

The Bill of Rights Committee last week approved a tentative provision requiring all parties to "maintain and enhance a high quality environment for the public benefit" with enforcement by the legislature.

However, committee chairman Wade Dehood said Wednesday that the committee decided to omit its provision because the Natural Resources Committee had reached agreement. Both committees have studied environmental protection.

The Bill of Rights Committee still has the option of reinstating its provision in its report.

The public trust doctrine, coupled with provision for citizen suits, likely will come before delegates with an amendment offered from the floor.

The unbelievable happened

By DENNIS E. CURRAN
Gazette State Bureau

HELENA — With a twinkle in his eye, Billings Republican R. J. Studer stood up to back Laurel Democrat Chet Blaylock during a recent Constitutional Convention session.

"I don't normally rise to support Mr. Blaylock," said Studer, a conservative contractor, while Blaylock, a former Democratic Party state chairman, grinned.

As delegates bowed in laughter, convention President Leo Graybill Jr. quipped, "I didn't realize we had made so many quick alliances."

WHILE HARDLY AN alliance, the incident was more than a politics-makes-strange-bedfellows accommodation. And it points out what has become increasingly clear as the convention begins its great debate—partisan politics don't count.

Partisanship has been dimming ever since November when the 58 convention Democrats flexed their muscles to elect Graybill, a Great Falls lawyer and former Democratic congressional candidate, convention president.

But aided by alphabetical seating, a truly bipartisan slate of leaders and committee chairmen and most important, fundamental issues on which neither party has a traditional position, the convention has moved away

NEWS ANALYSIS

from partisanship almost completely.

"IN DECEMBER, I could identify most of the delegates by party, but now I can't," Graybill said recently. "They get all mixed up in your mind."

Graybill is not alone, either. Butte Democrat Dave Holland, chairman of the Judiciary Committee, recalled Wednesday that when the convention started, he didn't believe it could be nonpartisan.

"Now I can't remember the parties of the committee members," he said.

Neither could Kalispell Republican Sterling Rygg, chairman of the Revenue and Finance Committee. Last week Rygg recalled, Noel Furlong, D-Kalispell, guessed at the affiliation of two committee members and was wrong both times.

MORE SIGNIFICANTLY, votes in committee invariably show a lack of partisan division.

For example, unicameralism has its fans in both parties—and its enemies. An Education Committee majority report prohibiting aid to nonpublic schools has the support of six Democrats and three Republicans while two Democrats and one Republican favor a minority report.

Since the first organizational meeting, neither party has caucused or adopted a formal position on any convention issue.

BUT A LACK of partisanship doesn't make the convention one big happy-family. As delegates are quick to point out, there are many splits on specific issues and a general split over ideology.

The convention has a general "liberal-conservative" split that often is manifested in those who want broad, sweeping changes in the constitution versus those who would like it changed only slightly.

Members of both parties are found in both camps. If there is a trend, Democrats in general tend to have more liberal philosophies than Republicans, but there are far too many exceptions to generalize.

"THERE'S SOME division between conservatives and liberals that tends to correspond to party lines, but there are liberal Democrats and conservative Democrats, liberal Republicans and conservative Republicans," notes James Felt, a Billings Republican.

Moreover, the liberal-conservative split changes from issue to issue, with many delegates seeming "liberal" on some issues but conservatives on others.

"In education, you get one set of liberals and one set of conservatives, and in natural resources you get a different set and in judiciary another—there's mobility between the

groups," Graybill noted.

WITH DEBATE starting Thursday, positions may become solidified, but with the possible exception of a few issues like right-to-work, utility regulation and possibly taxation, few see the delegates solidifying along partisan lines.

Even if they do split on party lines, Graybill believes, it will be because of basic philosophies of the delegates rather than political parties. "I don't think partisanship will be a motivating force even if there is a split on partisan lines," he speculated.

The great debates, then, probably won't find delegates with as differing philosophies as R. J. Studer and Chet Blaylock supporting each other too often. But their differences will be motivated by something much higher and more basic than the name of their parties.

Don't get locked in

A constitutional limit of 12 per cent interest has been proposed by Yellowstone County Delegate Jerome Cate.

Existing Montana law permits interest up to 38 per cent, he charges, and he says the law is a "robbery statute." He argues also that the state legislature has been unwilling to do anything about it.

Cate's concern about the plight of poor people at the hands of loan sharks is certainly valid. However, laws governing interest rates are statutory in nature, and not proper material for a constitution.

Credit and fiscal practice are being revolutionized year by year. It is possible that a century from now we will be in a moneyless, or even creditless society.

It would be tragic if such a sta-

tutory provision were to hamstring the future economy in some unforeseen way.

Given a 10 per cent annual inflation, for example, and a 12 per cent interest ceiling, it is conceivable that Cate's unchanging, unbending rule could simply dry up credit for all Montanans.

In certain Latin American countries, interest rates often run 25 or 30 per cent, not because lenders are gouging debtors, but because lenders must recoup the debt in cheaper money because of 18 or 20 per cent annual inflation.

Thus, embedding a fixed interest ceiling in the constitution is dangerous to economic growth.

Cate's intent is excellent, and we hope the issue will be pursued in the next legislature. The poor need relief from the sharks.

District proposal dropped

Standard State Bureau

HELENA — A controversial proposal to break local government "districts," which was to be declared as a minority report, has died in the Constitutional Convention Local Government Committee.

The proposal had been offered by delegate Franklin Arness, D-Libby, who called it a local option plan for local government.

Basically, it would create home rule districts instead of the present overlapping system of cities and counties, though local voters would be free to retain the present system if they wished.

Last week, Arness had the two allies needed to bring the district plan to the floor as a minority committee report. But Wednesday delegate Katie Payne, R-Miles, backed off, leaving only Arness and

delegate Lynn Sparks, D-Durze.

Mrs. Payne said she thought the district plan was weakened by an amendment included at the last minute to provide for counties opting out of the district plan.

Arness, adhering to a pledge made to the committee two weeks ago, said he won't offer the

plan as an amendment from the floor. He said he thinks a floor fight would be fruitless "when I can't even get the plan out of my own committee."

"I tried to get it out, and I can't," he said. "If somebody else brings it out, it might have more chance."

When first proposed, the district proposal generated heated reaction from some

delegates and a petition was even circulated against it. But response was more favorable at the local government committee's formal hearing Tuesday night.

The majority committee report allows cities and counties to write their own local charters to revise forms of government and get "home rule."

Teacher at Con Con

Mail Favors Present School Funding

Whether public tax revenue should be used to partly support private schools is the subject of much of the mail received by Robert Woodmansey, a Great Falls teacher who is a delegate to the Constitutional Convention.

Woodmansey, a member of the Con Con education committee, said, "Most of this mail is in favor of retaining the section of the constitution as it is. The committee itself is 84 in

favor of leaving the section as it is."

The teacher spoke at a meeting of the PTA Council.

Woodmansey said lack of tax support can be heard on private schools. He commented on an Indian school operated by Indians on the Rocky Boy Reservation.

"There is no private land there subject to taxation," he said. "The school is entirely

dependent on some kind of federal or state support for its existence."

As for whether the state superintendent of public instruction should be elected or appointed, Woodmansey said:

"If the State Board of Education is appointed, the state superintendent should be elected by the people. Otherwise, too much power is placed in the hands of the governor."

4—The Montana Standard, Friday, Feb. 18, 1972

Opinion + Comment

Protecting our water

The water rights provision adopted this week by the Constitutional Convention's natural resources committee shows realistic concern for Montana's interests and an enlightened attitude about what constitutes "beneficial" use of water.

The provision would place ownership of the state's water with the state, "for the use of its people." The intent here is to make sure that thirstier or more heavily industrialized "downstream" states don't appropriate Montana water for their own uses in future years.

Secondly, the provision would recognize recreation, scenery and wildlife habitats as beneficial uses of water. It would also recognize as beneficial the domestic, municipal, agricultural, stockwatering and industrial uses of water. But for the first time, according to Delegate C. E. McNeil, of Polson, recreation will be

considered along with industry and agriculture when it comes to water uses.

The new provision is significant. Montana has a number of historic and beautiful rivers and lakes. Some of these, in the parlance of the sportsman, are known as "blue ribbon trout streams." Not only are these water bodies prime attractions for tourists, who constitute one of the state's biggest and cleanest industries, but they are also among the assets that make Montana such a fine place to live.

Water, of course, is crucial to all aspects of society. It can't all be saved for the fisherman or the nature lover. But it would be tragic if Montana couldn't keep a good portion of its scenic water resources clean and unspoiled for the permanent enjoyment of its people.

We Goofed on Convention

Our Sunday Smorgasbord said the Constitutional Convention was \$14,000 in the red. Well, we goofed and that statement just isn't so.

The Constitutional Convention Commission is the agency which is in the red and its budget is in no way connected with the budget of the Constitutional Convention; except that had any money been left over in the commission's budget it would have gone to the convention. The commission did the

preparatory work for the Constitutional Convention.

The true fact regarding the convention's budget as of Feb. 14 is that it is in balance. Increased costs in court reporting of \$3,450 have been offset by reduced costs in public information.

According to delegate John Toole chairman of the Administration Committee, the only unknown cost at this moment is the telephone bill, which he says will be clarified this week.

We regret the error.

No Major Lobbyist Tabs Filed

HELENA (AP) — Second-round expenditure reports filed by 72 lobbyists through Thursday showed their Constitutional Convention expenditures ranged from none to \$48.50.

With 13 of the reports due last Tuesday still missing, the biggest spender was Robert A. Durkee, Helena, who spent \$25 on behalf of one veterans' group and \$23.50 for another.

Next, with an outlay of \$23, was Joe Curtis, Big Timber, who registered as a lobbyist just a few days ago.

He said the money was spent on refreshments and dinners for Con-Con delegates.

Except for the 20 lobbyists who said they made no expenditures in behalf of their principals during the latest two-week reporting, listed expenses were mostly between \$1.95 and \$22.75.

Lobbyists who do not have their second-round reports in to Secretary of State Frank Murray by Tuesday morning will have their licenses suspended.

Poll-Booth Registration

Sentiment Turns On, Off

By CHARLES S. JOHNSON

HELENA (AP) — Constitutional Convention delegates got their first tastes of debate Thursday, and the flavor changed from morning to afternoon.

In the morning, delegates voted to include a constitutional provision that would require poll-booth registration. The proposal would have allowed citizens to register to vote and cast their ballots right up until the polls closed. At present, registration must be completed 40 days before the election, or persons cannot vote.

After some hunchtime lobbying among delegates, they reversed this action — for the time being, at least — in the afternoon. Instead, they tentatively approved language that would allow the legislature, if it chooses, to implement poll-booth registration.

But the matter still could be considered again when debate resumes Friday.

The delegates, who have spent about 4½ weeks in committee work, began debates on the general Government Committee's report on suffrage and elections.

Actually most delegates liked the concept of easier registration. The debate zeroed in on whether it belonged in the constitution.

Only one state, North Dakota, provides for the poll-booth registration. It is part of North Dakota's statutes, not its constitution.

Here is how delegates tentatively resolved the question:

The General Government Committee majority opposed including the provision in the constitution, but two committee members, Bob Vermillion, D-Sheridan, and Peter Lorello, D-Anaconda, offered a minority report that would mandate the legislature to set up the system.

A lengthy debate followed. Shortly before noon delegates, by a slim 52-48 vote, agreed to the Vermillion-Lorello proposal.

Vermillion pointed out that the system had worked well in North Dakota. Other delegates said the right to vote without barriers was so fundamental it belonged in the new document.

"It is not a privilege to vote," Wade J. Dalwood, R-Anaconda, said. "It is a fundamental and inherent right."

Although some delegates feared the change could lead to fraudulent elections, Dalwood said: "Our law provides that all citizens are presumed to be honest."

A few delegates believed that persons interested in voting had no problems with the present system.

Marian S. Erdmann, R-Great Falls, said registration was no problem for "a good citizen."

Another Great Falls woman, Virginia Blend agreed.

"We have instant tea, instant breakfast and instant orange juice," the Democratic delegate said, calling the proposal "instant voting."

Mrs. Blend and other opponents said enacting such a plan would create chaos for county clerks and recorders, who would not know how many ballots to have on hand.

Some opponents, such as C. B. McNeil, R-Polson, liked the concept but said it was legislative and did not belong in the constitution.

David L. Holland, D-Butte, backed the plan, noting that legislators were not likely to act on it, adding:

"They haven't for 75 years."

One opponent, Marshall Murray, R-Kalspell, said proponents lacked the needed information on how the system worked in North Dakota.

Proponents, consisting generally of the younger, urban liberals, mustered enough strength to win the first battle 52-48.

Delegates voted to send the section and the entire voting article on to the Style and Drafting Committee before they left for lunch.

An erroneous motion made by floor leader Eddie "Joe" Eskildsen, D-Halfa, and accepted by President Leo Graybill Jr., D-Great Falls, however, provided the leopards opponents needed.

Because of the parliamentary snafu and a vote to reconsider, the proposal was brought back to the floor. A substitute motion embracing the majority report that was defeated in the morning was adopted with minor modifications.

Those opposed to including poll-booth registration in the constitution said the morning action was hasty. Delegate Margaret Warden, D-Great Falls, hinted that proponents were swayed by emotions.

Another Great Falls Democrat, Lyle Monroe, said "some sore losers from this morning" were behind the move.

An attempt by Paul K. Harlow, D-Thompson Falls, to get the registration language back into the substitute motion failed 51-49 as several delegates changed their minds from the morning vote.

In the wings

Montana's Constitutional Convention delegates are confronted

with a wide variety of proposals to solve our ills:

One which appears to have some attraction is that of Delegate Robert Kelleher of Billings who wants a parliament which will select its own chief of state.

Great as the merit of his argument may be, it is a term that is alien to our political culture and conjures up visions of lords and kings.

Of course, in the event it should ever become a fact, Billings has a ready-made candidate for the kingship...

Rattle 'n' roll

Another of the ConCon offerings which has merit on the face of it is the proposal to have a one-man board to determine utility rates in Montana.

Should the proposal ever become effective, we'll predict that U.S. Sen. Lee Metcalf would be most happy to quit the shores of the Potomac and accept the chore.

He'd give them a pretty fair shake.

Lindbergh: Control of Land Vital

HELENA (AP) — Charles A. Lindbergh told an informal meeting of Montana Constitutional Convention delegates Thursday night that "government must be given supervision of natural resources, including land."

The world-famous aviator said such controls are "bound to happen" if there is to be a stop to the destruction of the environment.

"The environment of the earth must be the property of the human species, not just a generation," he said. Lindbergh proposed a two-pronged approach to saving the environment. First, the creation of plans for conserving and using resources. Second, a means of enforcing those plans.

"We must have the utmost freedom of use and control of our resources, but not to the extent that we destroy the environment for the future," he

The first man to complete a solo flight across the Atlantic said his flying career led to his interest in ecology. Through his many years of flying, both civilian and military he became familiar with all areas of the world. "I first became disturbed, then highly alarmed at what was happening all over the earth."

"There is less sign of deterioration here (Montana) than in many other places," he told the delegates. Lindbergh spoke of the "great opportunity" for them to protect the state's resources, but he refused to comment on Montana law or "what should be done in the state."

Lindbergh, 70, appeared before the convention Thursday to present the third address in the Montana Constitutional Convention's Distinguished Speakers Series.

"I first flew here in 1923; barnstorming in Billings, Lewistown and Red Lodge," he said in noting the changes in Montana. Subsequent visits to Montana.

"What you are doing here is where the hope lies," Lindbergh told the delegates. "Supervision of the environment of the earth, or any section of it,

by government, be it county, state, national or even international."

"It will take great judgment to know where to stop," he said in regard to government supervision. He also urged that any changes be made "through trend rather than revolution. But change must come faster than in the past."

Lindbergh said he does not see industrialists as an evil force when it comes to protecting the earth's resources. "They have problems and need help; we must give that help to them."

Lindbergh would not allow television cameras into the meeting, and refused a taped radio interview with a local radio network. He did not seem to mind, though, when delegates took snapshots of him and even autographed the finished pictures.

Also present was Lindbergh's son, Carl, a cattle rancher near Greengrass, near Missoula.

Pros and Con Con Highway Users Critical of Con Con's 'Weakening' of Antidiversion Clause

Tribune Capital Bureau

HELENA — A plan to divide Montana into districts for the administration of local government has failed to muster sufficient support to get out of a constitutional convention committee.

Delegate Franklin Arness, D-Elbow, a member of the Local Government Committee, had planned to submit his districting plan as a minority proposal by the committee. Other delegates supporting the Arness plan had been Katie Payne, R-Missoula, and Lynn Sparks, D-Butte. Then Mrs. Payne decided not to support the proposal. Sparks left the plan short of the 25 per cent support it needed to clear the 11-member committee.

Arness' proposal, which was discussed at a formal hearing Wednesday, would have required approval of voters in areas affected by districting.

Arness said he would not try to revive his proposal through the amendment process when the committee's majority report reaches the convention floor.

Arness said that some persons thought that his plan was politically unwise. However, he said it had support from people across the state. People feel there are too many layers of government, he said.

No Political Ban

HELENA — A Great Falls woman has succeeded in her attempt to have a Constitutional Convention committee recommend that employers be forbidden to prevent political activity by their employees.

Carla Beck, president of the Great Falls Newspaper Guild, wrote to Lyle Monroe, D-Great Falls, a member of the Bill of Rights Committee.

Monroe then convinced the committee to recommend that persons, firms, corporations or institutions could not discriminate against a person's civil and political rights.

Mrs. Beck's letter had suggested a more specific provision saying that "no employer shall deny or infringe on the rights of employees to participate in the political process."

Her letter said that many able citizens are prohibited from engaging in politics because "they are prohibited from involvement, either explicitly or implicitly, by their employers."

Constitution 'Saver'

HELENA — Roy Crosby and his Citizens for Constitutional Government have come up with a unique plan to salvage the efforts and cost of the Constitutional Convention, regardless of the quality of the final product. If the constitution is bad, he says, kill it in June and enter the good parts to the voters in November.

The Missoula man observes that about three-quarters of a million dollars have been sunk into the convention and its preparatory commission and that the total would probably approach \$1.3 million if one goes back to previous commissions, legislatures and other pre-convention efforts. It'd be a shame to let all that go down the drain, he says, if the convention turns out a bad constitution.

But a lot of good proposals are bound to come out of the convention along with the bad, he says. So if the overall constitution is too bad, "we just kill it and put in the good things."

Crosby figures there are enough members in his group to reach up the required petition signatures for an initiative in 18 days. And even though the number of constitutional amendments is limited to three on the ballot at a time, Crosby notes that the Supreme Court has ruled that each could be broad enough to encompass plenty of material.

How They Voted

HELENA — An attempt by delegate Paul Harlow, D-Thompson Falls, to extend voter registration right up to the day of the election failed Thursday 49-51.

Here's how the delegates voted:

Yes — Arbanas, Arness, Artz, Berg, Bugbee, Burkhardt, Cain, Campbell, Cate, Champoux, Cross, Dahood, Driscoll, Eck, Foster, Furlong, Garlington, Graybill, Red Hanson, Harbaugh, Harlow, Harper, Harrington, Haliker, Holland, Jacobsen, James, Joyce, Kelleher, Loendorf, Lrella, Mansfield, McCarvel, McDonough, McKeon, Monroe, Payne, Reichert, Robinson, Rollins, Scanlin, Schiltz, Sklerius, Skari, Sparks, Speer, Sullivan, Toole, Vermillion.

No — Aasheim, John Anderson, Oscar Anderson, Aronow, Ask, Babcock, Barnard, Bates, Balcher, Berthelson, Blaylock, Blend, Bowman, Brazier, Brown, Choate, Conover, Davis, Deineny, Drum, Erdmann, Eskildsen, Etchbart, Felt, Gyalic, Habedank, Bob Hanson, Johnson, Kamholt, Lauthold, Mahoney, Martin, McNeill, Melvin, Murray, Noble, Nutting, Pamberton, Rabal, Roeder, Romney, Rygg, Simon, Studer, Swamberg, Van Bostirk, Wagner, Ward, Warden, Wilson, Woodmansy.

HELENA (AP) — The head of the Montana Highway Users Federation has criticized a constitutional convention proposal that would weaken the antidiversion amendment.

Robert F. Dye, chairman of the group and a Republican state legislator, said the Constitutional Convention seems to be saying, "Take us back to the good, old horse-and-buggy days."

In jeopardy, Dye said is the present amendment, passed by voters in 1956 by better than a three-to-one margin. It provides that all gasoline tax revenue, motor vehicle fees and excise taxes be earmarked for use by the highway department.

Under the proposed Revenue

and Finance Committee action, motor vehicle fees and excise taxes would be omitted from the earmarked money, which would cost the state \$7 million, Dye said.

Moreover, the list of highway-related activities for which funds may be spent would be broadened to include highway patrolmen's salaries and driver education programs. These costs would lop off an additional amount of almost \$4 million annually, he said.

The proposal would make it difficult, if not impossible, to continue the state's road and highway program, Dye said.

The remaining funds could be appropriated for other purposes

if 60 per cent of the legislators in each house approved.

"There isn't any doubt a 60 per cent majority could be mustered to tap the highway fund to bail out the state general fund at the expense of every Montana citizen who drives a car or truck," the state representative said, adding that the legislature is always desperate for funds.

He said highway taxes, unlike general property and income taxes, are "a direct charge for a specific service."

"Today's constitution protects these highway funds from political whims and pressures for the benefits of every citizen," Dye said, urging it be retained.

HAMILTON, MONTANA, WEDNESDAY, FEBRUARY 16,

Now at Hand, Dr. Ward Reports Serious Business of Convention

By Bob Giluly
Advice from Dr. Jack Ward: Don't judge the Montana Constitutional Convention too prematurely.

Dr. Ward was in town briefly early this week and agreed to an interview to give local constituents a progress report on the convention.

He noted about 178 delegate proposals have been heard at the Helena sessions to date, as well as several hundred suggestions and comments from interested individuals. Many of the proposals already have been killed or modified, he noted.

"It was hard to separate the wheat from the chaff in the first few weeks of the convention and some people got the idea we were seriously considering some of the crackpot ideas that popped up," Dr. Ward commented.

The serious business of the convention now is at hand. Informal committee hearings were concluded Tuesday, when Dr. Ward returned to Helena and floor debate is scheduled to begin Thursday on various drafts that have passed committee votes.

Dr. Ward is serving as vice chairman of the labor, industry, public health and welfare committee.

Ravalli County's other delegate, Miles Romney of Hamilton, was instrumental in setting up informal committee hearings where citizens could voice their opinions.

Reacting to specific questions, Dr. Ward offered the following:

1. An environmental protection clause, something conservation groups have been pushing hard for, probably will show up in the final bill of rights and possibly in the agriculture section of the new constitution. It will not be as strong, however, as conservationists want it to be.

2. Virtually all considerations have been tied to economics and taxation. There is no way to separate hard economic facts of life from the many proposals we have received," Dr. Ward commented. He said much interest has been shown in educational funding and other methods of raising revenue for state and local services.

3. Probably the overriding interest from citizens has been in the area of protecting individual

rights. Dr. Ward felt this may be one of the most strongly-worded clauses in the new constitution.

4. No one interest group seems to dominate the convention or the lobbying delegation. "All sides are represented, and I think fairly," he commented. There's much evidence of strong rural or agricultural pressure, as well as the traditional smooth

lobbying efforts of Anaconda Company and Montana Power Co. officials, he added. Labor also is well represented.

5. A decision on the state legislature may involve much debate in the current session. The committee proposal still includes two alternatives two-house or unicameral legislative body. There's also no firm opinion on whether the lawmakers should meet annually or every two years.

Dr. Ward said he is receiving four or five letters daily from valley people and while he cannot answer them he still welcomes local comments and wants to hear from more individuals.

His address is 919 Stuart Street in Helena or letters may be sent to him in care of Montana Constitutional Convention, State Capitol Building, Helena.

Debate on the new constitution will continue through early April, the local veterinarian commented.

After the constitution is approved in the convention, he added, Montana citizens will vote to approve or disapprove in the June 6 primary election.

He stressed the people of Montana, ultimately, will have the final say so in adopting a new constitution.

Private Schools 'Should Get' U.S. Aid State Firearms Proposal

Faces Con Con Rejection

Tribune Capitol Bureau
HELENA — Three members of the Constitutional Convention's Education Committee will submit a proposal to insure that Montana's constitution will not cut off federal funds to private schools.

The proposal, which will be recommended as a minority report to the convention, is an amendment to Article 12, Section 8 of the constitution. This section, which prohibits public aid to private schools, has drawn as much comment as any issue during Con Con hearings.

The new proposal says "this section does not apply to federal funds provided to the state

for the express purpose of distribution to nonpublic education."

The proposal will be submitted by delegates Gene Harbaugh, D-Poplar, Dan Harrington, D-Butte, and John Toole, R-Missoula.

Harbaugh told the Tribune that in at least three states that the flow of public funds to private schools has been endangered by state provisions.

Harbaugh and Harrington emphasized that the proposal would in no way affect the present prohibitions against state funding of private schools.

Harrington also tried to substitute a provision similar to

wording in the U.S. Constitution for Article 12, Section 8 that read "The legislature shall make no law respecting any establishment of religion or prohibiting the free exercise thereof." He was unable to get enough support for a minority report.

TRIBUNE CAPITOL BUREAU
HELENA—The Constitutional Convention's Bill of Rights Committee will reject requests by major state gun clubs for a proposal to prohibit registration of firearms.

In addition to hearing testimony last Saturday in favor of an anti-gun registration provision, the committee has received petitions signed by 1,078 persons.

The petitions recommend a provision that says "the right of any person to possess or bear arms without registration in defense of his own home, person and property, or in aid of the civil power where thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons."

The petition signers represented a wide range of occupations, including most members of the Billings Fire Department, law enforcement officers and clergymen.

There were 306 signers from the Great Falls-rural Cascade County area and 353 from the Billings area. Petitions also were turned in from Dillon, Butte, Havre, Whitefish, Missoula and Columbus.

The committee has decided to recommend keeping the present constitutional wording, which is identical with what the gun clubs are seeking, except for the prohibition against registration.

Many of the gun clubs originally favored retaining the constitutional status quo, but later switched their position.

Older state officials favored by students

GAZETTE STATE BUREAU

HELENA—Constitutional Convention delegates worried over relaxing age requirements for holding state offices should be able to find some support in Stevensville.

A recent poll of students in Stevensville High School government classes reveals that almost three-fourths of the students favor age limits for legislators that are higher than those in the present constitution.

Support for allowing 18-year-olds to run for the Legislature—which they would be able to do under one constitutional proposal—was minimal.

Only five of the 61 students polled thought 18-year-olds should be allowed to hold legislative office. Another nine said the minimum age should be 21.

A majority, 32, favored the minimum age of 25, and 12 students voted for age 40. One student favored 50, and two think legislators should be over 50.

Under the present constitution, state representatives must be 21 and state senators 24. The convention's legislative committee is recommending that legislators merely be qualified voters (age 18).

Another constitutional proposal would allow 18-year-olds to run for all elective offices in the state, including those which now have minimum age requirements of 25 and 30.

The poll was sent to delegate Miles Romney, D-Hamilton, by Gene Ludlow, president of the Student Council.

Biggest lobby expense at ConCon was \$48.50

HELENA (AP) — Second-round expenditure reports filed by 72 lobbyists through Thursday showed their Constitutional

Convention expenditures ranged from none to \$48.50.

With 13 of the reports due last Tuesday still missing, the biggest spender was Robert A. Durkee, Helena, who spent \$25 on behalf of one veterans' group and \$23.50 for another.

Next, with an outlay of \$23, was Joe Curtis, Big Timber, who registered as a lobbyist just a few days ago.

He said the money was spent

on refreshments and dinners for Con-Con delegates.

Except for the 20 lobbyists who said they made no expenditures in behalf of their principals during the latest two-week reporting, listed expenses were mostly between \$1.95 and \$22.75.

Lobbyists who do not have their second-round reports in to Secretary of State Frank Murray by Tuesday morning will have their licenses suspended.

Six days after the first reports were due Feb. 1, Murray

suspended eight lobbyist licenses.

The last of the eight was reinstated Tuesday when Robert A. Ellerd filed both his delinquent Feb. 1 report and the one that was due Feb. 15.

Ellerd, who represents the Montana Livestock Markets Association, explained that he had been away on a trip.

While in Murray's office, Ellerd filed for a second term as a Republican state representative from Bozeman.

Single Article Made 'as Pure as Possible'

Con Con Committee Cleans House on Tax References

Tribune Capitol Bureau
HELENA — The Constitutional house cleaning award may go to the revenue and finance committee.

The committee which was assigned three articles with 42 sections proposed a single taxation article of 14 sections Thursday.

Roger Barber, research assistant, explained that the philosophy adopted by the committee in its early deliberations was to propose as pure an article as possible.

Two state representatives in committee testimony suggested that the committee not report out any article since all taxation powers are inherent within a state. Any mention of taxation in

the Constitution would necessarily be restrictive.

Probably the most testimony was generated by the controversial anti-diversionary amendment (highway earmarking). Retaining earmarking in the committee proposal, the committee explained that "testimony indicated that elimination of the section may jeopardize the final product of the convention."

Committee members agreed late that a "veiled threat" from organized groups was indeed present. Groups which may block the final passage depending on the status of anti-diversionary funds include: AAA, Chamber of Commerce, AFL-CIO, Highway Users Federation,

Montana Contractors Association, and Montana Automobile Dealers.

Referring to these groups, the committee member remarked, "I'm sure none of us was for earmarking when we first came down here... now we all know what we're up against."

The committee compromise to make the highway department more responsible to the legislature includes a provision authorizing the legislature to divert the earmarked funds by a three-fifths vote of the assembly.

Two new concepts introduced by the committee include a taxpayer appeal board and state assessment, appraisal, and equalization.

The Wagner proposal (named after Roger Wagner, D-Nashua) will allow taxpayers to appeal any tax imposed by the state. Under the proposal the taxpayers appeal board must remain separate and unique from any tax administration agency.

Under the present constitution the same agency that administers the tax also sits in judgement of its administrative decisions. The independent appeal board should ensure objective, unbiased treatment of taxpayer complaints, explained Barber.

The committee proposal requires that the state do all ap-
 praisal, assessing and equaliza-

tion. It is the committee's hope that such state responsibility will professionalize appraisal techniques and establish equalization of taxes between counties.

Committee members suggested that present under-valuation of county property is encouraged by the school foundation program.

Anyonsa lobbyist P. L. MacDonald and a delegatee from Butte made a last ditch effort Wednesday morning to retain the net proceeds tax on mines. By a vote of 72 the committee decided to maintain its silence on the subject, leaving the question of mining taxation to the legislature.

Poll-Booth Registration

Sentiment Turns On, Off

By CHARLES S. JOHNSON

HELENA (AP) — Constitutional Convention delegates got their first tastes of debate Thursday, and the flavor changed from morning to afternoon.

In the morning, delegates voted to include a constitutional provision that would require poll-booth registration. The proposal would have allowed citizens to register to vote and cast their ballots right up until the polls closed. At present, registration must be completed 40 days before the election, or persons cannot vote.

After some lunchtime lobbying among delegates, they reversed this action — for the time being, at least — in the afternoon. Instead, they tentatively approved language that would allow the legislature, if it chooses, to implement poll-booth registration.

But the matter still could be considered again when debate resumes Friday.

The delegates, who have spent about 4½ weeks in committee work, began debates on the general Government Committee's report on suffrage and elections.

Actually most delegates liked the concept of easier registration. The debate zeroed in on whether it belonged in the constitution.

Only one state, North Dakota, provides for the poll-booth registration. It is part of North Dakota's statutes, not its constitution.

Here is how delegates tentatively resolved the question:

The General Government Committee majority opposed including the provision in the constitution, but two committee members, Bob Vermillion, D-Snelby, and Peter Lorello, D-Anaconda, offered a minority report that would mandate the legislature to set up the system.

A lengthy debate followed. Shortly before noon delegates, by a slim 52-46 vote, agreed to the Vermillion-Lorello proposal.

Vermillion pointed out that the system had worked well in North Dakota. Other delegates said the right to vote without barriers was so fundamental it belonged in the new document.

"It is not a privilege to vote," Wade J. Dahood, R-Anaconda, said. "It is a fundamental and inherent right."

Although some delegates feared the change could lead to fraudulent elections, Dahood said: "Our law provides that all citizens are presumed to be honest."

A few delegates believed that persons interested in voting had no problems with the present system.

Marian S. Erdmann, R-Great Falls, said registration was no problem for "a good citizen."

Another Great Falls woman, Virginia Blend agreed.

"We have instant tea, instant breakfast and instant orange juice," the Democratic delegate said, calling the proposal "instant voting."

Mrs. Blend and other opponents said eracting such a plan would create chaos for county clerks and recorders, who would not know how many ballots to have on hand.

Some opponents, such as C. B. McNeil, R-Polson, liked the concept but said it was legislative and did not belong in the constitution.

David L. Holland, D-Butte, backed the plan, noting that legislators were not likely to act on it, adding:

"They haven't for 75 years."

One opponent, Maracall Murray, R-Kalispiell, said proponents lacked the needed information on how the system worked in North Dakota.

Proponents, consisting generally of the younger, urban liberals, mustered enough strength to win the first battle 52-46.

Delegates voted to send the section and the entire voting article on to the Style and Drafting Committee before they left for lunch.

An erroneous motion made by floor leader Leslie "Jay" Eskildsen, D-Malta, and accepted by President Leo Graybill Jr., D-Great Falls, however, provided the opponents needed.

Because of the parliamentary snafu and a vote to reconsider, the proposal was brought back to the floor. A substitute motion embracing the majority report that was defeated in the morning was adopted with minor modifications.

Those opposed to including poll-booth registration in the constitution said the morning action was hasty. Delegate Margaret Warner, D-Great Falls, hinted that proponents were swayed by emotions.

Another Great Falls Democrat, Lyle Monroe, said "some sore losers from this morning" were behind the move.

An attempt by Paul K. Harlow, D-Thompson Falls, to get the registration language back into the substitute motion failed 51-49 as several delegates changed their minds from the morning vote.

In the wings

Montana's Constitutional Convention delegates are confronted

with a wide variety of proposals to solve our ills.

One which appears to have some attraction is that of Delegate Robert Kelleher of Billings who wants a parliament which will select its own chief of state.

Great as the merit of his argument may be, it is a term that is alien to our political culture and conjures up visions of lords and kings.

Of course, in the event it should ever become a fact, Billings has a ready-made candidate for the kingship...

Rattle 'n' roll

Another of the ConCon offerings which has merit on the face of it is the proposal to have a nine-man board to determine utility rates in Montana.

Should the proposal ever become effective, we'll predict that U.S. Sen. Lee Metcalf would be most happy to quit the shores of the Potomac and accept the chore.

He'd give them a pretty fair shake.

Lindbergh: Control of Land Vital

HELENA (AP) — Charles A. Lindbergh told an informal meeting of Montana Constitutional Convention delegates Thursday night that "government must be given supervision of natural resources, including land."

The world-famous aviator said such controls are "bound to happen" if there is to be a stop to the destruction of the environment.

"The environment of the earth must be the property of the human species, not just a generation," he said. Lindbergh proposed a two-pronged approach to saving the environment. First, the creation of plans for conserving and using resources. Second, a means of enforcing those plans.

"We must have the utmost freedom of use and control of our resources, but not to the extent that we destroy the environment for the future," he

The first man to complete a solo flight across the Atlantic said his flying career led to his interest in ecology. Through his many years of flying, both civilian and military he became familiar with all areas of the world. "I first became disturbed, then highly alarmed at what was happening all over the earth."

"There is less sign of deterioration here (Montana) than in many other places," he told the delegates. Lindbergh spoke of the "great opportunity" for them to protect the state's resources, but he refused to comment on Montana law or "what should be done in the state."

Lindbergh, 70, appeared before the convention Thursday to present the third address in the Montana Constitutional Convention's Distinguished Speakers Series.

"I first flew here in 1922, barnstorming in Billings, Lewistown and Red Lodge," he said in noting the changes in Montana. Subsequent visits to Montana.

by government, be it community, state, national or even international.

"It will take great judgment to know where to stop," he said in regard to government supervision. He also urged that any changes be made "through trend rather than revolution. But change must come faster than in the past."

Lindbergh said he does not see industrialism as an evil force when it comes to protecting the earth's resources. "They have problems and need help; we must give that help to them."

Lindbergh would not allow television cameras into the meeting, and refused a taped radio interview with a local radio network. He did not seem to mind, though, when delegates took snapshots of him and even autographed the finished pictures.

Also present was Lindbergh's son Lars, a cattle rancher at Greensburg, near Missoula.

District proposal dropped

Standard State Bureau

HELENA — A controversial proposal to create local government "districts" which was to be discussed as a minority report, has died in the Constitutional Convention Local Government Committee.

The proposal had been offered by delegate Franklin Arness, D-Libby, who called it a local option plan for local government.

Basically, it would create home rule districts instead of the present overlapping system of cities and counties, though local voters would be free to retain the present system if they wished.

Last week, Arness had the two allies needed to bring the district plan to the floor as a minority committee report. But Wednesday delegate Artie Payne, R-Helena, backed off, leaving only Arness and

delegate Lynn Sparks, D-Butte.

Mrs. Payne said she thought the district plan was weakened by an amendment included at the last minute to provide for counties opting out of the district plan.

Arness, adhering to a pledge made to the committee two weeks ago, said he won't offer the

plan as an amendment from the floor. He said he thinks a floor fight would be fruitless "what I can't cover get the plan out of my own committee."

"I tried to get it out, and I can't," he said. "If somebody else brings it out, it might have more chance."

When first proposed, the district proposal generated heated reaction from some

delegates and a petition was even circulated against it. But response was more favorable at the local government committee's formal hearing Tuesday night.

The majority committee report allows cities and counties to write their own local charters to revise forms of government and get "home rule."

Teacher at Con Con

Mail Favors Present School Funding

Whether public tax revenue should be used to partly support private schools is the subject of much of the mail received by Robert Woodmansey, a Great Falls teacher who is a delegate to the Constitutional Convention.

Woodmansey, a member of the Con Con education committee, said, "Most of this mail is in favor of retaining this section of the constitution as it is. The committee itself is 8-4 in

favor of leaving the section as it is."

The teacher spoke at a meeting of the PTA Council.

Woodmansey said lack of tax support can be heard on private schools. He commented on an Indian school operated by Indians on the Rocky Boy Reservation.

"There is no private land there subject to taxation," he said. "The school is entirely

dependent on some kind of federal or state support for its existence."

As for whether the state superintendent of public instruction should be elected or appointed, Woodmansey said:

"If the State Board of Education is appointed, the state superintendent should be elected by the people. Otherwise, too much power is placed in the hands of the governor."

4—The Montana Standard, Friday, Feb. 18, 1972

Opinion + Comment

Protecting our water

The water rights provision adopted this week by the Constitutional Convention's natural resources committee shows realistic concern for Montana's interests and an enlightened attitude about what constitutes "beneficial" use of water.

The provision would place ownership of the state's water with the state, "for the use of its people." The intent here is to make sure that thirstier or more heavily industrialized "downstream" states don't appropriate Montana water for their own uses in future years.

Secondly, the provision would recognize recreation, scenery and wildlife habitats as beneficial uses of water. It would also recognize as beneficial the domestic, municipal, agricultural, stockwatering and industrial uses of water. But for the first time, according to Delegate C. B. McNeil, of Polson, recreation will be

considered along with industry and agriculture when it comes to water uses.

The new provision is significant. Montana has a number of historic and beautiful rivers and lakes. Some of these, in the parlance of the sportsman, are known as "blue ribbon trout streams." Not only are these water bodies prime attractions for tourists, who constitute one of the state's biggest and cleanest industries, but they are also among the assets that make Montana such a fine place to live.

Water, of course is crucial to all aspects of society. It can't all be saved for the fisherman or the nature lover. But it would be tragic if Montana couldn't keep a good portion of its scenic water resources clean and unspoiled for the permanent enjoyment of its people.

We Goofed on Convention

Our Sunday Smorgasbord said the Constitutional Convention was \$14,000 in the red. Well, we goofed and that statement just isn't so.

The Constitutional Convention Commission is the agency which is in the red and the budget is in no way connected to with the budget of the Constitutional Convention; except that had any money been left over in the commission's budget it would have gone to the convention. The commission did the

preparatory work for the Constitutional Convention.

The true fact regarding the convention's budget as of Feb. 14 is that it is in balance. Increased costs in court reporting of \$3,400 have been offset by reduced costs in public information.

According to delegate John Toole, chairman of the Administration Committee, the only unknown cost at this moment is the telephone bill, which he says will be clarified this week.

We regret the error.

No Major Lobbyist Tabs Filed

HELENA (AP) — Second-round expenditure reports filed by 72 lobbyists through Thursday showed their Constitutional Convention expenditures ranged from none to \$48.50.

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Next, with an outlay of \$23, was Joe Curtis, Big Timber, who registered as a lobbyist just a few days ago.

He said the money was spent on refreshments and dinners for Con-Con delegates.

Except for the 20 lobbyists who said they made no expenditures in behalf of their principals during the latest two-week reporting, listed expenses were mostly between \$1.95 and \$22.75.

Lobbyists who do not have their second-round reports in to Secretary of State Frank Murray by Tuesday morning will have their licenses suspended.

Constitutional Changes To Follow Easier Route



'Here we are, over-educated, over-degreed & over-engineered — what we need is a good, solid, sensible lame-brain who really knows what he's doing!'

Metifax

Advance registration best

Registration could be made easier for voters than it is today, but allowing citizens to register at the polling places on election day, as suggested in debate at the Constitutional Convention, is going too far. It opens the way for possible abuses, and it imposes an unnecessary burden on election officials.

At present in Montana, registration must be completed 40 days before election. This is probably too long; it is easy for a voter to lose track of the deadline because 40 days is an irregular period of time. A month before election, two weeks—or even one week if a shorter period is held desirable—is an easier length of time to keep in mind.

Permitting registration at the polls on election day could be dangerous in cities where there is considerable moving about from one precinct to another. In strictly rural areas there is less frequent moving and officials are likely to know personally of any new voters who have come into the district since the previous election.

Moreover, election judges should be free to concentrate their attention on handling the vote on election day, without being bothered to stop and register someone who was forgetful or too indifferent to go to the court house and register in advance.

HELENA (AP) — Montanans will find it easier to amend their constitution if they approve changes adopted Friday by Constitutional Convention delegates.

After two days of lengthy debating, amending and voting, the 180 delegates approved articles on suffrage and elections and constitutional revision. They tentatively had approved the voting article Thursday and made only one change Friday.

The article on constitutional revision facilitates amending the document and holding constitutional conventions.

Voters would acquire the right to use initiative petitions to force the question of whether to hold a convention before the voters. The state's 1889 document offers just one method for calling a convention—a two-thirds majority in both houses of the legislature and then approval by voters. This right would be retained except that two-thirds of the total number of legislators, whether there are one or two houses, would be needed instead two-thirds of each house.

Fighting the right of citizens to initiate the constitutional convention process was Magnus Aashelm, D-Antelope.

"I don't think the people will ever want another constitutional convention after they've watched us here today and yesterday," the former legislator said. He sided that the existing provision was adequate.

Other delegates disagreed and approved the initiative section.

If the legislators or citizens, through initiative, do not give voters a chance to determine whether a convention should be held, the issue would go on the ballot automatically every 20 years. This section, too, would be a change from existing procedure.

After haggling over detail, they chose to leave out any reference directing the legislature to set up a preparatory commission prior to a vote on whether to hold a convention.

A General Government Committee recommendation that would have established a new

way to amend the constitution besides the existing method was rejected by delegates.

The defeated proposal would have allowed two successive legislatures to pass constitutional amendments by a two-thirds vote, without referring them to the voters. To put an issue on the ballot, five per cent of the state's legal voters would have had to petition.

"This is a monstrosity, a flouting of the people's right," Miles Romney, D-Hamilton, said, opposing the plan.

Otto T. Hudedank, R-Sidney, defended the proposal, saying it could be used to take care of housecleaning amendments while the referendum process could be saved for more controversial changes.

Delegate George Harper, I-Helena, led the opposition, saying the plan would deprive citizens of a basic right.

"The constitution is a fundamental document of the people," he said. "Every word in it is voted on by the people."

Chet Blaylock, D-Laurel, said the proposal offered no guarantee that it would be used only for housecleaning amendments, which are passed to keep Montana's document in compliance with the U.S. Constitution.

Harper's motion to delete the entire section passed 64-2.

Voters also would acquire the right to start amendment proceedings if the new constitution passes.

The delegates accepted an amendment by Charles H. Mahoney, I-Clancy, to lower the number of legal voters needed to sign the petitions from 15 to 10 per cent. The list must include at least 10 per cent of the voters in 40 per cent of the legislative districts.

No limit on the number of constitutional amendments that could be placed on the ballot would be imposed. The present constitution does not allow more than three.

Delegates also supported a committee recommendation that two-thirds of the total number of legislators — not two-thirds of each house, as the present document provides — must approve any proposed constitutional amendment.

N.D. Con Con Ends, Voters to Decide April 28

BISMARCK, N.D. (AP) — With North Dakota's constitutional convention adjourned, the decision of whether the state is to have a new Constitution rests with the voters.

The convention completed its business Thursday afternoon after delegates were called to the president's desk one by one to sign the final document.

The assembly's Public Information Committee, with \$90,000 to spend, will be working in the weeks ahead to publicize the convention's work and build voter support.

Poll-booth idea killed

Missoula State Bureau

HELENA — Although partisan politics did not enter the debate, the first significant vote taken by Montana's Constitutional Convention broke generally along party lines.

The vote, taken Thursday on the first day of full-scale floor debate, resulted in a narrow 49-51 defeat for a proposal requiring poll-booth registration in the state.

DEMOCRATS FAVORED the proposal by almost a two-one margin, while Republicans opposed it by a three-to-one margin. In general, the more liberal of the delegates seemed to favor the idea and the more conservative seemed to oppose it.

The proposal, which passed once during the day before being reconsidered and defeated, would allow citizens to register up to and including the day of elections. State law now requires registration 40 days before election.

MANY OF THOSE voting

against the proposal said they favored the idea, but thought it should be enacted into law by the Legislature, not established in the constitution.

It was not mentioned in debate, but poll-booth registration probably would tend to help Democrats. Democrats tend to draw more of their strength

from lower and middle income persons and they tend to vote only when the election interests them. Failure to vote in one general election means registration is cancelled until the person registers again.

DEMOCRATS FOR the issue: Arbanas, Arness, Aris, Bugbee,

Cain, Campbell, Cate, Champoux, Cross, Driscoll, Eck, Furlong, Graybill, Rod Hanson, Harbough, Harlow, Harrington, Kelleher, Holland, James, Joyce, Kelleher, Lorelo, Mansfield, McCarvel, McDonough, McKeon, Monroe, Reichert, Rollins, Scanlin, Schiltz, Siderius, Skari, Sparks, Speer, Sullivan, Vermillion.

Studer, Ward, Wilson, Woodroney.

Independents for: Foster, Harper.

Independents against: Oscar Anderson, Brown, Bob Hanson, Mahoney.

Non-partisan plan rejected by ConCon

HELENA (AP) — By a large margin, Constitutional Convention delegates rejected a motion Friday that would have provided that delegates to future conventions run on a nonpartisan ticket.

A motion by Robert L. Kelleher, D-Hillings, failed 49-51.

Delegates decided to let the legislature decide whether elections should be on a partisan or nonpartisan basis.

Delegates to this convention had to run on partisan labels, although some ran as independents by securing enough signatures to get on the general election ballot.

Kelleher said there had been bipartisanship since the Democratic majority organized the

convention late last year. "I find myself in deep sleep with many of what I thought were strange bedfellows here on many issues," he said.

Convention President Leo Graybill Jr., D-Great Falls, said "We're only fooling the public by calling ourselves nonpartisan."

Geoffrey L. Brader, D-Helena, said he was concerned over the election process if no party labels were used. He said 48 candidates ran in Helena in and the party primary elections helped cut down the number of potential candidates.

Kelleher said if no party labels were used, there would probably be no need for a primary election.

Democrats against: Asheim, Aronow, Barnard, Bates, Belcher, Blaylock, Blend, Brader, Conover, Davis, Delany, Eskildsen, Melvin, Rebal, Roeder, Romney, Swanberg, Van Burkirk, Wagner, Wurden.

REPUBLICANS FOR: Berg, Burkhardt, Dahood, Garlington, Jacobsen, Loendorf, Payne, Robinson, Toole.

Republicans against: John Anderson, Ask, Bebeock, Berthelson, Bowman, Chaste, Drum, Erdmann, Etchart, Felt, Gysler, Habedank, Johnson, Kamboot, Leuthold, Martin, McNeil, Murray, Noble, Nutting, Pemberton, Rygg, Simon.

Great Falls Tribune Plus Equal Education Guarantees

Indians Plea for Preservation of Heritage

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Several Indian spokesmen asked a Constitutional Convention committee Wednesday to include provisions committing Montana to preserve their cultural integrity and to guarantee them equal educational opportunity.

Making the request to members of the Bill of Rights Committee was Carson Boyd, Brockton, who represented the Montana Inter-Tribal Policy Board.

"When a man marries a woman with children, he takes the wife and her kids," Boyd said. "We are part of this country as we have to tie onto you like stepchildren."

Boyd, who represents the state's seven Indian reservations and its landless Indians, offered two proposals.

He asked that this statement be incorporated in the new bill of rights:

"The state of Montana recognizes the distinct and unique cultural heritage and identity of the American Indians, and the state of Montana shall forever be committed to the preservation of the cultural integrity of the American Indians."

The rich Indian heritage was in jeopardy, he said.

"I feel our heritage is part of the country like the trees and

grass," the soft-spoken Boyd said. He added that young Indians were not as interested in preserving the heritage through dancing as the older ones were.

He also requested that this policy statement be part of the new constitution:

"American Indians in the state of Montana shall forever enjoy the right of equal educational opportunity in all public institutions."

Asked by the committee to describe the discrimination, Boyd said some Indian children feel inferior and fall behind because their clothes are not as good as those worn by others.

These events add up, Boyd said.

"We have to break the cycle somewhere," he said. "I know it's going to be a hard problem, and I hope I live long enough to see the kids change this cycle."

Supporting Boyd were Earl Barlow, state supervisor of Indian education, and Bill Danning of the Rocky Boy reservation.

Barlow said Montana had about 38,000 Indians, 25,000 on the reservations and the rest scattered throughout the state. The 1970 federal census estimates 27,000, but Barlow said figures varied depending on the agency's definition of Indian.

He said the equal educational opportunity section "would give us something to hang our hat on." Delegate Lyle Monroe, D-Great Falls, said it might give

Barlow, who works in the Office of the Superintendent of Public Instruction, some ways to obtain more federal funds.

The major thrust of American education is to turn out middle-class white citizens, Barlow said. He added that this was all right for whites but said a bicultural approach is needed for Indians.

Delegate Bob Campbell, D-Missoula, said he favored including both provisions, perhaps in the ordinance in the constitution.

The committee took no action at the meeting but plans to consider the suggestions later in the week.

In other committee business, Chairman Wade J. Dahood, R-Anaconda, said committee

member Robert Hanson, I-Ronan, was misquoted and quoted out of context last week when discussing discrimination.

Hanson was quoted as saying Indians were often poor risks as renters and buyers.

Dahood said he and Hanson had agreed before the meeting that Hanson, who lives in Ronan, which is on the Flathead reservation, would discuss some of the problems involved.

"Bob Hanson has been a prime mover behind this non-discrimination clause," Dahood said. "He has stood steadfast behind cultural integrity and nondiscrimination."

The committee chairman said Hanson's remarks were taken out of context of his entire statement.

Senator Warns Con-Con On Environmental Issue

Missoula State Bureau

HELENA — A state senator has warned Constitutional Convention delegates that if they "dodge" the issue of environmental protection, they will incur the wrath of the people.

"If you use a bunch of Mickey Mouse words, they'll flip a coin to see which is worse, the legislature or the Con-Con," State Sen. Harry Mitchell, D-Great Falls, told delegates.

Mitchell, a staunch supporter of strong environmental protection measures, said he thinks the convention would be "dodging the issue" if it fails to provide for citizen lawsuits against polluters. He spoke favoring the public trust doctrine during a question and answer session with Charles Lindbergh Thursday night.

"I think you are dodging the issue by trying to pass 'hot potatoes' to the legislature and then directing the legislature to act," he said.

"I remind you of the last two sessions and what we 'must' do and what we did do," he said.

ConCon is still leery of legislators

By DENNIS E. CURRAN
Gazette State Bureau

HELENA—The Legislature may find the reform-minded 1972 Constitutional Convention much friendlier than the convention of 1889, but its still hardly a love-in.

While 1972 delegates work to unshackle the Legislature from the many restraints and limitations imposed by their counterparts 82 years ago, they still show signs of the same distrust and general low regard for the Legislature.

As the convention started, in fact, delegates who had been legislators were swiftly put down when they proposed doing something "the way we did it in the Legislature." Much of the mistrust has eased, but former legislators still find their influence with fellow delegates depends more on current abilities than past records.

"I'M NOT SURE the people have any more trust in politicians now than they did in 1889," one delegate said recently.

When Montana became a state, constitution writers tried to limit the power of government, especially the feared Legislature, to prevent it from using its power to hurt the people. Today, delegates generally believe that unless the Legislature has more power and fewer limitations, it won't be able to help the people.

But still, often in subtle ways, the 1972 convention is talking about limits on the Legislature too.

A few examples:

1. STATUTORY PROPOSALS. Despite an emphasis on flexibility, some of the delegate proposals and committee reports contain "statutory" provisions that best belong in the law books so they can be changed instead of the constitution, where change is more difficult.

Some of the statutory provisions clearly are being pushed as "reforms" that past legislatures have refused to pass.

For example, the proposed water rights section lists recreation as a beneficial use of water for the first time, partly because the Legislature has refused to do so. One of the reasons environmentalists seek the right of citizen lawsuits is the fear that the Legislature won't fully implement environmental protection measures. Other proposals have sought minimum wage guarantees, limits on interest and utility regulations.

2. OVERALL STRENGTHENING. Delegates also want to strengthen other branches of government, partly to balance a stronger Legislature.

For example, the Executive Committee has proposed changes that would give the governor greater power. The Education Committee proposal to give the University System its own board and more power stems partly from a belief that higher education should not be subject to easy tampering by politicians.

3. CONSTITUTIONAL PROTECTIONS. Delegates have sometimes been reluctant to remove statutory protections from the constitution because of widespread fear that if something loses its constitutional protection, the Legislature would quickly move to abolish it.

A good example is the constitutional list of county offices. Efforts to remove the list from the constitution and leave it up to the Legislature brought a torrent of fears from county officials that the Legislature would quickly abolish the offices or make them appointive.

Similar fears were raised over the proposed removal of the mining net proceeds section, and the delegates themselves are expected to stringently protect the school trust lands and fund to keep the Legislature from spending the proceeds on schools.

4. EXPANDED CITIZEN RIGHTS. As delegates consider granting all government more power, they also are working to make government more responsive and to protect citizens against government misuse of power.

Possible legislative reforms include making the Legislature more open, visible and accessible to the people. A new office of "people's advocate" is being considered.

In addition, the Bill of Rights Committee wants to increase protections of citizens against "expanding and indifferent government." Included among the proposals are the rights of citizens to participate in government, to have access to government deliberations and records and to have privacy from government meddling.

Taken collectively, the proposed limits seek to do in a different manner what the 1889 convention also sought—to control legislative power for the good of the people.

But unlike 1889, the emphasis in the 1972 convention seems aimed at helping the Legislature do good for the people rather than merely trying to prevent it from doing bad.

Con Con Visit Involves 60 Montana 4-H

BOZEMAN — A rare learning opportunity is in store for 60 4-H youths from throughout the state Wednesday through Saturday.

The event will be a three-day seminar on-the-spot with the Constitutional Convention at Helena.

C. W. (Brick) Vaughn, Extension Service 4-H specialist, said the 60 youth and 15 adult leaders will be divided into six groups to correspond with the six committees of the convention. Interns will be available to brief the youth and conduct discussions and perhaps make available delegates working with the Convention.

Vaughn said the interns who will be helping these youth are from Montana State University and Eastern Montana College.

High School Delegates at YMCA Event

Youths' Constitution Features One-House Legislature

Young people of Montana favor a one-house legislature if action taken at the Montana YMCA Youth Constitution Convention held last month in Helena is any indication.

The 81 high school delegates from all around the state drew up a state constitution proposal which has several surprises. Not only does the student document vest legislative authority of the state in one chamber but it provides that legislators shall be nominated and elected in a non-partisan manner "without any

indication on the ballot that he is affiliated or endorsed by any political party or organization."

The students passed a resolution directing that the question of a unicameral or a bicameral legislature be placed to a vote of the people of the state. They then included a second Article III providing for a bicameral legislative assembly in event the citizens prefer it.

Included in the pseudo constitution's Bill of Rights is a provision stating the right of the

people to keep and bear arms shall not be infringed.

Under an eminent domain section protecting private property from being taken for public use without just compensation is an addition stating "nor shall any person be relocated without just compensation."

"Every person shall have the right to a clean and healthy environment" is one section under Bill of Rights. Another would give every child and youth all rights of the people of the state except for those

specifically precluded by law.

The youths' constitution provides that the attorney general shall be appointed by the governor with the approval of the legislative assembly.

Under the governor's direction would not only be an executive assistant but also four management services, those being a Central Budget Agency, State-Federal Relations Agency, Central Personnel Agency and Planning and Programs Agency. The governor also would be given power to establish a cabinet of not more than 20 department heads whom he would appoint to advise him as necessary.

The governor with approval of the majority of the legislative assembly would appoint the

Local government would be the Supreme Court, and district judges would be appointed by the Supreme Court rather than elected, as now.

vested in no fewer than 15 or more than 30 regions of the state and/or incorporated municipalities. Regional boundaries would be set by the legislature and form of government for each would be determined by vote of the people.

John Elliott of Bozeman was president of the YMCA Youth Constitutional Convention. YMCA youth and government clubs throughout the state made extensive study of government structure and function before naming their delegates.

Brian O'Grady, Great Falls, was chairman of the Legislative Branch Committee, and Dick Brown, Great Falls, headed the Taxation and Finance Committee. O'Grady and Vicki Keith of Great Falls were on the Steering Committee. Major

Caldwell and Dixie Plemmons are advisers of the Great Falls YMCA Youth and Government Club.

Lindbergh: Planning Enforcement Needed as Environment Insurance

HELENA (AP) — Aviator-ecologist Charles A. Lindbergh told Constitutional Convention delegates today that Montana must lay out a plan to prevent environmental destruction and enforce it.

Lindbergh made the comments after a short talk when he responded to questions from some delegates.

Dave Drum, R-Billings, asked the famed pilot how Montana could balance the desire for a clean environment with the need for job opportunities.

"There is no clear answer," the gray-haired Lindbergh said, calling for some planning. "It's quite obvious that the human race cannot keep multiplying at the present rate."

"We've just got to feel our way," he said. But it is essential that the government enforce the plan.

Lindbergh said his flying developed a world-wide interest in conservation.

"It's a question of not simply conserving, it's a matter of conserving so we can use our natural resources," he said.

Lindbergh said he would like to see the existing generation be able to do what it wants

with the environment, so long as it doesn't cause damage future generations would have to face.

He said developments in all fields must take the environment into consideration.

"All of our developments of civilized life, science, art, sociology—to be of value in the future—must rest on a sound environment."

Asked about possible overcrowding in Yellowstone and Glacier National parks, Lindbergh said more national parks were needed. He also said certain core areas should be untouched by anyone but rangers

so that certain species of plants and animals could survive.

Lindbergh said mankind might have to adjust to a different standards of living. "It's very easy to adopt a false standard of living from the standpoint of material goods," he said. "We can be so affluent that the quality of life declines."

Lindbergh said Montana Indians enjoyed a quality of life "we in many ways have never known."

He said the future is a combination of what can be done through planning and coping with catastrophes beyond man's control.

Corvallis Girl Honored During Helena Ceremony

HELENA (AP) — A 16-year-old Corvallis girl received a Red Cross certificate of merit Friday for saving the life of a boy who nearly drowned in the Bitterroot River last summer.

Gayla Whitehead received the certificate from Leo Graybill Jr., president of the Montana Constitutional Convention.

Miss Whitehead was cited for administering mouth-to-mouth resuscitation to a 17-year-old young man who was

pulled from the river near Hamilton.

She had learned first aid at a summer Red Cross course.

Her certificate, the highest offered by the American Red Cross, was signed by President Richard Nixon, honorary chairman, and E. Roland Harriman, chairman.

Graybill said Corvallis residents decided to teach first aid to all high school freshmen and sophomores because of Miss Whitehead's action.

President Wants Brevity at Con-Con

HELENA (AP) — After two long days of debate at the Constitutional Convention, President Leo Graybill Jr. called for more brevity.

Leaders had hoped to complete the General Government Committee's report on suffrage, elections and constitutional revision in one day. But the debate carried over to Friday and lasted until almost 5 p.m.

"These are just suggestions," Graybill told delegates, who have four or five weeks to complete their work. "You can take them or ignore them."

He cited three areas for improvement.

"We must avoid echoing our support when someone else has said the same thing," he said.

Graybill also requested that humorous remarks be avoided; unless the delegates are ahead of their schedule.

His third suggestion was that delegates not quibble over possible errors in grammar and punctuation caused by amending measures from the floor.

The Style and Drafting Committee will handle those mat-

ters, he said, and assemble all the articles into a constitution. The president said delegates would have their chance to go over the committee's proposed constitution later in the convention.

Save water by using it

I think your editorial relative to Mrs. Erdmann's talk to the Kiwanis Club (about water rights) should be commented on.

As an association, we favor this proposal as put forth by the Natural Resource Committee of the Con-Con, on which Mrs. Erdmann commented. However, we believe that we should note that the main advantage in Montana's owning the water as a state will be in the administration of water within the state, and of course, they will be able to enter into pacts with downstream states, or with states desiring inter-basin transfers of Montana's water.

We would emphasize that when it develops to that point, and it will, the only way then as now, for us to protect our water is to put it to beneficial use. It will not be enough to just say that the water is ours. That means we will need definite plans as to what we are going to do with our water.

It will be a serious mistake if we lull ourselves into complacency by believing that this amendment to the Constitution would be a cure-all and thus negate the necessity of further water development.

The only sure way of saving our water will still be to use it.

HUBERT G. WHITE, Townsend, Director, Montana Water Development Association

How They Voted

Tribune Capital Bureau

HELENA—Fourteen Constitutional Convention delegates Saturday voted against a motion by George Heilker, D-Missoula, to open all meetings and committee meetings of the legislature to the public.

(Story on page 1)

The vote was 75-14. Then the convention voted 81-9 to accept the entire motion as amended.

William Swanberg, D-Great Falls, explained why he voted against the proposal on the second vote. Swanberg said he was primarily concerned about the possibility of large scale mobs disrupting the work of the legislature.

Delegates voting against the Heilker motion were: Cedor Aronow, D-Shelby; Lloyd Barnard, D-Saco; Mirvick Driscoll, D-Butte; Mark Etchart, R-Glasgow; Erv Gysler, R-Fort Benton; Otto Havebank, R-Sidney; Gero Harbaugh, D-Poplar; Torrey Johnson, R-Busby; A. W. Kambott, R-Forsyth; Charles Mahoney, I-Clancy; Sterling Rygg, R-Kalspell; R. G. Studer, R-Billings; Roger Wagner, D-Nashua; Jack Ward, R-Hamilton.

Delegates to Con Con Will Report to Public

First public meeting here with Cascade County's Constitutional Convention delegates has been set for Monday night at 7:30 in the City Council Chambers.

Cosponsors of the meeting, Forward Great Falls and the League of Women Voters, invited all of the district's delegates to the meeting in order to inform the public on the activities and progress of the convention and to give citizens the opportunity to ask questions of the delegates.

Each delegate attending will be given time for a short talk on the convention committee

work that he has been performing. The talks will be followed by a question period, in which specific written questions may be directed to the delegates in general or to an individual delegate.

Serving as moderators for the meeting will be Dr. Jack Stimpfing, FGF membership chairman, and Mrs. Jean Koppang, chairman of the LWV Constitutional Convention committee.

It will not be known until the time of the meeting how many of the delegates will participate, but Stimpfing said he expects at least eight of them.

Style, Drafting Panel to Draw Ballot Proposal

HELENA (AP) — The Style and Drafting Committee at the Constitutional Convention will decide how a proposal offering voters a choice between a unicameral and bicameral legislature could be placed on the ballot.

Delegates agreed Saturday to allow the committee resolve the question. The 14 members of the Legislative Committee recommended unanimously that the proposal go on the ballot as an alternative.

Voters would then be able to choose whether they wanted a legislature made up of one or two houses.

The Style and Drafting Committee will recommend the mechanics.

Voters have not been forgotten in Helena

ConCon would favor more 'people power'

By DENNIS E. CURRAN
Gazette State Bureau

HELENA—Montanans who worry about unresponsive government shouldn't be too concerned about the Constitutional Convention.

Seldom has an assembly seemed so concerned with doing what the folks back home want or don't want. Every deliberation seems to be made with a watchful, even fearful, eye on the voters.

One reason for the concern is clear enough. In a few months, probably June 8, the decisions made by the 100 Convention delegates will be put to the voters for acceptance or rejection.

Fears of voter rejection have been aired so loudly, however, that some delegates worry the Convention is becoming so fearful of rejection at the polls, it will compromise on everything in hopes of writing a constitution bland enough to make it past the opposition.

"IF I HEAR one more time that 'If you put this in the constitution, the people won't vote for it.' I'll go screaming in the hall," one delegate complained last week. "The people sent us up here to either make a decision or not make a decision."

Most decisions are yet to be made, of course, so it's impossible to say which path the convention will take. But many delegates apparently remember Maryland's experience—where an innovative, modern constitution went down at the polls because it failed to consider political realities—and are determined that the same failure not be repeated in Montana.

The "hottest" issues, like the unicameral-bicameral legislature question, probably will go on the ballot as separate issues, giving voters an alternative choice to merely voting against the entire constitution. But not all of the "hot ones" can be separate, and that's what has the warning flags flying.

HERE ARE SOME proposed changes which are encountering opposition because of fears of jeopardizing the entire constitution:

—Elected officials. Delegates have great fear that providing for appointed rather than elected officials will turn off the voters. Many even fear that letting the legislature decide

the question would open the doors of defeat. The Local Government Committee bowed to the threat of political resistance from county officials and retained them as an alternative form of county government after receiving some 2,400 citizen suggestions, mostly from citizens who happen to hold county offices.

—Environment. While differences over wording an environmental statement are mainly philosophical, there is considerable fear that "the people aren't ready" for some of the proposals, especially creating an environmental public trust or allowing citizen lawsuits.

—Taxation. While generally reforming the taxation article, the Revenue and Finance Committee wants to continue to allow earmarking of highway funds. The highway lobby has a lot of clout at the polls.

—Education. A committee proposal to grant more authority and internal control to the University System has raised fears, especially among delegates from rural areas, of angering voters who don't like the university system or the lifestyles of its students. And of course there's the parochial issue, which unleashes torrents of emotions in voterland.

—Bill of Rights. Some delegates think any expansion of courtroom rights will lose the law and order vote, but there is greater worry over the political consequences of abolishing the death penalty or not expanding the right to bear arms to outlaw state gun registration.

Delegates have also voiced fears or issues like water rights, allowing statewide property taxation, local government consolidation, not protecting Indians and even not mentioning the state soldier's home in the constitution. ("There are a lot of veterans in this state," one delegate warned).

IRONICALLY, most predictions of political catastrophe are spawned by proposals which would change the existing constitution, not those keeping the status quo. But some reform-minded delegates, noting the 2-1 margin of the people to call the convention, wonder if maybe the proposed new constitution might be in for more trouble if it doesn't make some changes.

In the meantime, the voters back home can rest more easily, knowing that they most certainly have not been forgotten by their Constitutional Convention.

By DANIEL J. FOLEY
Gazette State Bureau

HELENA — Individual citizens would have greater access to government and greater ability to influence decision-making if several Constitutional Convention committee recommendations are adopted.

The legislative, local government and bill of rights committees in particular are offering "people power" proposals aimed at cutting bureaucratic red tape.

To some extent, the proposals may balance recommendations by those and other committees to strengthen government power by concentrating authority.

Here are some of the proposals which would allow the people to exercise a greater check on big government:

—Right of participation. The bill of rights committee is recommending that citizens be given "every feasible opportunity" to participate in government operations prior to final decisions. The idea is to reverse public dissatisfaction with bureaucracies "insulated" from public scrutiny, the committee says.

—Right to know. The same committee is seeking a constitutional guarantee that citizens may examine government documents and observe agency deliberations, except where demands

of individual privacy exceed the merits of public disclosure.

tee is recommending that voters be able to bypass unresponsive city and county governments to enact legislation by the people.

—Recall. The same committee is recommending that voters be given broader power to remove from office those officials who are not doing the job expected of them.

—Voter review of local government. The committee recommends that local voters be able to review their government structure within four years after adoption of the constitution and every 10 years thereafter. The citizens ability to alter or change entirely the type of government should result in a more responsive and responsible local government, the committee says.

Although committee hearings have ended, citizens may still influence decisions on those proposals by writing to their delegates at the Constitutional Convention, State Capitol, Helena 59601.

of individual privacy exceed the merits of public disclosure.

—Open legislature. The legislative committee recommends, and the convention has tentatively adopted, a section requiring that legislative sessions, including all committee meetings, be open. "The committee believes that the benefits to be derived from an open and visible legislature far outweigh any need for the people's representatives to discuss the people's needs and problems behind closed doors," a committee report says.

—Recorded votes. The legislative committee recommends that any vote, in committee or on the floor, which changes the status of legislation be recorded. "To properly evaluate what a legislator does, his vote should be visible," the committee says.

—Single-member districts. The committee recommends that each voter cast a ballot for only one representative and one senator so the citizen knows who to call on for help and whose voting record to follow.

—People's advocate. The committee recommends that the legislature appoint an ombudsman to aid the average citizen by telling him where to go for help and where to place the responsibility in fighting the bureaucracy.

—Initiative and referendum. The local government commit-

Some Rules Are Strict, Others Lenient

Con Con Dress Survey Reveals No State Controversy

By FRANK ADAMS

Tribune Capitol Bureau

HELENA — A survey of state departments reveals that the appearance and dress of state employees is not always left up to the individual.

The survey was conducted by Rick Applegate, research analyst for the Constitutional Convention's Bill of Rights Committee. He told agency heads that their rationale of any dress code might be of value to the committee in its deliberations on first amendment rights of free expression.

Highway Patrol Chief Robert McKay replied that the patrol is a quasi-military organization and rules and regulations were set forth "for the purpose of attaining the highest degree of uniformity possible among the members." In addition to requiring patrolmen to wear only official uniforms and insignia, the patrol requires its men to "at all times appear neat and clean; when in uniform he must keep his clothing and equipment in proper repair, his face clean shaven, his hair trimmed and properly groomed, and his person and attire free of offensive odors."

Mary Lou Crawford, secretary to the State Electrical Board, said that while her agency has no set standards, the policy is that "appearance should be neat and not in extreme of current fashions."

She also said the question came up as to how and why the convention could take issue on dress codes of state agencies "unless it takes into consideration the dress standard of all citizen of Montana, regardless of race, creed, color, rank, whether low-income or prosperous, young and old alike."

The Department of Business Regulation has a "mutual understanding with all employees at the time of employment in regard to a dress code," according to Dick Disney, administrator of the Centralized Services Division. "Employees are instructed that their appearance must be presentable at all times during working hours," said Disney. "Our department involves constant contact with the public on a daily basis, and the appearance of all employees, as to dress, is a constant reminder of the efficiency of the department's over all operation."

State veterinarian J. W. Safford says there is no dress code in the Department of Livestock's Animal Health Division, except that "fieldmen and laboratory workers are required to wear easily sterilized and protective clothing and accessories when working with dangerous diseases of animals transmissible to man and other animals. For purposes of individual protection and the prevention and spread of the disease, this manner of dress is necessary."

Dr. John Anderson, health department director, cites a section from the employes handbook titled "office etiquette," which directs employes to conduct themselves in a manner which will reflect credit upon the organization. "To my knowledge," he says, "we have had no problems with employes' dress or appearance."

The state teletypewriter system has a dress code that varies depending on the shift. Director Robert Batch says that during the day shift Monday through Friday, "girls are allowed to wear pant suits or dress slacks on days when the weather is unfavorable. The

men do not have to wear ties while in the office, but are asked to do so when visiting another department. There has never been any code for hair length as long as it is neat and clean."

Dolores Munden, supervisor of the Criminal Identification Bureau at Deer Lodge, says her agency has no written dress code. But "since we do deal directly with law enforcement agencies," she says, "I only expect my staff to be neat and clean in appearance. Their particular choice of a dress or appearance code is their own as long as they remain neat and clean."

The motor vehicle registrar's office, also at Deer Lodge, takes a little firmer position. A memo from Deputy Registrar Willis Crosswhite, dated Mar. 3, 1971, says, "several months ago the wearing of pant dresses was authorized for employes of this office. Since that time there has been a trend by some employes to interpret this as authorization to wear western outfits and slash or slacks with blouses or sweaters. Such was not the intent of the authorization. This trend will be reversed immediately—or I shall have no recourse but to insist upon female employes wearing either dresses or skirts. As stated previously, the file clerk position is excepted in that slacks are permitted for this one position. This is the only exception permitted."

The state forestry division has a four-page code detailing the five basic uniforms — work field (male), office (female), dress (casual and formal), and optional uniform. The purpose of the code is to promote a good public image, enhance external relations, and establish and maintain esprit de corps. Each uniform is spelled out from the black or blue cuffless denim jeans to the green tie (as further prescribed by memo).

The other divisions of the Natural Resources Department simply have an unwritten code to the effect that "employes maintain a neat and proper appearance."

Keith Colbo, director of revenue, says his department is in the process of developing an employe handbook, which will probably include a section on appearance and dress. But at

the present time, he says, there is no written code other than for the liquor division which says, "you are expected to be neat, clean, and well shaven at all times. Your clothing must be clean and neat and your general appearance favorable."

Director P. F. Roys says his Department of Planning and Economic Development "does not have any dress code, either written or implied."

The situation is similar at the aeronautics commission, where Director William Hunt says the personal appearance of the individual is left to his or her judgment and good taste.

Dorris Dietzen, executive secretary of the Examining Board of Cosmetology, says she tries to set a good example and feels

that all personnel "have a right to express their own taste as long as they are neat, clean, and exude an image worthy of the state and this department."

The Highway Department used to have a code on pantsuits, under the administration of former chief Lewis Chittim. But new director H. J. Anderson recently told the Tribune he was unaware of the code and hadn't given any thought to having one.

The Board of Psychologist Examiners has a simple, homespun policy. In the words of its secretary, Dr. C. H. Ammons, the board "believes in wearing clothes, warmer ones in winter than in summer. Color and size depend upon the wearer. Please spend your valuable time on more fundamental matters."

Con Con and Legislature: Much Alike, Much Different

By JOHN KUGLIN

Tribune Capitol Bureau

HELENA — The majority of the Constitutional Convention delegates may be harder working, more innovative and less partisan than Montana legislators, but the convention is hardly a model of efficiency.

News Analysis

The differences are apparent between Montana's lawmaking body and the first constitution-writing assembly to meet in this state since 1889.

After the first five weeks, the Constitutional Convention has, as first vice president John Toole predicted last December,

"created its own image for better or worse."

Though the convention has been called the "amateur hour" because of the political inexperience of most of the delegates, the body has earned the reputation that it is a "people's assembly," closer to the citizens than to the vested interests.

Some similarities between the legislature and the convention:

1. Lobbying. Special interests have sought to influence the work of each body. The convention's enabling act requires paid lobbyists for the first time to report all spending to influence constitutional issues. But the wording in the enabling act is so vague that if expense statements are to be believed, the approximately 80 lobbyists spent a grand total of \$476.86 during the first month of the convention. There are fewer lobbyists than the almost 250 who regis-

tered for the 1971 legislature. was considering running for governor. House Majority Leader James T. Harrison Jr. — the investor-owned utilities, railroads, the state's largest mining corporation and the attorney general until incumbent powerful highway users' lobby Robert Woodahl announced he is actively trying to influence the rewriting of the state's basic document.

2. Political aspirations. Several convention delegates are considering using the convention with the political implications of a political springboard for their decisions than with their higher office. Con Con President Leo Garybill Jr., for one, has not ruled out the possibility that he will run for statewide office after the convention. Delegate Charles Mahoney is considering running for state treasurer. It was the same way during the 1971 legislature. Senate Majority Leader Dick Drivi has now entered the governor's race, as has Lt. Gov. Tom Judge, president of the Senate. House Speaker James Lucas has been eying the governorship. House Minority Leader William Christiansen

The convention's proposals, unlike the legislature's bills, must be submitted to the voters for ratification.

Some differences between the legislature and the convention:

1. Research. Convention delegates assigned to the 10 principal committees have been provided with lengthy, well-researched reports on constitutional issues, drafted by the preparatory Constitutional Convention Commission. Each committee has assigned to it a qualified research analyst. The legislature, with the exception of the usually superficial reports prepared by the poorly funded

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Doing Good Things

The Constitutional Convention is doing good things to the legislature.

This week the delegates approved a provision that requires votes of record on all "substantive" questions in committee and on the floor.

That would end the practice by some legislators of voting one way on a bill during closed committee meeting and another way when the measure reaches the floor. The United States Congress, which permits many closed committee meetings, also condones this two-faced behavior. It is one of the things that breeds public scepticism of lawmaking bodies and lack of faith that lawmakers serve the public interest.

The new constitution should open legislative committee meetings to the public and require record votes in committee. There is no more practical step that could be taken to increase public trust in the legislature than by thus increasing public accountability by the legislature.

Single-member legislative districts, whether for a one-house or a two-house legislature, also seem to be headed for approval by the convention.

Single-member districts are a mixed blessing. Plainly the enormously long legislative ballots faced by voters in Great Falls, Billings, Missoula and other communities must be done away with. It is unreasonable to expect Missoula voters, for example, to make a knowledgeable choice among 14 candidates for the Montana House of Representatives.

Single-member districts would narrow the choice. They have the drawback of cementing tiresome people year after everlasting year in the legislature. A single-member district sometimes will elect a crackpot or incompetent who wouldn't stand a chance if he had to appeal for votes in a wider area, and return him over and over again.

That is a drawback to single-member districts, mitigated somewhat by the thought that some incompetents sneak through under the present long-ballot system.

But in balance the single member district is better. It fixes responsibility and enables the voters to know the persons running. It also helps minorities get representation and softens the impact of a landslide by either party.

Some legislators won't like the idea of recorded committee votes or running from single districts. But nearly all legislators have voiced the opinion that the Constitutional Convention must help ease the legislature's present plight by providing for longer sessions and by giving the legislature more flexibility in fulfilling its lawmaking functions.

The convention will help the legislature, but it also will make each legislator more accountable. Uncomfortable though that might be, in the end accountability will do more than anything else to strengthen the legislature's role in state government.

How They Voted

Tribune Capitol Bureau
HELENA — Constitutional Convention delegates, by a 48-48 vote Thursday, failed to muster the extra "yeas" needed to revive a proposal that would have created a new state officer, the people's advocate, to help citizens cut through bureaucratic red tape.

Delegates were voting on a motion by Mike McKson, D-Anaconda, to reconsider their action Tuesday when the people's advocate went under by a 48-48 vote.

Democrats for reviving the proposal (38): Aashgim, Arbanas, Artz, Banard, Bates, Blaylock, Blend, Cain, Cate, Champoux, Cross, Driscoll, Eck, Furlong, Graybill, Harlow, Harrington, Kellner, James, Kelleher, Lorello, McCarvel, McKeon, Melvin, Monroe, Reichert, Roeder, Rollings, Romney, Scanlin, Schiltz, Siderus, Skari, Speer, Sullivan, Van Buskirk, Vermillion, Waden.

Republicans for (8): Babcock, Berg, Burkhardt, Felt, Garlington, Jacobsen, Robinson, Toole.

Independents for (2): Foster, Harper.

Democrats against (17): Aronow, Blecher, Brazier, Bugbee, Conover, Davis, Delaney, Rod, Hanson, Habaugh, Holland, Joyce, Mansfield, McDonough, Rebal, Sparks, Swanberg, Wagner.

Republicans against (27): John Anderson, Ask, Berthelson, Bowman, Choate, Dahood, Drum, Etchart, Gyler, Habedank, Johnson, Kamhoof, Leuthold, Losendorf, Martin, McNeill, Murray, Noble, Nutting, Payne, Pemberton, Rygg, Simon, Studer, Ward, Wilson, Woodmansey.

Independents against (4): Oscar Anderson, Brown, Bob Hanson, Mahoney.

Absent or not voting (4): Barnes (D), Campbell (D), Erdmann (R), Eskildsen (D).

Christian says one of a number of possible duties that could be given to a lieutenant governor would be to serve on some of the executive boards that now cut into the time of the governor.

Presently the office of lieutenant governor is more of a figurehead position than anything else of little more practical value than a stepping stone for aspiring politicians. The lieutenant governor presides over the Senate in essentially a gavel-wielding role and sits

behind the governor's desk when the governor is out of state. The majority report of the convention's committee on the executive article would permit the legislature to make the lieutenant governor a full-time executive officer, but Christian says he'd feel better if the constitution spelled it out somewhat.

He says if the convention proposes a sufficiently meaningful office of lieutenant governor he'd be willing to gamble on ratification by the people. Filing deadline is in April, while the ratification vote is set for June.

State felons on parole may get right to vote

HELENA (AP) — Convicted felons out on parole will be able to vote but won't be allowed to run for office until their state supervision has ended, if voters approve Constitutional Convention proposals.

The delegates decided Thursday that felons on parole ought to be able to vote without having to seek a pardon from the governor. They agreed with members of the General Government Committee that allowing parolees to vote would help the rehabilitation process.

"The only people who will get a pardon are those wealthy enough to hire a lawyer or those who have political influence," Bruce M. Brown, I-Miles City, said.

Despite an attempt by Miles Romney, D-Hamilton, to forbid them from voting, delegates approved the committee recommendation.

On Friday they realized they had also accidentally allowed parolees to seek public office.

tative approval to a section making the requirement to hold public office the same as the standard for suffrage.

The situation was corrected by an amendment by Carl Davis, D-Dillon.

"I don't know how we could call this a responsible improvement of our government," Davis said.

Opposing the motion was social worker Lyte Monroe, D-Great Falls, who said those out on parole had paid their debt to society.

"I don't think this would prevent the crooks from getting in office," Monroe said. "They're already there."

But Davis said contemporary practices allowed many convicts out on parole after short periods in prison so they can come back into society.

"A person hasn't necessarily paid his debt to society when he is out of prison," the Dillon attorney said.

Delegates approved the Davis motion 88-6.

Once parolees have served their time inside and outside jail, they may then have all their rights restored. They will be able to vote, though, as soon as they are released from prison, if the constitution passes.

2 MILES CITY STAR
Feb. 20, 1972

Lieutenant Governor Bid May Hinge on Con Con's Action

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — House Minority Leader Bill Christiansen, D-Hardin, says he wants to see what the Constitutional Convention does with the office of lieutenant governor before deciding whether to seek the job.

Christiansen observed his 58th birthday at Convention Hall Thursday as the delegates began debate on proposals for the executive branch of government.

He says he would be interested in filing for lieutenant governor if the convention put some meaning, function, and money into the No. 2 job so that the

held the governor's desk when the governor is out of state.

The majority report of the convention's committee on the executive article would permit the legislature to make the lieutenant governor a full-time executive officer, but Christiansen says he'd feel better if the constitution spelled it out somewhat.

He says if the convention proposes a sufficiently meaningful office of lieutenant governor he'd be willing to gamble on ratification by the people. Filing deadline is in April, while the ratification vote is set for June.

At the same time, Christiansen has not ruled out the possibility of seeking re-election to the House of Representatives, with the top job of speaker of the house in mind. He says he got the minority leadership position "handily" last year and has been given to understand that some of those who voted against him when would vote for him for speaker.

Christiansen has no doubts about the Democrats controlling the House next year, as they came within four seats of doing last year. The Republican majority has been steadily declining for several sessions.

and the Republican sales tax defeat coupled with the Democratic victory in the convention is all the assurance many Democrats need that legislative control has been given into their hands.

Christiansen, widely respected on both sides of the aisle, had giving some thought to seeking the Democratic gubernatorial nomination. But he says he dismissed that possibility on the basis of some polls he took.

The Hardin auto dealer is a veteran of four legislative sessions.

Veteran Lobbyists Hear Ominous Murmur From Grassroots Constitution Ratification Outlook Dismal, Survey Finds

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — A survey aimed at sampling grassroots attitudes paints a dismal picture of the Constitutional Convention and its prospects for getting a new constitution ratified.

News Analysis

At the same time, the indirect nature of the survey may open it up to challenge by the scientific pollsters.

The Tribune interviewed a dozen lobbyists in and around convention hall, asking them not for their own opinions, but for

the sense of the people they talk with out in the countryside. A wide range of interests was represented by the dozen lobbyists, all of whom were veterans of the legislative halls.

One said he gets the feeling that people view the convention much the same as they view the legislature — with "native distrust — just a hundred people up there in Helena."

Another said, "I think they're going to have a hard time getting it passed. The people figure it's just like a legislative session."

One lobbyist who has contact each week with his organization's committees in 15 cities said, "At this point people seem to be extremely apathetic about the convention. They seem to be

forming a distrust of the convention as they at times had a distrust of the legislature.

"The consensus of this reading is that the people will probably not approve it (a new constitution). They feel that if certain sections are segregated, some of those may survive."

He emphasized that such is the reading he gets at this time — "next week it may change."

A lobbyist who has been traveling over the state from Billings west and up to Havre said, "The Constitutional Convention is slowly but surely talking itself into a hole with the people. There are so many drastic proposals that the people's comfort level is being exceeded." He cited the environmental public trust doctrine, the right of

18-year-olds to hold office, and more power to the governor as some of the "drastic proposals." "None singly is enough to overwhelm the constitution," he said, "but collectively they might overwhelm it."

He also thought the convention is "very unwise in railroading this to a June vote as if they're afraid to let the people take a look. It took five or six years to get a convention on the ballot. The existing document has been here for 80 years and presumably they're preparing a document that's to last another 80 years. It's ironic that they're giving the people only 60 days to study it."

"So you see, I'm rather pessimistic."

"That one issue alone could sink it," chimed in a fellow lobbyist, referring to the June ratification date.

One lobbyist was critical of apparent provincialism on the part of some delegates. "They came here to write a document for all the people," he said, "but I keep hearing them say, 'I can't go for this or that because the people in my district don't want it.'"

One lobbyist said he didn't have to get away from the Capitol to get the grassroots sense — he could detect the apathy just by observing the nearly empty "visitors' gallery. And the kids who come to visit aren't interested in the convention, he said, "they just get out of school for a day."

Another said the low attendance in the gallery during the Great Debates should be an indication to the delegates that "something is wrong."

One lawyer who travels around quite a bit was less sparing in his assessment than some of the others. "I think they're wasting their time," he said. "I just can't see how the people are going to buy this mess." Alexander Hamilton said the people are a beast, and this is a good example — they're running wild. This is making the legislature look good.

He figured part of the dissatisfaction stems from the extensive press coverage — "people are seeing things they never saw before."

He concluded, "The people are tired of it, the people are sick of

it, the people are frightened of it."

A lobbyist who has been traveling in Missoula, Butte, Billings, and Bozeman had a somewhat more optimistic report. He said that while the attitude now is "basically ho hum," if the people had had to vote on a new constitution two weeks ago, "it wouldn't have had the chance of a snowball in hell — it was dead."

He said he conducted an informal poll in the Billings airport recently and "the attitude has changed."

He attributed the prior negative attitude to "crackpot proposals getting all the headlines ... like the parliament proposal

now that the debates have started." The people wondered what the delegates were doing during committee work, he said, but "now they're beginning to make decisions, and I think generally good decisions."

A couple of delegates acknowledged that the convention image might be on the lean side now, but were optimistic that things would improve.

Jerry Loendorf, R-Helena, said, "It's going to be negative all the way through. After all, 35 per cent voted against having a convention."

"We have to wait for the final document. I think in the end people will find more they disagree with in the old constitution than in the new. But everybody will be able to find plenty they disagree with in both."

Bob Vermillion, D-Sheley, said he also thought the survey results were conditioned by the time and because of the "hassling — what some people consider bickering. If we took a vote now, it would probably be buried. But when the final document comes out, it'll be different — assuming we write a good constitution."

... they thought, 'if that's going to be the constitution, the hell with it.' Now they're beginning to think moderation will prevail."

One lobbyist said he was "up to Ovando and quizzed the people in Trixie's, and the people knew something was going on."

Another said he detected "real apathy in Helena—but of course, the people in Helena are rather indifferent anyway." But he said he was talking to someone in the northern part of the state "and he said they're hopeful something will come of it. Fortunately they're not here to witness it or they'd be thoroughly disillusioned. But there's still hope—the people aren't thoroughly discouraged."

One lobbyist who has made no secret of his contempt for the press said the general feeling he gets is that "it won't pass" because of press coverage of various convention squabbles.

One of the optimistic lobbyists said most of the people he's had contact with "are really happy about the way the delegates have been keeping in touch with the people at home" through newspapers, radio, TV and town hall meetings, as well as in answering letters.

"I think the people are taking it seriously," he said. "I think everybody realizes they're a hard-working delegation. I think they're looking at it with an open mind. Everybody I've talked to hopes they come up with a good, workable document."

Another said similarly that the people she represents all think the delegates are working very hard and "so far have been trying to answer to the people in writing a constitution."

A Common Cause lobbyist, who said he represented a pretty thoughtful cross-section, reported indications that his people are "pretty impressed." He said, "I think there'll be a positive reaction

Delegates Turn to 60-Day Annual Legislative Meets

HELENA (AP) — Constitutional Convention delegates rejected a move by rural members to block annual legislative sessions, but agreed to an amendment to cut the length of the yearly meetings from 90 days to 60 days.

Saturday delegates decided to have 90 day annual sessions, and some of the rural delegates opposed the move at that time.

During reconsideration rural delegates mustered their forces again and tried to bury the annual sessions proposal saying if

The outcome, after extended debate, was similar. Delegates voted 60 to 35 to reject a minority report that would have set up legislative meetings that would run for 80 legislative

days over a two year period which would have snuffed out annual sessions.

Noel Furlong, D-Kallispeil, successfully moved to limit the yearly sessions to 80 legislative days or less. It passed 91-5.

Secrecy in Legislature Is Target of Con Con

HELENA (AP) — Constitutional Convention delegates, running open sessions themselves, passed a section Saturday that also would require legislators to discontinue secret meetings.

By a large majority, convention delegates gave tentative approval to a section requiring that all legislative sessions and committee meetings and hearings be open to the public.

Related story, page 9.

The present constitution, written in 1889, allows senators and representatives to close the doors when they deem secrecy necessary.

The convention rules require that all meetings be open.

"The Constitutional Convention, in this respect, has been eminently successful," Daphne Bugbee, D-Missoula, said.

Delegate Charles H. Mahoney, I-Clancy, a 20-year veteran in legislature, said secrecy might be needed only in certain instances such as impeachment proceedings.

Two delegates who also run newspapers disagreed.

Fred Martin, R-Livingston, cited an example in 1933 when the legislature went into executive session to consider an impeachment proceeding. Because of the false rumors that circulated, Martin said it would have been better to open the session.

Miles Romney, D-Hamilton, agreed, saying:

"I suggest that it is easier to find the carpet tack on the floor in the light than in the dark."

Mark Etchart, R-Glasgow, opposed the open-meetings provisions. He said the convention was interfering with legislative rule-making and tried to strike the section. He later withdrew his motion.

The original section, which

was struck down for being vague, said: "All proceedings of the legislature, including committee meetings, shall be open to the public."

Former Legislator Marshall Murray, R-Kalispell, who was the chief author of the open convention rules, said the legislature should fix its own rules.

Other delegates liked the idea of an open convention, even though there has been some trouble. A Great Falls Tribune reporter was ordered to leave a "newsrooming" in the office of President Leo Graybill Jr., D-Great Falls, this week.

The reporter, John English, said Graybill had violated the rules, and Graybill said it was not a meeting.

Vice President John H. Toole, R-Missoula, supported the anti-secrecy provision.

"It's been very difficult at times, but I still support Mrs. Bugbee's proposal," Toole said.

George B. Heliker, D-Missoula, predicted trouble passing the constitution if delegates approved Etchart's motion to strike the section.

"If the word goes out in the public press that the Con Con supports secrecy, we might as well have our parties and relax the next four weeks for our work will have been futile."

Etchart agreed to withdraw his motion in favor of one by Murray which would have opened meetings except when the legislature deemed secrecy necessary, essentially the same as the existing provision.

Whereupon Murray was confronted on the floor by Mrs. Bugbee, who asked him why the convention had survived without secrecy.

Murray said he was torn between writing a broad, flexible

document and providing for open meetings.

"It seems to me we're talking about change and the changing times," Mrs. Bugbee said, asking that the legislature be more accessible to citizens. "The legislature belongs to the people."

Changing his mind, Murray then said he would support an amendment by Heliker to his motion. The Heliker amendment struck wording that would have allowed the legislature to meet in secret when it desired.

The net effect of the Heliker-Murray proposal provided that all meetings of the legislature, without exception, would be open.

Heliker's amendment passed by a 75-14 margin, and Murray's motion, as amended by Heliker, passed 61-9.

Delegates also wrestled with the problem of requiring the legislature to give the public advance notice of committee hearings. After several attempts, the section, however, was deleted.

The convention has required three days' advance notice before committee hearings.

Delegates, however, followed the advice of Thomas F. Joyce, D-Butte, who said the problem should be handled by the legislature and not frozen in the constitution.

George Harper, I-Helena, pressed for a three-day notice in the constitution but failed 67-21. A motion by Jerome J. Cate, D-Billings, to simply direct the legislature to provide public notice and leave the specifics to legislators also was turned down on a voice vote.

Delegates elected to delete the matter from the proposed article, which must be approved by the public June 6.

Reasons for unicameral

Why have a unicameral legislature? For many reasons — here are a few you might not have considered.

1. **ACCOUNTABILITY** — Each legislator is more accountable to his constituents because there is no buck-passing. He must carefully consider his actions because there is no other house to blame. Elected from single member districts, every legislator is accountable to his own constituents who can know exactly how he votes on every issue along every step of the way.

2. **RESPONSIBILITY** — We need a legislature that can keep up with the times with ability to respond to changing needs, federal programs, etc., one where the possibility of political deadlock or impasse is impossible. It is more difficult for lobbyists to control a unicameral body of one hundred because fifty-one individuals constitute a majority for passing or killing a bill. In a Senate of forty, only twenty-one Senators must be controlled. In a bicameral structure, a Conference Committee of six requires the control of only three.

3. **EFFICIENCY** — A unicameral body improves consideration that each bill receives. There is less confusion. Better debate procedures result from consideration by only one house where all the pros and cons are considered and brought to bear on decisions before they are made. Dual committees are eliminated and it is unnecessary to have two public hearings on a bill. In one house a sponsor can follow a bill through with information and support without losing track of it in another chamber. Bills cannot be introduced and passed in one house with the assumption they will be killed in another. A unicameral eliminates the introduction of identical bills in both houses.

4. **ECONOMY** — The greatest single factor that can assure intellectual independency of lobbying pressure is adequate and well paid staff. This would be possible with a single legislative body of one hundred legislators.

5. **RURAL REPRESENTATION** is improved — Within a unicameral body with single member districts, each legislator will be more responsive to his rural constituents. In a unicameral, the rural district representation is not counterbalanced by larger Senate districts that are stacked in favor of urban centers, because rural areas are thrown into districts with urban centers. The one-man, one-vote Supreme Court decision eliminated the need for two houses which are both based on population.

6. **DEMOCRATIC PRINCIPLE** — The people want a legislature that is structured to reflect the will of the majority instead of one that traditionally operated primarily to protect the will of the minority.

I know a unicameral legislature will not be a cure-all for Montana's problems, but it can't help but improve the system.

ARLYNE E. REICHERT,
Delegate, District 13

CONTINUED

Legislative Council, has to get its information from lobbyists and seasoned legislators.

2. Inefficiency. Despite the fact that the 1971 legislature had more members — 159 compared with the 108-member convention, and the fact that the convention is a unicameral body — the legislature has operated with far less confusion over rules and floor procedures. By contrast, the convention leaders and delegates have been embroiled in parliamentary confusion of their own making during the first three days of floor debate. The situation is improving each day as delegates become more familiar with the rules. The legislature has fewer staff problems, unlike the recent revolt of a majority of the convention staff against the personnel policies of president and the administrative committee.

3. Partisanship. Despite the initial partisan maneuvering to elect a Democrat as president, the choosing of a Republican and an independent as two of the three vice presidents and the non-partisan allocation of committee chairmanships and vice chairmanships have made the issue of partisanship a dead

issue. Seating in alphabetical order instead of segregating the majority and minority parties has contributed to the convention's nonpartisan flavor. There are no caucuses. All of this has made the convention more democratic — with a small "D" — than the legislature. Curiously, delegates by a large margin Friday rejected a proposal that would have required delegates to future conventions to run on a nonpartisan ticket.

4. Openness and citizen involvement. Most meetings of convention committees and subcommittees have been publicized in advance and have been open to the public and the press. There was some confusion in coordinating announcements of committee meetings during the first two weeks of the convention. One of the most successful innovations was the "Romney hearing," named after delegate Miles Romney of Hamilton. These formal hearings conducted by each of the 10 substantive committees, though not always well-attended by the public, at least gave citizens the opportunity to make their final comments on constitutional issues. By contrast, hearings conducted by the legislature are notoriously poorly attended. The

convention has also involved citizens by soliciting "citizen suggestions" for constitutional change and by organizing a successful Citizens Corps to explain the work of the convention.

5. The time factor. Though the convention delegates were weary after the first three days of formal floor debate, they are sticking to a Tuesday-Saturday work week. Clock-watching legislators sometimes work seven days a week. Delegates can work a five-day week without worrying about wasting their appropriation. That's because the delegates are paid on a day-to-day basis and the legislators are paid for working a seven-day week, even if they work only five days.

6. Bills and proposals. There were 1,117 bills introduced last year by the legislature, compared with 178 delegate proposals introduced by Con Con delegates. Unlike the legislature, which passes more legislation than it repeals, the convention seems dedicated to cutting the size of the state's basic document. The convention's Taxation Committee, for instance, has recommended reducing the present taxation article of 42 sections to 14 sections.

Constitutional Change Tentatively Adopted

Annual Legislature Plan Passes 1st Test

By CHARLES S. JOHNSON

HELENA (AP) — Montana's legislature, hard-pressed for time in the past, will meet for annual sessions if voters approve tentative changes adopted Saturday by the Constitutional Convention.

Delegates adopted a section that directs the legislature to meet at least once a year for 90 legislative days or less.

As a comparison, the legislature can meet for only 60 calendar days every two years under the present constitution. Only six legislatures have met this deadline the past 61 years.

The new section, which could be amended later, passed by a 70-24 vote. It also would provide for:

—Continuous body. Any legislative business pending at adjournment the first year of a session would carry over with the same status to the following year.

—Increased time limit. To meet the changing needs of the future, any legislature could increase the length of time of the following

—Special session. A majority of the legislators could move for a special session. Only the governor now has the power to call a special session, and he can determine what topics are considered. Under the proposal, either the governor or legislature, could call a special session.

Jerome T. Loendorf, R-Hel-

ena, led the fight for annual sessions.

"I think it should be obvious our legislature does not have enough time," said Loendorf, vice chairman of the Legislative Committee.

Annual sessions, he said, would allow the legislators to solve problems when they occur instead of waiting until they reach a crisis stage.

While a majority of the Legislative Committee favored the annual meetings, others submitted a minority report providing for sessions of 60 legislative days. These sessions could have been extended by a majority vote of each house.

The minority report, defeated by a 60-35 vote, would have

allowed special sessions not exceeding 30 days.

Richard A. Nutting, R-Silesia, defended the minority report, saying the legislature could meet annually if members desired under its provisions.

J. C. Garlington, R-Missoula, told delegates he would vote only for proposals embracing fundamental law. The majority report satisfied this criterion, he said, and the Missoula attorney offered his support.

Another attorney, Thomas F. Joyce, D-Butte, also endorsed annual sessions, calling it the single most important issue facing delegates at the convention.

"The minority report is full of restrictions," Joyce said.

Magnus Aasheim, D-Ante-

lope, and chairman of the Legislative Committee, opposed the majority report. Some deadline is needed, the former legislator said.

"If we didn't have a deadline, we'd still be fiddling around," Aasheim said.

Thomas M. Ask, R-Roundup, said he feared annual sessions would lead to a legislature made up of professional politicians.

Montana cannot afford annual sessions, Archie O. Wilson, R-Hysham, said.

But Mae Nan Robinson, R-Missoula, who backed annual sessions, said that only 3 percent of Montana's total budget for the last two-year period went to the legislature.

Lloyd Barnard, D-Saco, a 18-year veteran in the legislature, also called for annual sessions.

"I never went home feeling I had done the job right no matter how hard I had worked," he said, describing the time restrictions.

Opponents of annual sessions pointed out their plan would actually allow 16 weeks of deliberation, considerably more than at present. The present constitution sets a 60-day limit, and weekends and other days legislators don't work count against the deadline.

Both of the plans called for legislative days, which are only working days.

By a 70-24 count, those favoring annual sessions won.

Nutting and others were suc-

cessful earlier in the day in blocking a majority recommendation that legislators receive annual salaries. The minority report, adopted by 47-49, allows legislators to set their own salaries, whether annual or daily, as they presently are.

Delegates did lay the groundwork to set up an independent commission to recommend salaries for legislators, judges and executive officers such as the governor. The final decisions, however, would be up to the legislature.

Much of the morning was spent debating whether candidates should be residents of a district to run for the legislature. They agreed that residency ought to be a requirement.

February 23, 1972

Reapportionment Commission Hits Troubled Waters

Legislative Districting Sails Smoothly Through Con Con

HELENA (AP) — A proposal to set up single-member legislative districts slipped through the Constitutional Convention without debate Tuesday.

A companion measure to create a reapportionment commission, however, did not fare as well. After numerous attempts at amending the proposal, delegates decided to delay action until Wednesday.

The single-member district plan, which would bring about great changes in the legislative districts, passed surprisingly easily on a voice vote. Opponents, if they emerge, still could catch the plan later.

The decision Tuesday applies only to the unicameral portion of the plan, but earlier discussions indicate a widespread support for single-member districts.

Delegates, hoping to offer voters a choice between a one- and two-house legislature, will consider the bicameral portion later.

Under single-member districts, each legislator would represent a certain area with no overlapping. Voters, in turn, would cast their ballot for one candidate for the Senate and one for the House under a bicameral proposal and only one candidate under a one-house legislature.

Proponents believe it pinpoints responsibility.

Under the present reapportionment plan, voters in Billings and Great Falls must vote for a dozen representatives and several senators.

Carman Skari, D-Chester, told delegates single-member districting would lead to "person-to-person campaigns" instead of media campaigns.

People's Advocate Voted Down

HELENA (AP) — Constitutional Convention delegates killed a proposal Tuesday that would have created a new state officer, the people's advocate, to help cut through bureaucratic red tape.

A unanimous committee recommendation providing for the advocate — or ombudsman — went under by a thin 48-43 vote. Corridor talk, however, indicated the issue may be reconsidered Wednesday.

The office, popular in European countries and adopted by Hawaii, Nebraska, Iowa and Oregon, would investigate citizen complaints over state agencies.

"It's more effective and less deceptive," he said.

Skari said Montana had used single-member districts from territorial days until reapportionment in 1965. Skari, the only legislator to speak on the issue, presented the Legislative Committee recommendations.

The reapportionment commission, however, was not such a simple matter.

Here is what a majority of the Legislative Committee members advocate:

Majority and minority leaders of the legislature would name four members to a reapportionment commission prior to redistricting every 10 years. The four members would choose a fifth member to be

chairman. If they could not agree, the Montana Supreme Court would pick the chairman. Members would draft a plan and file it with the secretary of state. Persons could file complaints over the preliminary plan within 30 days, and the commission could make changes if it chose.

The plan would become law, and appeals could be filed to the Supreme Court, which could order the commission to draft a new plan.

This plan would avoid having legislators apportion, which many contend has been a futile effort in the past. Several plans have been struck down by federal courts.

In 1971, a three-man federal

court ordered the legislators to get back to the drawing boards because the variance between districts was too great. They did and came up with another plan, which passed the federal court muster but is on appeal to the U.S. Supreme Court.

Some delegates objected, saying the legislature ought to have a chance to reapportion.

Miles Romney, D-Hamilton, said he deplored the tendency of the convention to delegate authority to commissions instead of the legislature.

The minority report, signed by Romney and others, would give legislators first crack at redistricting. If they failed to come up with a plan within a certain period, the commission

plan would become law.

Also backing the minority plan was C. B. McNell, R-Polson, who said allowing the commission to set up new districts might violate the federal constitution. He said it appeared to contravene the republican form of government discussed in the U.S. Constitution.

After several delegates offered plans of their own and tried to amend the majority and minority proposals, Legislative Committee Chairman Magnus Aasheim, D-Antelope, asked for more time.

The delegates upheld his request to delay a decision on reapportionment until Wednesday.

Montana's Capitol to Glow by March 1

HELENA (AP) — Lighting of the exterior of Montana's Capitol should be completed by March 1, the State Board of Examiners was told Tuesday. Director Doyle B. Sarby of the Department of Administration and Phillip H. Hauck, chief state architect, said difficulty in obtaining the necessary light-mounting poles has delayed the project.

However, they said, the poles should arrive by the first of next week.

Forty-four giant lights, half putting out a white beam and the other half a beige beam, will illuminate the Statehouse in Helena.

The lights will be concealed by bushes and evergreen trees.

They will have shatter-proof glass Hauck said.

Some residents saw lights shining on the Capitol recently and thought the job was done, the men told Acting Gov. Thomas L. Judge, Atty. Gen. Robert L. Woodahl and Secretary of State Frank Murray.

The lights they saw were left on accidentally following some tests. In that test only five of the 44 lights were on and all

were of the same color.

When all are working, illumination will be a mixture of light designed to produce a warmer color than the white used to illuminate the St. Helena Cathedral.

There will be a special light atop the Capitol's copper dome. The legislature appropriated \$27,000 for the project.

ConCon okays district plan

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Marian S. Erdmann, R-Great Falls, said ombudsman "is nothing but a fancy name for a complaint department in big cities." While she liked the idea, the former Great Falls mayor said it would be best left to the legislature.

Eight Con Con Delegates Explain Objectives for State Document

A flexible Montana Constitution not cluttered with statutory regulations but protecting the people's rights in all vital aspects of life is the goal of the Constitutional Convention, eight delegates stated Monday night in Great Falls.

They discussed their work at a meeting in the Civic Center arranged by Forward Great Falls and the League of Women Voters. About 70 persons attended.

The emphasis of the delegates' remarks was on tailoring the constitution to meet contemporary needs of the people through new systems of government. There also was much discussion of using the constitution to protect Montana's natural resources.

Six of the delegates were from Great Falls, one was from Fort Benton and another was from Havre.

Key proposals for the new constitution explained by them included:

—Letting local governments do almost anything except what the legislature forbids. Virginia Blend, vice chairman of the Con Con Local Government Committee, said a major goal is to allow cities and towns to share in state revenue. She said municipalities could become essentially independent of the state by adopt-

ing a local government charter. Voter approval of this would be required.

—Encouraging city and county governments to consolidate as many of their services as they deem desirable. Marian Erdmann, a member of the Committee on Local Government, said the proposed section would give county governments limited legislative power so that they would not need the state's permission to do almost everything. Mrs. Erdmann said local governments also would be offered a cafeteria-style choice of government forms so they could choose the best one for their needs.

—Reducing the number of state elective offices to two, the governor and lieutenant governor, who would run as a team. The governor would appoint other state officers. The lieutenant governor's job would be a full-time one. Margaret Warden, a member of the Legislative Committee, said the committee feels the legislature should decide whether the superintendent of public instruction should be elected or appointed by the governor.

—Declaring in the constitution that the water in Montana is the property of the state. Mrs. Erdmann said Montana is the only Western state that has not

done so. A state commission would administer Montana's water rights. Mrs. Erdmann said this protection would prevent downstream states from taking over Montana's water rights.

—Giving voters a choice of a unicameral or bicameral legislature. Ariya Reichert said the Legislature Committee has nine members who favor a one-house legislature and five who want to keep the two-house body. Mrs. Reichert said the committee wants to draft good proposals for both systems and let the voters pick one.

—Putting in the new constitution a section that would be the foundation for protecting Montana's environment. Ery Gysler of Fort Benton, vice chairman of the Natural Resources Committee, noted that the present constitution does not have a section pertaining specifically to the use and abuse of resources.

A member of the Education Committee, Robert Woodmansey, said he believes the most emotional Con Con issue is whether to continue forbidding state aid to private schools. Woodmansey said a majority of the committee members favors keeping the restriction in the constitution, but he believes there will be a floor debate.

Home Rule Restrictions Applauded

HELENA (AP) — The executive secretary of the state AFL-CIO Tuesday commended the Local Government Committee of the Montana Constitutional Convention.

James W. Murry, in a letter to Committee Chairman Oscar L. Anderson, said he was pleased with the stand taken by the committee on the rights of local governments.

The labor organization had feared the delegates might grant unrestricted "home rule" to local government, he said. After viewing a copy of the committee's final recommendations he wrote, "we believe the fears of our Convention are satisfactorily resolved."

"Drafting an article which gives the legislature the leeway to meet the changing needs of local government has not, we are sure, been an easy task for

your committee," Murry wrote.

Copies of the letter sent to Anderson have been sent to all convention delegates by the labor organization.

Murry said the final recommendations now facing debate and action, "substantially eliminate the locked-in restrictions on activities of local government units of the present constitution." "As a safeguard

to the people, Anderson's committee vests the legislature with the authority to provide laws for these subdivisions as needed," he added.

Delegates also supported a committee recommendation that two-thirds of the total number of legislators — not two-thirds of each house, as the present document provides — must approve any proposed constitutional amendment.

Con-Con Delegates Review Constitutional Revision

By CHARLES S. JOHNSON, Associated Press Writer

HELENA (AP) — Montanans will find it easier to amend their constitution if they approve changes adopted Friday by Constitutional Convention delegates.

After two days of lengthy debating, amending and voting, the 100 delegates approved articles on suffrage and elections and constitutional revision. They tentatively had approved the voting article Thursday and made only one change Friday.

The article on constitutional revision facilitates amending the document and holding constitutional conventions.

Voters would acquire the right to use initiative petitions to force the question of whether to hold a convention before the voters. The state's 1889 document offers just one method for calling a convention—a two-thirds majority in both houses of the legislature and then approval by voters. This right would be retained except that two-thirds of the total number of legislators, whether there are one or two houses, would be needed instead of two-thirds of each house.

Fighting the right of citizens to initiate the constitutional convention process was Magnus Aashelm, D-Antelope.

"I don't think the people will ever want another constitutional convention after they've watched us here today and yesterday," the former legislator said. He added that the existing provision was adequate.

Other delegates disagreed and approved the initiative section.

If the legislators or citizens, through initiative, do not give voters a chance to determine whether a convention should be held, the issue would go on the ballot automatically every 20 years. This section, too, would be a change from existing procedure.

Delegates also turned down an attempt by Robert L. Kelleher, D-Billings, to make candidates to future conventions run as nonpartisans.

Uncertain of what political conditions may be like in the future, they preferred to give

the legislature the option of ruling if the elections should be partisan or nonpartisan.

After haggling over detail, they chose to leave out any reference directing the legislature to set up a preparatory commission prior to a vote on whether to hold a convention.

A General Government Committee recommendation that would have established a new way to amend the constitution besides the existing method was rejected by delegates.

The defeated proposal would have allowed two successive legislatures to pass constitutional amendments by a two-thirds vote, without referring them to the voters. To put an issue on the ballot, five per cent of the state's legal voters would have had to petition.

"This is a monstrosity, a filching of the people's right," Miles Romney, D-Hamilton, said, opposing the plan.

Otto T. Hadedank, R-Sidney, defended the proposal, saying it could be used to take care of housecleaning amendments while the referendum process could be saved for more controversial changes.

Delegate George Harper, I-Helena, led the opposition, saying the plan would deprive citizens of a basic right.

"The constitution is a fundamental document of the people," he said. "Every word in it is voted on by the people."

Chet Blaylock, D-Laurel, said the proposal offered no guarantee that it would be used only for housecleaning amendments, which are passed to keep Montana's document in compliance with the U.S. Constitution.

Harper's motion to delete the entire section passed 64-2.

Voters also would acquire the right to start amendment proceedings if the new constitution passes.

The delegates accepted an amendment by Charles H. Mahoney, I-Clancy, to lower the number of legal voters needed to sign the petitions from 15 to 10 per cent. The list must include at least 10 per cent of the voters in 40 per cent of the legislative districts.

No limit on the number of constitutional amendments that could be placed on the ballot would be imposed. The present constitution does not allow more than three.

Proposal Seeks to Make Local Governments Responsive, Responsible

By FRANK ADAMS
Tribune Capital Bureau

Helena—The real news in the proposal of the Constitutional Convention's Local Government Commission is its incorporation of new devices to make local governments more responsive and responsible, according to research analyst Jerry Holloran.

In comments accompanying the proposal to the floor of the convention, Holloran points out that the committee recommends "totally new provisions allowing local citizens to design their own form of local government, to increase local authority and responsibility, and to end needless duplication of local services."

A new feature of the proposal provides for self-government charters for local government, to be framed, adopted, revised, or abandoned at the initiative of the local people.

Holloran points out that at present, only the legislature can draw up charters and local people have authority only to adopt or reject the legislature's work.

He says two major safeguards are built into the plan:

—The legislature may set limits and procedures under which charters may be drafted. "For example, the legislature might determine that only those units or combination of units with more than 10,000 population should have charter-writing authority, or the legislature could specify the method of selection and the number of

members of a local charter-drafting commission."

—No charter or charter amendment can become effective until approved by a majority of the local voters.

On the other hand, the provision also would limit the power of the legislature over locally-written charters in two ways:

—Both the state legislature and local legislative bodies such as city councils would be denied the power to veto a locally approved charter. "The committee believes that a legislative body should not be allowed to set aside a properly drafted charter that local residents believe meets their needs," comments Holloran.

—Charter provisions on a local unit's executive, legislative and administrative structure would supercede statutory provisions. For example, "if a local unit decides through its local charter to elect a treasurer but state law generally requires that treasurers must be appointed, the charter provision calling for election will become effective."

Holloran says testimony before the committee indicated that "no massive movement toward locally drafted charters is likely to occur in the foreseeable future" although the mayor of Missoula did express "considerable interest."

In addition to giving citizens an opportunity to become directly involved in their government and tailor the governmental

structure to their own needs, the committee feels local charter writing is valuable in providing a method whereby the people can bypass a recalcitrant legislature which refuses to provide optional forms of government.

The proposal would give charter government or other forms of government authorized by the legislature all powers not prohibited by the constitution, law, or the charter.

The proposal retains the present constitutional authorization for the legislature to provide for any kind of local government it wants. It specifies that one optional form of county government will include commissioners, clerk and recorder, sheriff, and all the other present county offices. In other words, says Holloran, the people could, if they wish, continue to operate their present county government structure. At the same time, counties would be encouraged to adapt to local needs through an array of possible structural variations.

The proposal would make it easier for two counties to consolidate by requiring majorities of those voting in each county, rather than majorities of the qualified electors. The less stringent provision endorses the reasoning, says Holloran, "that persons who do not vote on an issue should not be able to thwart the will of those who do."

Let the proponents and opponents of county consolidation go to the polls and let the majority

And to make it more likely that local government will take advantage of structural options available to them in improving government, the proposal contains a unique review feature. It requires that the legislature must provide methods by which each local unit will study its governmental structure. Holloran says the key provision is that each unit must have an opportunity to vote on whether to adopt an alternative form or retain their present form.

"The committee strongly believes that such local review of government is highly desirable," says Holloran. "Costs would be minimum and more than repaid if local governments can be improved. Increased voter interest and awareness of local government issues would be assured, and some local units, through experimentation, might find answers to local government problems that would aid other units in the state."

"An overriding consideration is that the local voters would be the final judges of whether the alternative proposed really would be a better form of government than that in effect at the time of the election. Even if every county, city and town decides to retain its existing form of government, following the review procedure, the committee believes the time spent in study and discussion of local government will result indirectly in more responsive and responsible local government."

In addition, the proposal would require the legislature to provide a review procedure each 10 years after the first election, although it would not have to be as extensive as the

Con-Con Is Breeding Ground for Candidates

By DENNIS E. CURRAN
Missoulian State Express

HELENA — When Montanans go to the polls this year, they may be voting on not only a new constitution but some of the men and women who wrote it.

The Constitutional Convention is putting 100 delegates, many of them political unknowns, in the limelight this winter and likely will thrust a few of them into future political races.

Not all 100 delegates will run for office, of course, and some of those who do run probably won't run this year. But the Constitutional Convention is a potential breeding ground for future legislators and future candidates for statewide offices.

Among the emerging leaders with a shot at a statewide office if they want are Convention President Leo Graybill Jr., Rules Committee Chairman Marshall Murray and Bill of Rights Committee Chairman Wade Dahood.

But at this point it's all speculation, and even the speculation has some important limitations.

—First, the convention is only half over, and the most visible part — debate — is just starting. Up to now the convention leaders have received most of the spotlight, but now they will be sharing it. Stars rising now could be burned out by the end of the convention and new ones could be born.

—Second, while delegates are optimistic about writing a good constitution, their document could turn out to be a dud, or even

worse politically, so unpopular with the voters it would be an albatross preventing would-be state leaders from ever getting off the ground.

—Third, while the convention probably will conclude several weeks before the April 27 filing deadline, time will be limited to raise the money and support needed for a statewide race.

—Fourth, many feel that attempting to use the Constitutional Convention as a political springboard at the same time the constitution is up for ratification could obscure and hurt both the aspirant and the constitution.

Not surprisingly, most of the emerging leaders at this stage of the convention are those who already hold leadership positions.

Leo Graybill Jr., D-Great Falls, has the single most important position in the convention, one which has guaranteed him the lion's share of news coverage during the early stages of the convention. However, clashes with the press and convention staff have brought some unfavorable coverage. Graybill, a lawyer, has impressed people with his ability to get the convention moving; if he can keep it moving without stepping on toes his stature most certainly would rise higher. Graybill twice unsuccessfully sought the Eastern District congressional seat but has not indicated any future political plans.

Marshall Murray, R-Kalispell, is chairman of the Rules Committee, a position which has put him in the forefront because most of the general convention sessions so far have dealt with rules or procedure. Murray, a lawyer, has poise and experience, having run unsuccessfully for attorney general in 1964, but

he doesn't appear anxious to run again this year.

Wade J. Dahood, 44, R-Anaconda, a lawyer, has swiftly gained a reputation as one of the convention's most dynamic speakers championing the cause of increased rights for the people. A Republican elected in a normally strong Democratic community, Dahood reportedly is being urged to enter the Republican gubernatorial primary June 6.

Beyond these three men are a host of other delegates who through personality or convention position stand out from their fellow delegates at this time. The list is not all-inclusive and should not be construed as suggesting these leaders plan to run for any office.

—John Toole, R-Missoula, is first vice president, a position which could put him before the voters constantly during the ratification campaign, but so far Toole has worked mainly behind the scenes on administration under Graybill.

—Convention Vice Presidents Dorothy Eck, D-Bosman, and Bruce Brown, R-Miller City, and Convention Secretary Jean Bowman, R-Billings, have not "stepped" in as many leadership duties as had been anticipated, but by virtue of their positions and work on procedural committees all have greater than average stature.

—Committee chairmen also spend more time in the forefront than the average delegate, and some of the chairmen appear to have more stature than others. Besides Dahood, two that stand out are Magnus Aasheim, chairman of the Legislative Committee, and Jack Schiller, chairman of Style and Drafting Committee.

—New faces are cropping up, like Franklin Arroy, D-Alamy, mentioned as a possible attorney general candidate, and Bob Campbell, D-Missoula, a possible lieutenant governor candidate. Then there are old pros like Charles Mahoney, R-Gary, who apparently is thinking about running for state treasurer.

But what will happen after these or four weeks of strenuous debate is anybody's guess. Debate has a way of wearing some leaders out (creating chaps), and then the frenzy to start thinking about potential opponents and congressional

ConCon wants recorded votes

HELENA (AP) — Continuing their drive to open up the legislature, Constitutional Convention delegates voted Tuesday that recorded votes be required on all substantive questions before the legislature and its committees.

After battling an assortment of motions and amendments around in the morning, delegates accepted wording submitted by Jerome T. Loendorf, R-Helena, to ensure recorded votes.

For all their concern over recorded votes, delegates approved this change and others, except when a roll-call vote was requested by five delegates, by unrecorded voice votes.

The Loendorf proposal requires recorded votes "on each substantive question" before legislative committees and the entire body. It also requires that votes be made public.

Loendorf said he wanted to limit the roll calls to substantive issues. About 40 per cent of the legislative votes are on procedural matters, the Helena delegate said.

The Legislative Committee had recommended that votes be recorded on all action affecting the status or substance of bills, resolutions and rules. Some objections to this proposal were raised in the morning.

The Montana Standard

Keeping government open

The Constitutional Convention has given tentative approval to a section that would outlaw secret meetings in the legislature apparently with few, if any, exceptions.

Con-Con approval of this section should be welcome news to Montana's citizenry.

As demonstrated by the Constitutional Convention itself, a public body that operates on an open basis can do its work just as well as one that sometimes relies on "executive" sessions.

There are, of course, differences in the functions and methods of the convention and the legislature. One of the biggest differences is that the convention has made a conscious and largely successful effort to eliminate politics from its work. The legislature remains a highly partisan unit and that, in our view, is reason enough to keep its doings open to public scrutiny.

Unless there is some way to prevent them, closed meetings can be held in perfect legality. But legality isn't necessarily synonymous with honesty and some closed meetings raise a question of propriety in many minds. In a frankly political body like the legislature questions of propriety can lead to distrust of the body and its decisions. The way to avoid this is to keep meetings open where the votes and statements of those attending are known to the voters.

Convention Breeds Politicians

BY DENNIS E. CURRAN
EE State Bureau

When Montanans go to the polls this year, they may be voting on not only a new constitution but some of the men and women who wrote it.

The Constitutional Convention

is putting 100 delegates, many of them political unknowns, in the limelight this winter and likely will thrust a few of them into future political races.

Not all 100 delegates will run for office, of course, and some of those who do run probably

won't run this year. But the Constitutional Convention is a potential breeding ground for future legislators and future candidates for statewide offices.

Among the emerging leaders with a shot at a statewide office if they want are Convention

Action on roll call voting is delayed

HELENA (AP) — Constitutional Convention delegates deferred action Tuesday on a section requiring recorded votes in the legislature.

After battling the proposal around and trying several amendments, the delegates voted to delay consideration of the section until later in the day.

The Legislative Committee recommended that votes be recorded on all action affecting the status or substance of bills, resolutions and rules.

Richard A. Nutting, R-Sieria, defended the proposal, saying it would make the state legislature more visible to the public.

Some feared, requiring roll-call votes on each matter would be time consuming and costly.

"If we're doing that in this body, you'd have a pile of record votes that high," Leslie "Joe" Eklidson, D-Malta said, making a gesture to his chest. He also said daily costs would be doubled by the roll-call votes, which are printed on sheets of paper with several carbon copies.

Charles H. Mahoney, I-Cian-

cy, said delegates were violating the very rule they hoped to impose on the legislature since they were taking voice votes except when recorded votes were requested.

Miles Romney, D-Hamilton, moved to delete the section saying the legislative rules called for roll-call votes.

However, Arlyne E. Richart, D-Great Falls, pointed out that votes on second reading are not recorded. Roll calls are called on the third, or final, reading.

Romney said roll calls could be obtained on second reading, which is the debate stage, by a parliamentary procedure known as segregating a bill.

Opposing the Romney motion was former legislator Paul K. Harlow, D-Thompson Falls.

"I'm a little disturbed over the remark that a person should not be required to be responsible for how he votes in the legislature," Harlow said.

That crucial committee decisions affecting bills often go unrecorded "is a dastardly way to run a legislature and develop laws in Montana," Harlow said.

News Analysis

President Leo Graybill Jr., Rules Committee Chairman Marshall Murray and Bill of Rights Committee Chairman Wade Dehoad.

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—First, the Convention is only half over, and the most visible part—debate—is just starting. Up to now the leaders have received most of the spotlight, but now they will be sharing it. Stars rising now could be burned out by the end of the Convention and new ones could be born.

—Second, while delegates are optimistic about writing a good constitution, their document could turn out to be a dud, or even worse politically, so unpopular with the voters it would be an albatross preventing would-be state leaders from ever getting off the ground.

—Third, while the Convention probably will conclude several weeks before the April 27 filing deadline, time will be limited to raise the money and support needed for a statewide race.

—Fourth, many feel that attempting to use the Constitutional Convention as a political springboard at the same time the constitution is up for ratification could backfire and hurt both the aspirant and the constitution.

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Feb. 24, 1972

Opinion Page

Guest Editorial

Editor's Note: J. C. Garlington, Missoula lawyer, is vice chairman of the Executive Committee of the Montana Constitutional Convention. He is a native of Montana, a graduate of the University of Montana, a former parttime instructor at the University of Montana Law School and has been a practicing attorney in Missoula since 1929. His comments, written to outline his personal philosophy, reflect that of many Convention delegates now making appraisals so necessary to arrive at decisions in the weeks to come as delegates vote and decide issues, some of which will be highly emotional and controversial.

By J. C. Garlington

As we enter the crucial stage of debate and vote on the complex issues we must resolve, my conscience drives me to establish some firm safeguard against my surrender to personal preferences and prejudices. In representing the 50,000 people of District 18, how can I be sure that I vote their best interests, and not just my own?

Over the years I have learned that adherence to principle is the safest guide through a maze of conflicting facts or claims. Essentially, this is how the law resolves disputes. So, I have sought, this past month, to establish the principles by which my voting during this next month should be guided. In the hope that what I have concluded may assist some of you in reaching your own decisions. I ask leave to outline my thoughts, briefly.

I start with the recognition of the political fact that the liberal, as contrasted with the conservative, view is in the ascendancy. Accepting that, what is liberal? To me, it is that which allows the most freedom, freedom of each of us to live, and to work, and to believe as we may think right for ourselves.

I want to vote for a Constitution that will do this. What would it be? I think it would have to assure to the individual three freedoms.

1. His personal freedoms, as in the honored Bill of Rights.

2. His political freedom, meaning his right to vote, to be a candidate, to express his opinions, and to know what his government is doing to him and with him.

3. His future freedom, meaning his right to try a new system, to expel a bad system, to meet a new problem with a new solution, to explore constantly the ways and means of living better with government.

Now, how, can we write a Constitution which is liberal by that definition? I think the answer is:

Write in simple terms the broad fundamental structure of government, coupled with basic assurance of essential personal freedoms, and leave the future to be faced as it unfolds.

The profusion of Delegate proposals shows that temporarily our enthusiasms we forgot to the good advice from our fellow citizens elsewhere who have preceded us through this constitutional ordeal. Keep it simple, they said.

So, also, have said some of our own people:

Said the Billings Gazette:

"Let the Montana Constitution be one of principles, not of specifics." (February 7, 1972)

Said the AFL-CIO:

"We ask other groups to join with us in asking the Convention to so draft the new document that it will lay down the fundamental law of our state, leaving wherever possible the implementation to the Legislature." (December, 18, 1971)

Said the League of Women Voters:

"The Constitution should be limited to fundamental law, outlining the framework of government and delegating powers." (1972)

This is sound advice. I shall heed it. However, moral, appealing, helpful, or humanitarian, some proposal may seem, if it does not fairly fit within these principles I shall vote against it. If it does, I shall support it.

I think this means that basically I have faith in our citizens and their legislative process—and also that I have trust in our young people and their coming generations.

In any event, this is how I propose to guide myself and form my judgments as we work through our task. I think it is the only way I can fairly and fully discharge my responsibilities to the people, born and unborn, of District 18.

Delegates Argue Bill Identifications

Lawyers and laymen argued over the titles of legislative bills at the Constitutional Convention Tuesday.

Sparking the debate was a proposed constitutional section that would have undone a section in the present constitution requiring subjects of bills to be clearly expressed in their titles.

The proposed section eventually was amended with portions of the present section, but a two-year statute of limitations was inserted.

No suits over the legality of bills because of improper titles can be filed two years after the effective date of the law.

Prior to amendment, the proposed article did not mention the titles of bills.

"This is really a lawyers' relief bill" delegate Mae Nan Robinson, R-Missoula, said of the amendment.

She said a perusal of cases involving article 5, section 29 of the present constitution shows some inconsistency in Montana Supreme Court decisions. Some blatant errors in titles of bills have been allowed, she said, while some minor errors have led to laws being thrown out.

Richard Roeder, D-Brazman, called the section "the most adjudicated section of the constitution." He termed the section in the 1889 constitution "a hydra and monster."

Lawyer Cedar B. Aroonow, D-Shelby, who amended the proposal by inserting existing language, said "terrific fraud and deception" could be employed if such a provision were not included.

Another attorney, David L. Holland, D-Epette, took after critics of the proposal.

"I tell you you're putting things in here that lawyers will get rich on for the next 100 years," Holland shouted at delegates, upset at their criticism of the existing section.

Holland said requiring recall votes and other restrictions could lead the Montana Supreme Court to throw out laws that did not meet these constitutional standards.

The Aroonow motion to amend passed, but his second motion, to strike the proposed one-year statute of limitations failed. The existing article has no such provision.

C. B. McNeil, R-Polson, and also an attorney, successfully amended the proposal to increase the statute of limitations to two years.

'Court Improvement' Possible Despite Death of Montana Plan

Delegate throws con-con a ringer

By FRANK ADAMS

Tribune Capital Bureau

HELENA — The much-beset "Montana Plan" of the Citizens Conference for Court Improvement has been supplanted by the minority report of the Constitutional Convention's Judiciary Committee.

That's the word from delegate Catherine Pemberton, R-Bozeman, a member of the committee and a leading exponent of the Montana Plan since the inception of the citizens conference half a dozen years ago.

But rather than mourn over the demise of the Montana Plan, Mrs. Pemberton says that just as the citizens sought court improvement through the plan, there is definite potential for government in the committee's minority report. Although no poll has been taken, Mrs. Pemberton is confident the minority report would meet with the approval of the Citizens Conference.

The committee is divided 5 to 4 in its majority and minority positions.

One of the key differences between the minority report and the Montana Plan is in selection of judges. Both call for merit appointment by the governor of a slate of nominees. But under the Montana Plan would the appointed judge run unopposed against his rivals in all future elections, the minority report advocates a continued election the first time and subsequent elections unopposed. In addition, the minority report calls for Senate confirmation of appointees.

The committee's majority report, on the other hand, is heavily oriented toward election of judges. Vacancies would continue to be filled by gubernatorial appointment, but the appointed judge could hold office only until a successor is named at the next general election. Moreover, the appointed judge should not be eligible to be a candidate for judicial office until one year after his successor has been elected. The object is to prevent the present hierarchy of appointed judges 12 of the present 33 district judges began as appointees) by eliminating the natural advantage of the "created" incumbent in a judicial election. This built-in advantage is pointed up by the fact that in the 54 judicial elections since 1922, only 14 judges had opposition and only one incumbent was voted out. The 32 judges who had no opposition could have kept their jobs had they received only one vote. But the minority plan would give voters an opportunity to pass judgment on the judges, even though they would have no opposition after the first election, by permitting a "yes" or "no" vote.

The minority's premise in advocating appointments based on nominations from a merit committee is that few voters are acquainted with the judicial candidates or their qualifications.

Another major difference between the Montana Plan and its successor is that the minority report does not provide for magistrates as arms of the district court in place of justice of the peace court. The minority report takes JPs out of the constitution and leaves them up to the legislature, but minority member Ben Berg, Bozeman, wants it "clearly understood" that the minority does not advocate abolishing JPs. "That's emphatic," adds another minority member, Mason Melvin, D-Bozeman.

The majority report leaves mention of JPs in the constitution but similarly leaves them to the legislature except for requiring one per county. Both reports call for a judicial standards commission to investigate any complaints against any judge and the changes in the Supreme Court, which could retire, consult, or remove any justice or judge. The minority report extends the commission's jurisdiction to lawyers.

The present requirement amounts to a minimum of four per county. The minority report goes along with the Montana Plan in advocating appointment rather than election for the Clerk of the Supreme Court, but diverges in advocating continued election of clerks of district courts. The thinking is that the Supreme court clerk has no policymaking powers and the office isn't well enough understood to draw an intelligent vote, whereas the district court clerks are closer to the people and would provide better service if elected.

Berg says the feeling of the minority is that the district court clerks should be subject to consolidation with other counties very little to do in some counties where a judge may come only once a week. The majority report advocates continued election of both supreme and district court clerks. The minority report diverges from the Montana Plan in retaining the Supreme Court powers to establish rules of evidence, in keeping with the wishes of most of the lawyers responding to a judiciary committee poll.

There are a couple of other minor differences between the minority report and the Montana Plan, but generally, agree

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HELENA (AP) — Montana's Constitutional Convention disavowed a delegate's parliamentarian Wednesday, but he vowed that the fight is not over. By a 13-74 vote, delegates buried the plan, submitted and promoted by Robert L. Kelleher, D-Billings. It was considered during debate on the Legislative Committee report.

Kelleher, an attorney who has unsuccessfully run for Congress, said afterwards he intended to resurrect the plan when the debate on the proposed Executive Committee report begins in a few days.

His plan, modeled after the British system, brings about "instant democracy," Kelleher said. The legislature would name the prime minister or governor, thus reducing the changes of executive-legislative hickering.

Former Presidents Woodrow Wilson and William Howard Taft favored a parliamentary form of government, he said.

"This is highly democratic and very responsive democracy," he said, adding that it would bring "power to the people."

Kelleher picked up some support on the floor.

When Romney, D-Hamilton, said he didn't know but what

most of the delegates agreed with Kelleher but were afraid to vote for the plan. "In your hearts, you know he's right," Romney said, reciting the 1964 Goldwater slogan. "The scoffers fail to recognize that most of the nations use this form of government."

Sterling Rygg, R-Kalispell, said he would prefer a parliamentary form of government to a unicameral legislature.

Others argued that Montanans did not want such a radical departure from a republican form of government. "How many of us would be here today if we'd campaigned to overturn our whole form of government?" Charles H. Mahoney, I-Clancy, asked.

Fred Martin, R-Livingston, said: "We did not come here to bury Kelleher. We came to bury his proposal with vocal tributes."

Kelleher drew 18 other votes, most from unicameral opponents, but fell far short of the needed majority.

Con-Con Wants Spotlight On Votes in Legislature

HELENA (AP) — Continuing issues. About 40 per cent of their drive to open up the legislative votes are on procedural matters, the Helena delegate said. The Legislative Committee had recommended that votes be recorded on all actions affecting the status or substance of bills, resolutions and rules.

Some feared requiring roll-call votes on each matter would be time consuming and costly. "If we're doing that in this body, you'd have a pile of record votes that high," Leslie "Joe" Eskildsen, D-Malta, said, making a gesture to his chest. He also said daily costs would be doubled by the roll-call votes, which are printed on sheets of unrecorded voice votes.

The Loendorf proposal requires recorded votes "on each substantive question" before legislative committees and the entire body. It also requires that votes be made public. Loendorf said he wanted to limit the roll-calls to substantive

requested.

Convention advocates single-member districts

By CHARLES S. JOHNSON
HELENA (AP) — A reapportionment commission will carve out single-member legislative districts if Montanans ratify changes proposed by the Constitutional Convention.

In all probability, voters will face a choice of a unicameral—or one-house—and a bicameral—or two-chamber—legislature when they vote on the new document June 6.

Both plans will provide for single-member districts, quite a departure from the existing multiple-legislative districts.

Single-member districts for the unicameral plan were approved Tuesday, and delegates remained consistent when considering the bicameral plan Wednesday.

Instead of having anywhere from two to 12 house members and one to six senators representing them, voters will have just one representative and one senator, under the bicameral plan.

If voters opt for the unicameral plan, they will have one legislator representing them.

Advocates of single-member districts contend they make legislators more responsible to a specific constituency.

During debate on the bicameral alternative, Torrey B. Johnson, R-Busby, failed in his attempt to provide for double-member house districts.

His plan, which was defeated, would have created single-member senate districts, from which two representatives would be elected at large. The legislature would have been able to fix requirements for dividing house areas into single-member districts.

Grace Bates, D-Manhattan, said the new North Dakota proposed constitution contained a similar provision.

Others, such as Douglas Delaney, D-Grass Range, said Johnson's proposal would defeat the purpose of single districting.

Although his proposal lost, Johnson said: "I can live with single-member districts."

Delegates also agreed to set up a commission to redistrict the state following each federal census to comply with one-man, one-vote standards required by the U.S. Supreme Court.

The plan, offered by Jerome J. Cate, D-Billings, provides for a commission of four persons chosen by the majority and minority leaders of the legislature. They will pick a fifth member, the chairman, or the Montana Supreme Court will name one.

The commission will come up with a plan, and legislators and others may offer suggested changes. Then commission members will present a final plan, which will have the effect of law. It does not have to go through the legislature, and need not incorporate suggested changes.

While some members believed the legislators ought to have more of a hand in the process, some delegates argued that lawmakers have a vested interest and thus should be able only to appoint the commission and offer suggestions.

"In my opinion, the legislature is totally unable to reapportion itself," former legislator John M. Schiltz, D-Billings said.

Reapportionment, some said, had been a troublesome process in the past.

Last year, the first plan adopted by the legislature was rejected in federal court because it varied too much from district to district. The second attempt was approved by three judge federal court but is pending on appeal before the U.S. Supreme Court.

C. B. McNeil, R-Polson, said not letting the legislators attempt to redistrict was a violation of the balance of powers doctrine.

Harold Arbanas, D-Great Falls, however, said, "No one should be the judge of his own case."

Delegates Arlyne E. Reichert, D-Great Falls, compared the process to an operation.

"It's like removing your own appendix," she said. "The legislature will never do it itself."

Opponents of the Cate plan preferred a measure that would have given legislators first shot at apportionment. If they failed to agree on a plan, the commission plan would become law.

"All I'm trying to do is let the legislature have some little say, not have it done by a computer," ex-legislator Charles H. Mahoney, I-Clancy, said.

The Cate plan passed 55-36.

How They Voted

Reapportionment Commission, 55-36

The Constitutional Convention Wednesday tentatively approved an amendment that would put legislative reapportionment in the hands of a citizen commission. The legislature would name the commission and could make recommendations, but the final say would be up to the commission. Here's how the 55-36 vote went:

Yes: Oscar Anderson, Aransas, Arness, Ask, Berg, Berthelson, Bowman, Brown, Bingbee, Burkhardt, Cain, Cate, Champoux, Choate, Cross, Dahoff, Davis, Drum, Eck, Felt, Foster, Furlong, Garlington, Graybill, Gysler, Harbaugh, Harlow, Harrington, Helliker, Jacobsen, James, Joyce, Kamboot, Kelleher, Leonard, Loretto, McCarvel, McDonough, Monroe, Murray, Payne, Reichert, Robinson, Rodder, Schiltz, Siderius, Skart, Sparks, Spear, Sullivan, Swanberg, Topik, Vermillion, Warden, Wilgots

No: Aasheim, John Anderson, Barnard, Bates, Reichert, Blaylock, Brazier, Delaney, Driscoll, Erdmann, Eskildsen, Etohart, Habedank, Robert S. Hanson, Ed Hanson, Johnson, Lenthold, Mahoney, Mansfield, Marth, McKeon, McNeil, Melvin, Noble, Nutting, Pemberton, Rollins, Romney, Bygg, Scanlin, Simon, Studer, Van Buskirk, Wagner, Ward, Woodmansey.

Absent or not voting: Arrowood, Artz, Babcock, Blend, Campbell, Conover, Harper, Holland, Rebal.

Legislative Size Choice Established

HELENA (AP) — Delegates to the Montana Constitutional Convention voted Wednesday night to give the voters a choice on the June 6 election ballot between a large unicameral legislature or a two-house body nearly preserving the status quo.

The delegates voted to present a unicameral body of 10 to 105 members and a bicameral legislature of from 100 to 106 members in the House and 50 to 53 in the Senate.

The present legislature consists of a 100-member House and a 50-person Senate. Before reapportionment last year, the Senate had 55 members and the House 104.

Making the bicameral limit was Carl Davis, D-Dillon. Davis had led the fight earlier in the day for a larger unicameral chamber.

In adopting Davis' amendment, the delegates overturned the recommendation of their Legislative Committee—which had called for a bicameral body with a Senate ranging from 30 to 60 and a House from 60 to 60.

The Legislative Committee recommended an upper limit of 100 members for a unicameral legislature and a lower limit of 75.

Right to work—or wreck?

It seems obvious to me that Mr. Studer and his co-sponsors are not for the working man at all, and only "think" they will be helping the employers. By restricting the right to union security, they would be undermining the strength of the union and causing a dowfall in working conditions and wages.

This "right-to-work" proposal would mean that the unions wouldn't have the right to expect everyone to pay dues even though the unions (under law) must represent—even through arbitration—and gain better working conditions for the non-member. (A comparable situation would exist if certain people refused to pay taxes, yet received the same national, state and community services you receive.)

As for "protecting the workers," they would only be hindering us. Under law, the only way to gain a union security clause is by majority vote. If this proposal goes into effect, the majority wouldn't have anything to say about it.

We realize that a worker whose "principles" do not permit him to join a union shouldn't be forced to do so—and under union security he DOESN'T have to join. But he should pay an amount equal to union dues for the benefits and protection he enjoys as a result of the union contract.

This proposed law offers employes an incentive to forego their monthly dues without losing any benefits the union has won for them. Yet, without monetary and personal support, how long will the unions last? Then what will happen to wages and conditions?

The states with this "right-to-work" law have some of the lowest average personal incomes of the nation, and when we aren't making it we aren't spending it—then business slacks off and there certainly isn't any need for more employes. It doesn't create more jobs!

I urge you to help us defeat this "right-to-work" law just as we defeated the sales tax. Write, telephone or telegraph your delegate in the Constitutional Convention.

LINDA SOMMERVILLE, Billings

How They Voted

Tribune Capitol Bureau

HELENA — Parliamentary government pusher Robert Kelleher, R-Billings, Wednesday was failed in his attempt to amend a legislative article proposal.

Basically, Kelleher wanted to make Montana's legislature a parliament.

Kelleher's attempt failed, 19-75.

Supporters of his attempt were:

Grace Bates, D-Manhattan, Don Belcher, D-Roundup, Douglas Delaney, D-Grass Range, Maurice Driscoll, D-Butte, James Felt, R-Billings, Erv Gysler, R-Fort Benton, George Helliker, D-Missoula, David Holland, D-Butte, Torrey Johnson, R-Busby.

A. W. Kamboot, R-Forsyth, Kelleher, Russell McDonough, D-Glendale, George Rollins, D-Billings, Miles Romney, D-Hamilton, Sterling Rygg, R-Billings, Henry Siderius, D-Kalispell, Ralph Studer, R-Billings, Edith Van Buskirk, D-Havre, and Jack Ward, R-Hamilton.

The six delegates who were absent or not voting: Betty Babcock, R-Helena; Louise Cross, D-Glendale; Gene Harbaugh, D-Poplar, Paul Harlow, D-Thompson Falls; Catherine Pemberton, R-Broadus, and John Teele, R-Missoula.

Legislative Secrecy Ban Could Increase Lobbyist Control

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — Constitutional Convention delegate urging total openness in legislative meetings and voting may be unwittingly wielding a two-edged sword.

On the one hand, such openness may well result in the responsiveness and candor sought. But on the other hand, it could lead to a stifling of expression and even greater control by lobbyists who would find it

easier to "commit" a legislator. It is probably not a coincidence that three delegates pushing Tuesday for recorded votes at all crucial stages of a bill were registered lobbyists during the last assembly and a third was a frequent witness before legislative committees.

News Analysis

(Rod Hanson, D-Fairfield, lobbied for the rural electric;

Daphne Bugbee, D-Missoula, lobbied for the League of Women Voters; Jerry Loendorf, R-Helena, lobbied for for several groups including the Tavern Association, and Dorothy Eck, D-Bozeman, often represented the League of Women Voters.)

The thinking behind possible greater lobby control is that, human nature being what it is, a legislator who for one reason or another felt obligated to a lobbyist would no longer be insulated by secret meeting and votes.

As one lobbyist put it, "Now there are some smart SOB's that tell you one thing and do another in committee."

"You could commit a guy on a recorded vote," said another lobbyist.

Nearly all the lobbyists frequenting convention hall who were interviewed by the Tribune said they favored open meetings and votes. However, one said he would prefer some secrecy. He said he felt a legislator has a certain obligation to do some investigation by talking with lobbyists and he might not feel

free to act on the information received if his actions were a matter of public record.

Another said a recorded vote immediately opens a legislator to pressure, both from lobbyists and from the public, with the inference that this would not be good.

Delegate Loendorf agreed that openness would restrict a legislator's freedom to vote the way he wanted. But, he asked, "Are you there to represent just yourself or other people? How can the people elect whom they want

if they don't know what their positions are?"

As for being fearful of acting in the open, Loendorf said legislators would just have to be courageous.

Loendorf said he spoke as a citizen, but that he would feel the same way as a lobbyist.

Several lobbyists pooh-poohed the notion that lobbyists exert any real influence over legislators. "One time one votes against you and another time he votes with you," said one. Another called it the biggest fal-

lacy he'd ever heard of, saying, "I've been at it 30 years and it's never been my experience that it works that way. There's a measure of influence, that's true. But that's secondary. The way to get votes is to furnish accurate and factual information."

This same lobbyist aid it was immaterial to him whether committee votes were recorded or secret because "a good lobbyist is going to find out the vote, anyway."

One lobbyist said if a legislator doesn't want to be obligated to the lobbyist, he doesn't have to. "If a legislator has that much weakness," he said, "it's questionable in my mind whether he should hold the position." But, he conceded, "from a practical standpoint, they do."

The lobbyist who referred to the smart SOB's who say one thing and secretly do another pointed to the candor that open meetings and voting would produce. However, it did not go unnoticed that the Tribune was able to get the lobbyists to open up in candor only when assurance was given that their names would not be used.

A problem along the same lines developed early in the convention, when the committees on the executive article was interviewing elected state officials. One delegate said that in lining up the interviews, all the officials expressed a willingness to cooperate, but that some indicated they feared the public exposure brought on by the convention's total openness policy, and that as a result they could not be as candid as they might be.

Another consideration is that sometimes the way a legislator votes doesn't accurately reflect his position. A good example is the embarrassment caused a Great Falls legislator last year by publishing the recorded vote on a certain bill of some emotional consequence. The legislator voted against the bill and was recorded as so doing. However, he later explained that he

was actually for the bill and had only voted against it for parliamentary maneuvering purposes. The rules required that only those voting on the prevailing side could offer a motion to reconsider the action, which the legislator did.

Other cases of misinterpreting a vote include when a legislator might favor certain concepts, but votes against a bill because it doesn't implement the concept the way he thinks it should.

A number of legislators were embarrassed and enraged during the last assembly when a (supposedly) nonrecorded vote on a key amendment to the territorial integrity bill was published in the rural electric's magazine. The rural electric had managed to "record" the vote by assigning one man to observe every five names on the lighted voting board.

It so happened that opposition to territorial integrity was an unpopular issue, particularly in the rural districts, as indicated by the fact that the key amendment passed, although by a small margin, and the bill itself passed both houses almost unanimously on recorded votes.

Some of the legislators caught voting against the amendment cried in outrage that the publishing of the vote gave the erroneous impression that they were opposed to territorial integrity, while in reality they were only opposed to that particular amendment.

Lobbyists Spend \$312.76 During Second Reporting Period

Tribune Capitol Bureau

HELENA — Twenty-four of the approximately 80 professional lobbyists registered for the Constitutional Convention reported total expenditures of \$312.76 during the two-week period ending Feb. 15.

The other lobbyists reported no expenditures made to influence constitutional issues.

The \$312.76 figure does not include the \$1,372.21 listed by Foy Crosby representing the Citizens for Constitutional Government. Crosby, listed income in addition to expenditures. However, his list of expenses apparently were personal items which were not required to be listed under the convention's enabling act. Crosby had listed expenses of \$493.09 for the reporting period ending Feb. 1.

A lobbyist representing Montana Bars and Veterans was the apparent big spender for the pe-

riod ending Feb. 15. Lobbyist Robert A. Durkee listed expenditures of \$23.50 for the Montana Tavern Association and \$25 for the Montana Veterans Council.

Most of the expenditures listed by lobbyists were for food, drink and entertainment, although one statement included cigars.

The expense statements:

James Murry, Montana AFL-CIO, \$7.50; Ernest Post, Montana AFL-CIO, \$3.05; Rodney Siring, Montana Associated Utilities, \$12.80; Roderick Gudgel, Montana Pharmaceutical Association, \$16.45; D. D. Cooper, Montana Education Association, \$6.16; Perry Weldler, Montana Dakota Utilities, \$10.60; Frank Freshburg, American Music Co., \$18.75; Roy M. Bulger, Montana Sheriffs and Peace Officers Association, \$19.25; Mons L. Teigen, Montana Stockgrowers Association, \$1.95; John Delano, Montana Railroad Association, \$16.50; John T. Cadby, Montana Automobile Dealers Association, \$4; Jack Rehberg, Montana Petroleum Association, \$1.69.

Kenneth D. Clark, United Transportation Union, \$22.75; R. L. Rumpy, Joint Council 23, \$18.10 (personal expense); Everett Shuey, Montana Power Co., \$16.35; Robert Durkee, Montana Tavern Association, \$23.50; and Montana Veteran Council, \$25; David A. Smith, Montana Woolgrower Association, \$3.40; Soex Vratie, Montana Retail Association, \$2.75; Jules Gustavson, Montana Livestock Marketing Association, \$12.75; John Lehr, Montana Power Co., \$11.10; Robert D. Corrette, Montana Power Co., \$6.50; C. S. Robinson, Pacific Power and Light, \$3.65; Joe Curtis,

Treasure State Telephone Co., \$23; and D. H. Siewert, Montana Chamber of Commerce, \$16.60.

Some of the lobbyists were less specific in itemizing their expenses for the second reporting period. For instance, Cadby the first time even listed the delegates he was entertaining. It cost \$1.45 to buy lunch

for delegate Lynn Sparks, D-Butte, and \$3.95 to pay the bar bill for delegate Jack Ward, R-Hamilton, according to Cadby's first expense statement.

Unhappy Delegate Takes Leave

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA - A Constitutional Convention delegate, unhappy over defeat of a controversial proposal to establish a people's advocate, went home to Billings Friday "to think things over for a couple of days."

Delegate Donald Scanlin, a Democrat, said he expected to return Tuesday. Contacted at Billings by telephone, Scanlin told the Tribune why he left.

"Let's just say that I was unhappy over the statements made by the chairman of the rules committee (Marshall Murray, R-Kalispell) during the debate on the people's advocate pro-

posal. The 57-year-old teacher said

The debate referred to by Scanlin took place Thursday prior to the 48-48 vote which killed reconsideration of the people's advocate proposal. The proposal, to create a new state officer to help cut through bureaucratic red tape, had gone under by a 48-43 vote Tuesday.

After delegate Mike McKeon, D-Anaconda, made the motion to reconsider the proposal Thursday, Murray said he was "a little tired about all the discussion." Murray suggested that delegates who resisted McKeon's motion should "merely remain silent and vote no."

Scanlin, a supporter of

McKeon's reconsideration motion, however, rose on the convention floor and said "I object to Murray's attempt to cut off debate." The debate, in fact, was not cut off and continued for approximately another hour. After several other delegates had spoken Scanlin read a statement supporting the people's advocate proposal.

Scanlin said he had requested and had received a two-day leave of absence from convention president Leo Graybill Jr. "I needed a rest," he said.

The convention's rules say that "no delegate shall absent himself from the sessions of the convention unless he has leave or be sick, or his absence be unavoidable."

Before he left, Scanlin had traded places with delegate Robert Woodmansey, R-Great Falls. This caused some initial confusion Friday when Woodmansey, sitting in Scanlin's former seat, was recorded as voting "aye" for the absent Scanlin.

Scanlin now has a seat assigned in the last row next to delegate Archie Wilson, R-Hysham.

Before the switch, Scanlin had been sitting in a seat next to the back row, in back of Murray, in front of Robert Vermillion, D-Shelby and next to John Schiltz, D-Billings.

Scanlin said his disagreements with Murray figured in the seating change.

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Con Con Delegates Discuss Water Rights Suggestions

Water rights was one of the many subjects discussed by District 11 residents and their Con Con delegates at the Feb. 13 informational meet.

Delegates Ben Berg, Mason Melvin, Richard Roeder, Dorothy Eck and Grace Bates were on hand to answer questions.

Water Rights

Man: "What about water rights?"

Eck: "The final proposal on that came out pretty good, I think. The debate was mainly over whether it should be left to the legislature or whether we should have a special administrative group

"As it stands now, the proposal leaves it to the legislature, but suggests an administrative group."

Berg: "I think water rights are best handled as they are now. It is faster this way and works very well."

Melvin: "Water rights have been under the judiciary for 100 years and this has worked well. Judge Lesley says that he can't remember a water rights case coming up here."

"Why discard a system that has worked satisfactorily for a century?"

Bates: "As I understand it,

no final decision has been made on that by the committee. But the last report I had was that adjudicated rights would remain the same as they are now."

Free Public Access?

Man: "What about the Natural Resources proposal - that Public Trust business? As I understand it, the way it is written the public will have access to any running water on an individual's place."

Bates: "I think they will give a real close look at this."

Man: "This public access proposal would negate any trespassing possibility."

Eck: "The 'Public Trust' proposal probably won't get much more consideration."

"The statement doesn't do much more than re-affirm what we have now; that is, that the government is the trustee of the environment and that the environment belongs to everybody."

"I do think an article on environment will include a statement like this."

Dept. of Agriculture

Man: "Is there a hearing on resources and agriculture this week?"

Eck: "No, I think they've

held their last hearing. However, I don't think they've reached any conclusions yet."

Bates: "There will be a Dept. of Agriculture. The main debate is over whether to have a board or a commissioner head it."

Delegate Roeder Explains Con Con Exec Proposal

Richard Roeder, District 11 Con Con delegate, offered a report on the Executive Committee's work at the convention.

Roeder made his remarks Feb. 13 at the Courthouse where he and delegates Ben Berg, Mason Melvin, Dorothy Eck and Grace Bates answered questions of an audience that spilled out of the Community Room into the hallways.

Executive System

Roeder: "The Executive Committee has received very little publicity."

"Our present executive system is very confused. It is not clear what the framers of

our constitution intended, and it is not clear whether what developed afterwards was what the framers intended."

"I think the framers intended that the Governor, secretary of state, attorney general, auditor and treasurer would watch over each other, provide checks on each other."

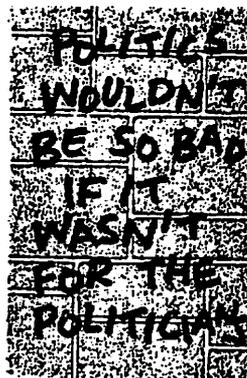
"But it hasn't worked that way. It hasn't provided checks. Our committee has found that you have virtually two governments operating side by side with the auditor and treasurer stuck over here as historic relics."

"Our proposal calls for electing the Governor and Lt. Governor as a team; and for electing the attorney general, the secretary of state and the superintendent of public instruction."

"The minority report calls for electing the auditor and treasurer."

Man: "Are you assuming that appointing these would eliminate the deadwood?"

Roeder: "No, but it could very well."



4-H Staging Simulated Con Con

HELENA (AP) - Sixty 4-H members have been holding a simulated constitutional convention in the Capitol.

The delegates were elected from 4-H clubs from across the state and arrived in Helena Thursday. They have divided into six committees to make recommendations for a new

state constitution.

The 4-Hers, who will adjourn at noon Saturday, are working with material and testimony prepared and presented at the Montana Constitutional Convention, which is in progress.

Dr. Ellis Waldron, Missoula University of Montana political science professor, is the chief adviser for the youth convention.

Local Delegates Offer Views On Many Con Con Proposals

By Mrs. Olive Rice

The six delegates from District II very graciously took time from their busy schedules for interviews. Excerpts follow:

J. MASON MELVIN

J. Mason Melvin, Bozeman, spoke of the two plans submitted by the Judiciary Committee. "I signed the minority report," he said, "which leaves it up to the legislature to appoint all courts except for the supreme and district judges."

"The majority report provides for the election of one J.P. for each county, with the legislature having the power to provide for more where needed."

"One thing I want to make very clear," he added. "And that is that neither plan has anything to say about abolishing the J.P. courts. The minority plan leaves the J.P.'s up to the legislature."

When asked if, conceivably, the legislature could abolish the J.P.'s, Melvin answered, "Well, they could do that, I suppose, but that is not the intent of the minority report. I have no fear of what the legislature would do."

"Call it J.P.'s, magistrates, or whatever, the lower courts are not going to be abolished, because the district courts aren't going to listen to traffic violation cases."

BEN E. BERG JR.

Delegate Ben E. Berg, Jr. of Bozeman also signed the minority report of the Judiciary committee, one of the committees on which he serves.

He, too, was very anxious to correct any impression that the minority proposal would abolish the J.P. courts.

He quoted from the comments accompanying the minority report as stating:

"It should be pointed out that by deleting reference to justice of the peace, there is no intention to abolish or affect the present jurisdiction and operation of these courts, but rather to leave assignment of judicial power in these courts exclusively to the legislature where there is wide latitude for improvement and alterations that will adjust to the varying complexities of rural and urban problems in the administration of justice on the lower level."

"The J.P.'s we interviewed," Berg said, "have told us they didn't care how those courts were handled — by constitution or legislature."

"The states which have considered this problem

during the last 10 years have dropped the J.P. courts from the constitution."

GRACE BATES

Grace Bates, delegate from Manhattan, presented delegate proposal No. 140 calling for a bicameral legislature, she says, because she believes that is what the people want.

"A bicameral legislature," she explained, "gives better representation, with the house responsive to the voters because of elections every two years and the senate providing the continuity of longer terms, staggered."

"It gives us checks and balances which the unicameral form cannot offer."

"The legislative committee hopes that the convention will vote to leave the choice between a unicameral and a bicameral body to the people. In either case the proposals are for more power for the legislature, more open committee meetings and more legislative responsibility for running the state business."

FRED MARTIN

Fred Martin, Livingston, spoke as follows:

"As a member of the Public Information Committee, my concern is that we interpret what the people want and expect in a new constitution."

"Never in my knowledge have there been such dedicated delegates, conscious of their obligation to their constituents."

"They have listened, studied, analyzed and are now debating the various articles which will comprise Montana's new constitution, which will permit Montana to go forward in the generations to come, with the people through their elected legislators and officials able to adjust to meet whatever conditions arise."

"In doing this we must not put constitutional road blocks in our path. That is why it is necessary not to pre-judge at this time just what the final document will be."

RICHARD ROEDER

Richard Roeder, Bozeman, described the work of the Style, Drafting and Transition Committee, on which he serves, as being of the "utmost importance." After the reports are acted upon by the convention, he said, they are re-typed, with amendments and other changes made.

The style committee corrects grammar and syntax, improves the language where necessary and watches for any inconsistencies in versions from different committees.

If there is any duplication of items, the style committee chooses the best position.

When this work has been finished, the report returns to the convention floor for approval and then is checked again by the style committee.

"The Executive Committee," Delegate Roeder said, "would delete the auditor and the treasurer from the constitution."

"I plan a proposal from the floor to drop the Secretary of State and the attorney general as elective offices, too. No hope of getting it passed, but I want to put it out as an educational idea."

DOROTHY ECK

Dorothy Eck, Bozeman, crowded a brief interview in between a Bill of Rights Committee meeting and one on administration.

"The Bill of Rights proposal is almost unanimous," she reported. "There will not be any minority proposals from this committee."

(Vigorous debate, however, is expected when this report hits the convention floor, because this committee covers such a wide area.)

"Many of our administrative problems — in handling personnel — have come about because of the open meeting policy of the convention, but I'm still for open sessions in spite of any problems that may result from it," she added.

Mrs. Eck spoke a good word for the interns who have been successful in researching several studies.

The interns are in charge of the convention tour programs which have been started for the benefit of the many visitors.

These are your delegates. They will welcome your views on any part of the constitution.

At Constitutional Convention

Two Attempts to Shorten Slate of State Officers Fail

HELENA (AP) — Two attempts to try to shorten the slate of state elected officials failed Saturday at the Constitutional Convention.

Several delegates wanted to reconsider action taken Thursday, when they voted to keep the seven offices elective.

By adopting a minority report, the delegates voted to retain the governor, lieutenant governor, attorney general, superintendent of public instruction, auditor, treasurer and secretary of state as elective offices.

Some delegates had advocated allowing the governor to appoint some of the officials.

A motion by Robert Vermilion, D-Shelby, to reconsider the action failed 43-12. He wanted to vote on each office individually.

Voting age and holding office

I am a retired rancher and we raised five children who are all married and have families and have proven their worth in this world.

I have had many high school boys working for me at different times and I enjoy being with them. I like their enthusiasm, the freedom of most of them in discussing different questions, and especially their energy, but does this qualify them to hold a public office?

Most of them have never contributed to their own livelihood and know little about financial planning or management. Generally speaking, they have been living under rules set down by someone else and have never had the real problems of life bump into them. Most of these youngsters haven't chosen their life's occupation yet, and as they look out over this great world, it has a very rosy hue.

No business-executive would put a man, even his own son, into a responsible position until he has put him through the mill so he has the experience to know how problems are met and overcome. I say "No," wait until they are at least 25 years old.

Why all this furor about putting these kids into office? It certainly isn't that there is a shortage of candidates. I would say it is just a political ruse to try to get the votes of the 18-year-old kids. One candidate begins to plug for it, and all the others jump on the band wagon.

ELMER B. LUND, Big Sandy

Later in the day, Margaret S. Warden, D-Great Falls, tried to have convention rules suspended to reconsider the matter again. The rules only allow one reconsideration, and her attempt failed on a voice vote.

In other action, delegates agreed to an amendment by James R. Felt, R-Billings, to include a provision allowing the legislature to establish a post-auditor.

The position is allowed in the statutes but Felt wanted constitutional sanction in case there is a court challenge.

Discussion centered on whether the amendment should be allowed in the executive action since it was more of a legislative matter.

However, the amendment was tacked onto the section outlining the duties of the state auditor, and delegates ap-

Doing Good Things

The Constitutional Convention is doing good things to the legislature.

This week the delegates approved a provision that requires votes of record on all "substantive" questions in committee and on the floor.

That would end the practice by some legislators of voting one way on a bill during closed committee meeting and another way when the measure reaches the floor. The United States Congress, which permits many closed committee meetings, also condones this two-faced behavior. It is one of the things that breeds public scepticism of lawmaking bodies and lack of faith that lawmakers serve the public interest.

The new constitution should open legislative committee meetings to the public and require record votes in committee. There is no more practical step that could be taken to increase public trust in the legislature than by thus increasing public accountability by the legislature.

Single-member legislative districts, whether for a one-house or a two-house legislature, also seem to be headed for approval by the convention.

Single-member districts are a mixed blessing. Plainly the enormously long legislative ballots faced by voters in Great Falls, Billings, Missoula and other communities must be done away with. It is unreasonable to expect Missoula voters, for example, to make a knowledgeable choice among 14 candidates for the Montana House of Representatives.

Single-member districts would narrow the choice. They have the drawback of cementing tiresome people year after everlasting year in the legislature. A single-member district sometimes will elect a crackpot or incompetent who wouldn't stand a chance if he had to appeal for votes in a wider area, and return him over and over again.

That is a drawback to single-member districts, mitigated somewhat by the thought that some incompetents sneak through under the present long-ballot system.

But in balance the single member district is better. It fixes responsibility and enables the voters to know the persons running. It also helps minorities get representation and softens the impact of a landslide by either party.

Some legislators won't like the idea of recorded committee votes or running from single districts. But nearly all legislators have voiced the opinion that the Constitutional Convention must help ease the legislature's present plight by providing for longer sessions and by giving the legislature more flexibility in fulfilling its lawmaking functions.

The convention will help the legislature, but it also will make each legislator more accountable. Uncomfortable though that might be, in the end accountability will do more than anything else to strengthen the legislature's role in state government.

How They Voted

Tribune Capital Bureau
HELENA — Constitutional

Convention delegates, by a 48-43 vote Thursday, failed to muster the extra "ye's" needed to revive a proposal that would have created a new state officer, the people's advocate, to help citizens cut through bureaucratic red tape.

Delegates were voting on a motion by Mike McKeon, D-Anaconda, to reconsider their action Tuesday when the people's advocate went under by a 48-43 vote.

Democrats for reviving the proposal (38): Ashington, Arbands, Artz, Banard, Bates, Blaylock, Blend, Cain, Cate, Champoux, Cross, Driscoll, Eck, Furlong, Graybill, Harlow, Harrington, Keliker, James, Kelleher, Loraño, McCarvel, McKeon, Melvin, Monroe, Reichert, Roeder, Rollings, Romney, Scanlin, Schiltz, Siderius, Skari, Speer, Sullivan, Van Buskirk, Vermillion, Waden.

Republicans for (0): Babcock, Berg, Burkhardt, Feil, Garlington, Jacobsen, Robinson, Toole.

Independents for (2): Foster, Harper.

Democrats against (17): Aronow, Blecher, Brazier, Bugbee, Canover, Davis, Delaney, Rod. Hanson, Habaugh, Holland, Joyce, Mansfield, McDonough, Rehal, Sparks, Swenberg, Wagner.

Republicans against (27): John Anderson, Ask, Berthelson, Bowman, Choate, Dahood, Drum, Etchart, Gyster, Habedank, Johnson, Kamhoo, Leuthold, Loasdorf, Martin, McNeil, Murray, Noble, Nutting, Payne, Pemberton, Rygg, Simon, Stoder, Ward, Wilson, Woodmansey.

Independents against (4): Oscar Anderson, Brown, Bob Hanson, Mahoney.

Absent or not voting (4): Arness (D), Campbell (D), Erdmann (R), Eskildsen (D).

Christianensen observed his 58th birthday at Convention Hall Thursday as the delegates began debate on proposals for the executive branch of government. He says he would be interested in filing for lieutenant governor if the convention put some meaning, function, and money into the No. 2 job so that the behind the governor's desk when the governor is out of state.

The majority report of the convention's committee on the executive article would permit the legislature to make the lieutenant governor a full-time executive officer, but Christianensen says he'd feel better if the constitution spelled it out somewhat.

He says if the convention proposes a sufficiently meaningful office of lieutenant governor, he'd be willing to gamble on ratification by the people. (Filing deadline is in April, while the ratification vote is set for June.)

State felons on parole may get right to vote

HELENA (AP) — Convicted felons out on parole will be able to vote but won't be allowed to run for office until their state supervision has ended, if voters approve Constitutional Convention proposals.

The delegates decided Thursday that felons on parole ought to be able to vote without having to seek a pardon from the governor. They agreed with members of the General Government Committee that allowing parolees to vote would help the rehabilitation process.

"The only people who will get a pardon are those wealthy enough to hire a lawyer or those who have political influence," Bruce M. Brown, 1-Miles City, said.

Despite an attempt by Miles Romney, D-Hamilton, to forbid them from voting, delegates approved the committee recommendation.

On Friday they realized they had also accidentally allowed parolees to seek public office. tentative approval to a section making the requirement to hold public office the same as the standard for suffrage.

The situation was corrected by an amendment by Carl Davis, D-Dillon.

"I don't know how we could call this a responsible improvement of our government," Davis said.

Opposing the motion was social worker Lyle Monroe, D-Great Falls, who said those out on parole had paid their debt to society.

"I don't think this would prevent the crooks from getting in office," Monroe said. "They're already there."

But Davis said contemporary practices allowed many convicts out on parole after short periods in prison so they can come back into society.

"A person hasn't necessarily paid his debt to society when he is out of prison," the Dillon attorney said.

Delegates approved the Davis motion 88-6.

Once parolees have served their time inside and outside jail, they may then have all their rights restored. They will be able to vote, though, as soon as they are released from prison, if the constitution passes.

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Feb. 20, 1972

Lieutenant Governor Bid May Hinge on Con Con's Action

By FRANK ADAMS

Tribune Capital Bureau

HELENA — House Minority Leader Bill Christianensen, D-Hardin, says he wants to see what the Constitutional Convention does with the office of lieutenant governor before deciding whether to seek the job.

Christianensen observed his 58th birthday at Convention Hall Thursday as the delegates began debate on proposals for the executive branch of government.

He says he would be interested in filing for lieutenant governor if the convention put some meaning, function, and money into the No. 2 job so that the behind the governor's desk when the governor is out of state.

The majority report of the convention's committee on the executive article would permit the legislature to make the lieutenant governor a full-time executive officer, but Christianensen says he'd feel better if the constitution spelled it out somewhat.

He says if the convention proposes a sufficiently meaningful office of lieutenant governor, he'd be willing to gamble on ratification by the people. (Filing deadline is in April, while the ratification vote is set for June.)

At the same time, Christianensen has not ruled out the possibility of seeking re-election to the House of Representatives, with the top job of speaker of the house in mind. He says he got the minority leadership position "handily" last year and has been given to understand that some of those who voted against him when would vote for him for speaker.

Christianensen has no doubts about the Democrats controlling the House next year, as they came within four seats of doing last year. The Republican majority has been steadily declining for several sessions, and the Republican sales tax defeat coupled with the Democratic victory in the convention is all the assurance many Democrats need that legislative control has been given into their hands.

Christianensen, widely respected on both sides of the aisle, had giving some thought to seeking the Democratic gubernatorial nomination. But he says he dismissed that possibility on the basis of some polls he took.

The Hardin auto dealer is a veteran of four legislative sessions.

Graybill Tells Delegates They'd Better Get Going

By DENNIS E. CURRAN
Missoula State Bureau

HELENA — Delegates were getting restless, and in the front of the Constitutional Convention hall, Leo Graybill Jr. was getting madder by the minute as the debate droned on.

The issue was ostensibly whether to reconsider Tuesday's vote against having a "people's

advocate" or "ombudsman" in the constitution. But delegates actually were restating arguments made earlier for and against the concept itself.

Delegates who spoke often spoke reluctantly, explaining that while they really hated to take up time on what really was a procedural question, they could not let the previous

speaker's comments go unchallenged.

Other delegates listened to the debate with only one ear. Many swiveled in their chairs to chat with neighbors or slipped out of the room.

When the debate finally closed, Convention President Graybill, using carefully measured tones, explained he had let the debate stray from the motion to show what can happen in "an undisciplined body."

"I don't like to hammer you down whenever you say something that isn't relevant," Graybill said. But unless delegates discipline themselves and stick to the relevant issues, he added, it may be necessary to limit debate.

It was Graybill's sternest admonition to delegates since the Constitutional Convention moved a week ago from the relative tranquility of committee rooms to a colorful central arena and the more stormy world of debate.

The new world has much of the same give-and-take of committee work, but there are new pressures. Delegates must also face often confusing parliamentary procedure, formal speeches, informal arm-twisting and glaring attention.

Technically, it's called "committee of the whole," and the votes taken section by section, article by article, are not the final votes of the convention. But like the legislature's "second reading" of bills, many of the crucial decisions of the

convention are being made right now.

The pattern of the debates is the same. Each committee has prepared a report recommending various provisions for a new constitution which is read section by section and explained by a committee member.

Delegates scrutinize each word in each section, anxious to determine the consequences and alert for hidden meanings. Often there are minority committee reports or amendments from the floor which try to change the wording or intent of a section.

Sometimes the debate plods tediously, and the undulating voices of the speechmakers are lost in an undercurrent of squeaky chairs, microphone feedback, window-rattling winter squalls and whispered conversations from the far corners of the chamber.

But generally the delegates are attentive, even when they are not in their seats and even though they have heard the same speech a dozen times before.

Often the delegates make exaggerated statements in an effort to persuade or dissuade their fellows. Sometimes they make statements by asking questions, and sometimes they are emotional, as when a red-faced Dave Holland of Butte chastised delegates during debate on a part of the legislative article.

"You better get down and interpreted the voters' overwhelming support of the executive reorganization amendment in 1970 as a plea for efficiency and economy in state government.

He added that other states have shortened the list of elected officials in recent years.

Calling for a shorter ballot, Mae Nan Robinson, R-Missoula, said floor statements indicated that neither the auditor or treasurer really did anything but that Montanans, for some reason, should have the right to vote for them.

Delegates did adopt a section that will make the governor and lieutenant governor run as a team.

Revamping the Legislature

The Constitutional Convention is to be commended for its proposals to streamline and open up the legislature.

In recent days delegates have voted for annual legislative sessions; given the legislature the power to call itself into special session; proposed all legislative sessions and committee meetings be open to the public; voted that recorded votes be required on all substantive questions before the legislature and its committees; and adopted the single-member district concept in the unicameral (one house) portion of the plan. The convention hopes to offer voters a choice between a one-house and two-house legislature. Hopefully, single-member districts will also be included in the two-house plan.

The annual session provision directs the legislature to meet annually for 90 days or less and provides that any legislative business pending at adjournment the first year of a session would carry over with the same status to the following year.

We have long advocated annual sessions. Government can be likened to a corporation; and you can't run a \$200 million business efficiently when the board of directors gets together every other year. Annual sessions would also enable the legislature to do a better job in anticipating problems and solving them before they arise, as well as acting more immediately on situations that demand legislative action.

Ending secret committee meetings and hearings and requiring roll call votes on substantive matters is a giant step toward increasing the confidence of the electorate in the legislature. Sec-

recy is unnecessary — the Constitutional Convention delegates have proven this to be the case. They have conducted all of their deliberations in the open and set an excellent example for the legislature.

No doubt there have been times when the delegates have gotten a little sunburned from the glare of the public spotlight, however they are probably conducting themselves better because of it.

It was argued by some that the convention should not dabble with legislative rule making matters. When it comes to opening up the legislature, we disagree. Legislators, by their very nature, would never open their deliberations to public scrutiny if it were left up to them. The delegates are acting in their capacity as concerned citizens. It is only right that they mandate the legislature to follow their excellent example.

In essence, single-member legislative districts would bring more responsible government to Montana. Under this plan, each legislator would represent a certain area with no overlapping. Voters in each district would cast their ballot for one candidate for the Senate and one for the House under a bicameral proposal and for only one candidate under a unicameral proposal.

The single-member district concept puts the politician closer to the people. In the case of this district, voters would not cast their ballots for six candidates representing an area which encompasses three counties; rather they would vote for one person from a group of candidates from their own area. As delegate Carman Skari says: "It's more effective and less deceptive."

No registration at polls!

Frivolous clowning and wise cracks may have a place in relieving tensions but considerations of such a serious matter as opening up to poll booth registration should receive sober attention. I refer to arguments of some Con-Con men.

For substitutes, we may have instant tea, but that does not mean that we should have instant statesmen tearing down protective structures, to be replaced with instant oak.

The right to vote carries with it the duty to become informed so as to use best judgment. Any person so inconsiderate as to ignore registration requirements should not be entitled to vote their "instant" whims affecting the lives of others.

If this one issue is a sample of the new Constitution, it may prove to be of such instant durability that it will not stand the first heat wave.

CLIFFORD D. COOVER, Shelby

Con Con Keeps Elective Status Of Seven Top State Officials

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Topping a committee report, Constitutional Convention delegates voted Thursday to retain all seven executive officers as elected officials.

The governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, auditor and treasurer will continue to be elected on what some call the long ballot. The key vote to adopt a minority report was 53-44.

Executive Committee members had recommended in a majority report that the posts of auditor and treasurer be deleted from the constitution. Legislators would have had to grapple with the problem of whether the positions should be retained.

But delegates overturned the majority report and accepted the minority report, signed by two Republicans, Betty Babcock, Helena, and Archie O. Wilson, Hysam.

They also resisted a move from the floor to make the public instruction superintendent an appointed official. The com-

mittee majority report, which would have left the method of the superintendent's selection up to the legislature, also was overturned.

In arguing against a shorter ballot, Wilson said the people must retain their right to vote for the auditor and treasurer, who he said are the state's major financial officers.

He drew support from David

L. Holland, D-Butte, who said: "I was brought here to write a better constitution, and it must be one accepted by the voters."

Holland, a strong opponent of appointed officials, said the omitted officeholders would lead a fight against the proposed document, which voters must ratify or reject June 6.

Holland also hinted that the

public might think the convention Democrats, who hold a 58-38 majority, were trying to push out Auditor E. V. "Sonny" Orholt and Treasurer Alex B. Stephenson, both Republicans.

However, Stephenson cannot seek re-election under the existing constitution, and Orholt would not be affected this year anyway.

"This is practical politics," Holland said. "Let's not make ourselves any unnecessary enemies."

Fred Arbanas, D-Great Falls, challenged long-ballot proponents' claims that electing officials makes them responsible to the people.

"I got the impression in our interviews (with elected officials) that when you say you're responsible to everyone, you're really responsible to no one," he said.

Delegates did not have a chance to vote for a true short ballot, which would provide for only the governor and lieutenant governor to be elected. The governor would appoint the other officials.

Delegates did adopt a section that will make the governor and lieutenant governor run as a team.

Delegates Not Timid About Making Changes

BY DENNIS E. CURRAN
IR State Bureau

Delegate Jerome Cate fidgeted while delegates Magnus Aasheim and Richard Nutting explained the revised Legislative Committee majority and minority reports on legislative reapportionment.

As soon as the two committee versions were presented, Cate, a Billings lawyer, was on his feet gripping his microphone.

"Mr. President," he said, "I'm happy to announce that plan number three, the most workable plan, is back."

Cate's plan, which eventually was approved by the delegates, was one of several amendments offered from the floor during debate on reapportionment commissions Tuesday and Wednesday.

As much as anything, it illustrates what has become typical so far during the Constitutional Convention's "great debates"—delegates are not being timid about challenging committee proposals.

In fact, strenuous efforts to avoid "rubber-stamping" committee reports has even led convention leaders to voice fears that a flood of amendments will not only lengthen the convention but result in ill advised, poorly prepared constitutional sections.

Convention president Leo Graybill Jr. advised delegates Wednesday that they could help by checking amendments with committees before making them from the floor. Some of the amendments, he noted, might not be necessary if delegates would talk to the appropriate committees first.

The probability of challenges was apparent right from start of debate a week ago, when delegates approved a General Government Committee minority report to allow voter registration right up to the time the polls close. That position was later reconsidered and reversed, but it served notice that no committee's majority proposals are sacred.

University Class Polls People On Con-Con Issues

Between Feb. 7 and Feb. 22 students in a political science class at the University of Montana, under the supervision of Dr. Robert E. Eagle, surveyed 189 registered voters in Missoula to determine attitudes toward certain Constitutional Convention issues.

Questions and the responses are: Do you think the Montana constitution should contain a provision guaranteeing each citizen the right to a clean environment? Yes, 159; No, 10; No opinion, 8.

Do you favor earmarking tax revenues for specific purposes through constitutional provisions; for example, specifying that gasoline tax money can be used only for building highways and streets? Yes, 93; No, 69; No op, 16.

Should the Board of Regents for universities and colleges in the state be separate from the State Board of Education? Yes, 96; No, 46; No op., 39.

Should judges for the Supreme Court and district courts be appointed by the governor rather than elected as at present? Yes, 43; No, 125; No op., 11.

Should the constitution be made flexible enough that the legislature could revise or replace the present justice of the peace courts? Yes, 106; No, 35; No op., 38.

Should the legislature have a time limit on its sessions written into the constitution? Yes, 97; No, 72; No op., 10.

Should the legislature meet every year rather than every other year as at present? Yes, 135; No, 31; No op., 11.

Would you prefer a legislature with one house rather than one with two houses? Yes, 61; No, 95; No op., 24.

Do you favor a short ballot for electing state officers, with only the governor and the lieutenant governor elected and the secretary of state, at-

torney general, etc., appointed by the governor and confirmed by the Senate? Yes, 54; No, 110; No op., 15.

Do you think the governor and the lieutenant governor should be elected as a team so that they will both be of the same party? Yes, 110; No, 53; No op., 16.

Should cities and counties be granted "home rule," allowing citizens in each locality greater flexibility in designing local governments to meet their local needs? Yes, 150; No, 11; No op., 17.

Should the constitution be made flexible enough that the legislature could revise the structure of county government, such as making some county offices appointive rather than elected? Yes, 65; No, 87; No op., 27.

Should it be possible under the constitution to consolidate (or combine) two different counties? Yes, 99; No, 80; No op., 21.

Delegates Reconsider Age Barrier Decision

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Fearing the grassroots reaction, Constitutional Convention delegates overturned a previous decision Friday and set a minimum age limit of 25 for those seeking the state's highest elective offices.

Only the night before, delegates had voted 59-31 to remove any age limit, but more than one-fourth of the 100 delegates also changed their minds Friday. They voted for the 25-year age requirement by a 56-38 vote.

The primary reason cited for the change was what the voters would think of the proposal which, theoretically, would allow an 18-year-old to run for governor. Most, however, conceded this was not likely to happen.

The present constitution sets an age limit of 30 for those seeking the offices of governor, lieutenant governor, attorney general and superintendent of public instruction.

"I'm afraid we may lose a lot of articles and amendments over this," Carl M. Davis, D-Dillon, said, moving to reconsider action.

He said a 25-year age limit "adds a little dignity to the office of governor." Voters might misunderstand if delegates took out the age limit, he said.

Agreeing was Arnold W. Jacobsen, R-Whitefish, who said: "I don't think the young people are going to respect us if we don't put this limit in."

Another delegate, George B. Heliker, D-Missoula, opposed the move. Delegates would look foolish for changing their minds overnight, he said.

"We are going to appear kind of foolish to the people of Montana — like a flock of chickens that run for cover after a hawk flies over," he said.

Bob Campbell, D-Missoula, said similar arguments were raised at the 1889 Constitutional Convention over allowing women to vote. Campbell sponsored a measure that would give 18-year-olds full adulthood, including the right to hold public office, and it is incorporated in the proposed bill of rights, which hasn't hit the floor yet.

The convention's youngest member, Mae Nan Robinson, 24, facetiously proposed an

amendment setting an upper age limit of 55, which delegates rejected.

"If we decide that at the age 25 someone is automatically appointed and can become governor, then there must come a time when they become unappointed," Mrs. Robinson said. If age limits are written into the constitution, she asked why educational, experience and intelligence requirements also were not included.

Her remarks upset Betty Babcock, R-Helena, who had fought for a 30-year age limit on Thursday.

"I think this is a disgrace and a mockery of the convention," said the wife of forced-Republican Gov. Tim Babcock.

Gene Harbaugh, D-Poplar, said delegates were afraid of what the voters might think.

"Let's dare to be courageous and dare to do what's right," he said, backing the removal of the age limit.

C. B. McNeil, R-Polson, called the limits arbitrary age restrictions and opposed them.

A. W. Kamhoot, R-Forsyth, said 18-year-olds would not be fooled by the attempt to remove age limits, which, he said, was backed by potential candidates.

Noting that voters will have the final say on the new document June 6, he likened the constitution to a child and said:

"I would like to have a very healthy child to put out for adoption, not a crippled one."

Delegates Grace Bates, D-Manhattan, and Dave Drum, R-Billings, said young adults do not want the right to seek these offices until they are more mature.

But schoolteacher Noel Furlong, D-Kallispell, said the recent Youth Con-Con imposed no age restrictions in their document. The only requirement for public office was to be a registered voter, he said.

Those delegates who favored no restrictions Thursday but switched and voted for the 25-year-old limit Friday were: Oscar Anderson, Aronow, Berthelson, Blend, Bowman,

Brown, Bugbee, Davis, Dis-

roll, Drun, Felt, R. S. Hanson, Rod Hanson, Jacobsen, McDonough, McKeon, Murray, Nutting, Romney, Van Buskirk and Wagner.

Those who did not vote Thursday but favored the age limit Friday were Aasheim, Arness, Conover, Harrington and Rebal.

No Age Limits

HELENA — Constitutional Convention delegates voted Thursday to have no age requirements for top state elected officials.

At present, candidates for governor, lieutenant governor, attorney general and superintendent of public instruction must be at least 30 years old, and those running for secretary of state, treasurer and auditor must be 25.

The key vote was on a proposal for a 25-year limit. By defeating this proposal, 59-36 delegates cleared the way for anyone 18-years-old and up to run for any office.

Democrats voting for the 25-year limit (10): Artz, Barnard, Bates, Belcher, Brazier, Delaney, Eskildsen, McCarvel, Skari, Swanberg.

Republicans for (20): John Anderson, Ask, Babcock, Berg, Choate, Erdmann, Etchart, Gysler, Habedank, Johnson, Kamhoot, Nobel, Payne, Permerlon, Rygg, Simon, Studer, Toole, Wilson, Woodmansey.

Independents for (1): Mahoney.

Democrats against (39): Arbanas, Aronow, Blaylock, Blend, Bugbee, Cain, Campbell, Cate, Champoux, Cross, Davis, Driscoll, Eck, Furlong, Rod Hanson, Harbaugh, Harlow, Heliker, James, Joyce, Kelleher, McDonough, McKeon, Melvin, Monroe, Reichert, Roeder, Rollins, Romney, Siderius, Sparks, Speer, Sullivan, Van Buskirk, Vermillion, Wagner, Warden.

Republicans against (15): Berthelson, Bowman, Dahood, Drum, Felt, Garlington, Jacobsen, Leuthold, Loendorf, Martin, McNeil, Murray, Nutting, Robinson, Ward.

Independents against (5): Oscar Anderson, Brown, Foster, Bob Hanson, Harper.

Absent or not voting (10): Aasheim (D), Arness (D), Burkhardt (R), Conover (D), Graybill (R), Harrington, (D), Holland (D), Rebal (D), Scanlin (D), Schiltz (D).

Gals May Soon Answer Montana's Call to Arms

Tribune Capitol Bureau

HELENA — Get your guns and trench coats, girls, you've just been "liberated" by the constitutional convention.

Delegates late Friday, by voice vote, tentatively adopted a new provision that says "the militia forces shall consist of all able-bodied citizens of the state except such persons as are exempted by law."

The majority report of the convention's executive branch committee, which was accepted by convention, explained that "the committee includes two forward-looking ladies (Margaret Warden, D-Great Falls, and Betty Babcock, R-Helena) who foresee the time when their sex will be liberated to equal responsibility for the safety of our state in time of trouble."

"They have volunteered feminine membership in the state militia . . ."

Another section adopted by the convention says "the governor shall be commander-in-chief of the militia forces of the state, except when these forces are in the actual service of the United States, and shall have the power to call out any part or the whole of said forces to aid in the execution of the laws to suppress insurrection or to repel invasion."

The delegates accepted an amendment proposed by Peter Lorello, D-Anaconda, which allows the governor to also use the militia to "protect life and property in natural disasters."

Delegate George Harper, I-Helena, thought the militia section of the constitution was unneeded.

"Suppose some people in Helena ask me why we kept it?" he said.

Executive committee chairman Thomas Joyce, D-Butte, pointed out that provision for a militia is contained in the present constitution. And he said, there is always the possibility of an invasion.

Democrats against (31): Aasheim, Arbanas, Blaylock, Blend, Bugbee, Campbell, Cate, Cross, Davis, Eck, Furlong, Graybill, Harbaugh, Harlow, Harrington, Heliker, Joyce, Kelleher, McCarvel, McDonough, Melvin, Monroe, Reichert, Roeder, Rollins, Romney, Schiltz, Skari, Sparks, Speer, Warden.

Republicans against (13): Berthelson, Bowman, Drum, Felt, Garlington, Habedank, Martin, Payne, Pemberton, Robinson, Rygg, Toole, Ward.

Independents against (3): Brown, Foster, Harper.

Absent or not voting (3): Bates (D), James (D), Scanlin (D).

How They Voted

Tribune Capitol Bureau

HELENA — Constitutional Convention delegates voted Thursday to retain all seven state executive officers as elected officials.

The governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, auditor and treasurer will continue to be elected on the so-called "long ballot." The key vote to adopt a minority report was 53-44.

Democrats for the long ballot (24): Arness, Aronow, Artz, Barnard, Belcher, Brazier, Cain, Champoux, Conover, Delaney, Driscoll, Eskildsen, Rod Hanson, Holland, Lorello, Mansfield, McKeon, Rebal, Siderius, Sullivan, Swanberg, Van Buskirk, Vermillion, Wagner.

Republicans for (23): John Anderson, Ask, Babcock, Berg, Burkhardt, Choate, Dahood, Erdmann, Etchart, Gysler, Jacobsen, Johnson, Kamhoot, Leuthold, Loendorf, McNeil, Murray, Noble, Nutting, Simon, Studer, Wilson, Woodmansey.

Independents for (3): Oscar Anderson, Bob Hanson,

But Does Not Mean Abolition

Judiciary Article Omits JPs

HELENA (AP) — Delegates took a first step toward deleting any reference to justices of the peace in a new constitution at the Constitutional Convention Saturday.

They approved a section of the Judiciary Committee's minority report that vests judicial powers in a supreme court and district courts "and such other courts as may be provided by law."

Ben. E. Berg Jr., R-Bozeman, principal author of the minority proposal, made it clear that deleting constitutional reference of JPs would not abolish them. The section, approved by a voice vote, would leave the matter of lower courts up to the legislature.

Berg said he looked forward to seeing an improved justice court system.

The committee majority report, which was not considered, includes JPs.

Delegates heard speeches by Berg, who defended the minority plan, and David L. Holland, D-Butte, who advocated the majority proposal, and then decided by a 49-37 vote to go through the Berg plan first.

A key difference between the two plans is the method of selecting judges.

Holland's majority plan would retain elections, but does not specify if they are to con-

tinue to be nonpartisan. It also would forbid judges appointed to fill vacancies from running for election for the job until a year after a successor is elected.

In the minority report, a vastly different system known as merit selection would be employed.

When a vacancy occurred, an independent committee would submit names to the governor, who would appoint one, subject to legislative confirmation.

Anyone could run against the appointed judge the first primary election after he was named to the bench. The winner would run unopposed in November, but voters would choose whether he should be retained or replaced.

These merit retention elections would continue.

The two plans also reflected different philosophies of constitutional revision.

"The majority largely re-adopted the present judicial article, except where we thought changes were needed," Holland said.

Berg and other signers of the minority report took a different approach and drafted what he called a brief, flexible article. It is 13 sections long, while the majority proposal contains 32 sections.

Holland said he didn't accept

the argument that the shortest constitution was the best one.

"The U.S. Constitution is as brief as you can get," he said. "It's too brief and it's too short."

A third plan, submitted by Jerome J. Cate, D-Billings, was submitted on the floor and is the shortest of the three. It contains only three sections, and vests judicial power in the Montana Supreme Court. Cate said it was patterned after the judicial article in the federal constitution.

Berg defended his plan, saying it did not mention JPs because a spokesman for them, District Court Judge E. Gardner Brownlee, Missoula, told the committee that justices did not care if they were mentioned in the constitution. Moreover, polls of lawyers showed they favored deleting JPs from the constitution.

Delegates barely got into the minority article, approving only the first section. Several sections were delayed as legal questions arose.

They seemed evenly divided over the two committee plans, and Cate asked them to consider his last.

John M. Schiltz, D-Billings, who lost his bid for the Montana Supreme Court in 1970, said he favored elections.

"I had a chance to be elect-

ed," said Schiltz, who signed the majority report. "With another few bucks I could have been elected. At least I like to think so."

Vice President John H. Toole, R-Missoula, backed the minority plan "as the lesser of two evils."

Lucile Speer, D-Missoula, and Jean Bowman, R-Billings, both criticized the majority report for being inflexible.

Provincial thinking

One of the discouraging aspects of the Constitutional Convention is a brand of provincial thinking that can harm the new constitution.

An example of narrow thinking was displayed when the merits of a short ballot against those of the present long one for state officials were discussed.

David L. Holland of Butte, when arguing against a short ballot and for the election of seven state officials, suggested that the public might think the Democratic delegates, who dominate the convention, were trying to push out Auditor E. V. "Sonny" Omholt and Treasurer Alex B. Stephenson, both Republicans.

Since the delegates are fashioning a constitution to serve the state for many decades, it is provincial to think of one or two specific officials rather than the over-all good of the state and the value of an effective constitution for generations to come.

Favors two houses

The 1969 legislature ended up with a general fund budget of \$161 million. The governor proposed a general fund budget of \$200 million in 1971.

Some of us in the House of Representatives thought this to be an extravagant budget, and more than the taxpayer's pocketbooks could stand. Therefore, we cut the governor's proposed budget of \$200 million back to slightly less than \$180 million when we wrote the appropriation bills. The Montana Senate amended the bills up—more in line with the governor's figure.

We finally compromised at a little over \$185 million, or approximately \$15 million less than the governor had recommended.

I feel that the House of Representatives should be given the credit for holding down the extravagant spending — by \$15 million.

Now you can see why I advocate retaining a bicameral legislature because a sensible spending budget will be reached in the final compromise between the two legislative bodies.

I maintain that under a bicameral legislative system taxes will generally end up higher than under a unicameral system.

I think we should retain the tried and true system we have at the present time.

LEROY D. ASPERVIG, Rudyard

Approves 'right-to-work'

Montana Farmers Union president, Clyde Jarvis, demonstrated his real interests recently when he spoke in Sidney to the Town and Country Institute. I refer to his statement that his group "will not stand by idly" if the state constitution adopts a right-to-work law."

Not that anybody, including this writer, begrudges the laboring man a decent and comfortable living wage, but the time has come to curtail the power of the omnipotent labor czar who, it seems, is bent on economic destruction of this country.

Witness the recent dock strike which cost the northwest farmer a million bucks a day in lost trade and depressed prices, not to talk about production expenses which have been climbing at an annual rate of 7 per cent. also partly due to extravagant labor demands.

So whom is Mr. Jarvis speaking for, organized big labor or the small family farmer he is supposedly representing? I wonder if labor realizes they are cutting their own throats and pricing themselves out of a job.

Is Anaconda cutting down in Great Falls and other areas because there is no demand for their product anymore? Hardly so.

Labor and ecologists are driving industries out of the state by their actions, while at the same time pondering if they can not talk another sucker into starting up in the state.

I am a farmer and, I suppose, a Farmers Union member also for I buy a few bolts now and then at their place of business. Through their check-off system they can claim every Montana farmer a member, but I challenge the organization to go to a voluntary dues-paying system and see how far they'll get.

In my opinion, right-to-work would be a great asset, both to the industrial development of this state, and to helping solve the nation's economic mess.

LEO DEWIT, Opheim

How They Voted

Tribune Capitol Bureau

HELENA — Constitutional Convention delegates have decided that Montana's new youthful voters should be prevented from being eligible to run for the state's highest offices.

Thursday, delegates voted 59-31 to remove any age limit. They more than one fourth of the delegates changed their minds Friday and voted for a 25-year age requirement, by a 56-38 vote.

Democrats voting for the 25-year age limit (25): Aasheim, Arness, Aronow, Ariz, Barnard, Bates, Belcher, Blend, Brazier, Bugbee, Conover, Davis, Delaney, Driscoll, Eskildsen, Rod Hanson, Harrington, McCarvel, McDonough, McKenn, Rebal, Skari, Swanberg, Van Bushirk, Wagner.

Republicans for the age limit (26): John Anderson, Ask, Babcock, Berg, Berthelson, Bowman, Choate, Drum, Erdmann, Etchart, Fell, Gysler, Habedank, Jacobsen, Johnson, Kamhoo, Murray, Noble, Nutting, Payne, Pemberton, Pygg, Studer, Toole, Wilson, Woolmansey.

Independents for the age limit (4): Oscar Anderson, Brown, Bob Hanson, Mahoney.

Democrats against the age limit (31): Arbano, Blaylock, Cain, Campbell, Cate, Champoux, Cross, Eek, Furlong, Graybill, Harbaugh, Harlow, Heliker, James, Joyce, Kelleher,

roe, Reichert, Roeder, Rollings, Romney, Schiltz, Siderius, Sparks, Speer, Sullivan, Vermillion, Warden.

Republicans against the age limit (6): Garlington, Leondorf, Martin, McNeil, Robinson, Ward.

Independents against the age limit (2): Foster, Harper. Absent or not voting (6): Burkhardt (R), Dahood (R), Holland (D), Leuthold (R), Scanlin (D), Simon (R).

Convention Bypasses Auditor Duties

HELENA (AP)—An amendment to increase the duties of the state auditor was defeated Friday at the Constitutional Convention.

Instead, delegates voted 62-31 to let the legislature prescribe the state auditors duties.

James R. Felt, R-Billings, submitted the defeated amendment, which, in his words, "would make the auditor an auditor."

Felt's proposal would have given the auditor constitutional sanction to analyze state spending and determine for the public whether funds "have been effectively economically and efficiently administered and expended."

The auditor's scope would have included departments within all three branches of state government.

Opponents said Felt's proposal could lead to duplication of the Legislative Audit but Felt believed having separate agencies audit would be beneficial.

Moreover, Felt said the legislature could eliminate its auditor or not fund it sufficiently sometime in the future.

Objecting was Fred Martin, R-Livingston.

"We're here to put some fundamentals in the constitution and make it flexible," he said, preferring to let the legislature set the state auditor's duties.

Margaret S. Warden, D-Great Falls, asked delegates: "Are we creating another monster? We have a wonderful legislative audit."

She questioned the need to create what she called "another department of government to watchdog another watchdog watching that dog."

William H. Artz, D-Great Falls, backed Felt's plan, saying that an outside audit ought to be part of the constitution to protect the public.

A Helena delegate, George Harper, said it was incongruous to him to have the official keeping the books—the auditor—to audit them.

J. C. Garlington, R-Missoula, said enacting Felt's proposal would create a "political overlord" and a "rival government."

Another opponent, Thomas F. Joyce, D-Butte, urged delegates not to create a new office on the spur of the moment. He said Felt had not presented the plan to the Executive Committee, on which both men serve, and thus no public hearings had been held.

Right-to-Work Stand by CofC Taken to Task

HELENA (AP) — An Anaconda delegate to the Constitutional convention has strongly criticized the Montana Chamber of Commerce for its support of a right-to-work proposal.

Mike McKeon, D-Anaconda, was referring to a proposal introduced in the convention which would not make membership or nonmembership in a labor organization a necessity to work.

It was rejected in committee, but was expected to be raised on the floor later in the convention.

"Last year the state chamber admitted to the siring of the ill-fated sales tax," he said. "Records ordered made public by the courts revealed that while the chamber allegedly spoke for Montana business on that issue, only a handful of major out-of-state owned corporations put up the money to finance the chamber's Save Our State (SOS) sales tax committee."

"Isn't it time the state chamber shed its charade and publicly admitted that its every move is profit-motivated for the handful of corporations who are in Montana for one purpose and one purpose only—large dividends for their out-of-state coupon-clipping owners?" he asked.

Delegates Overturn Age Decision

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Fearing the grassroots reaction, Constitutional Convention delegates overturned a previous decision Friday and set a minimum age limit of 25 for those seeking the state's highest elective offices.

Only the night before, delegates had voted 59-31 to remove any age limit, but more than

one-fourth of the 100 delegates changed their minds Friday. They voted for the 25-year age requirement by a 56-38 vote.

The primary reason cited for the change was what the voters would think of the proposal which, theoretically, would allow an 18-year-old to run for governor. Most, however, conceded this was not likely to happen.

The present constitution sets an age limit of 30 for those seeking the offices of governor, lieutenant governor, attorney general and superintendent of public instruction.

"I'm afraid we may lose a lot of articles and amendments over this," Carl M. Davis, D-

Dillon, said, moving to reconsider action.

He said a 25-year age limit "adds a little dignity to the office of governor." Voters might misunderstand if delegates took out the age limit, he said.

Agreeing was Arnold W. Jacobsen, R-Whitefish, who said:

"I don't think the young people are going to respect us if we don't put this limit in."

Another delegate, George B. Heliker, D-Missoula, opposed the move. Delegates would look foolish for changing their minds overnight, he said.

"We are going to appear kind of foolish to the people of Montana — like a flock of chickens that run for cover after a hawk flies over," he said.

Bob Campbell, D-Missoula, said similar arguments were raised at the 1889 Constitutional Convention over allowing women to vote. Campbell sponsored a measure that would give 18-year-olds full adulthood, including the right to hold public office, and it is incorporated in the proposed bill of rights, which hasn't hit the floor yet.

The convention's youngest member, Mae Nan Robinson, 24, facetiously proposed an amendment setting an upper age limit of 55, which delegates rejected.

Cate Pushes For Ban on Death Penalty

HELENA (AP) — The principal sponsor of a rejected proposal to outlaw capital punishment has called on Montana churches for support.

Jerome J. Cate, D-Billings, said the Catholic Church has made its opposition to the death penalty known throughout the United States and Montana Catholic conferences. Most other churches have not made their position known to delegates, he said.

His proposal was referred to the Bill of Rights Committee but was rejected.

"The death penalty is only justified from a moral standpoint if it is a detriment to the taking of lives of others," he said.

Cate contended that statistics show the death penalty is not a deterrent to crime and is not justifiable morally.

He said another reason the death penalty should be outlawed is that it is irrevocable.

"Mistakes discovered after our execution cannot be undone and this is the greatest of all mistakes."

Convention 'off on wrong foot'

The Constitutional Convention got off on the wrong foot after the committee meetings were over and floor debate began. Already I question whether the people of Montana will accept the new constitution. It is obvious that many delegates do not realize that their duty is to devise the framework of government, not enact legislation.

In their desire to up-date the constitution, they are down-grading the contents. A consolidated description of the area involved is fundamental and properly antecedent, as the federal acts and nomenclature describing the boundaries are fragmentary and disconnected, but will be omitted for lack of interest or purpose. (North Dakota delegates necessarily included such a description in their new constitution.)

Federal action forces allowing 18-year-olds to vote, but, with no further qualification, for them to be eligible to hold any office in the state is beyond understanding. Book knowledge is wonderful, but experience is also a great teacher in acquiring judgment and realistic and independent thinking.

How naive and far afield were the delegates in assuming such a legislative prerogative as

instant voting without prior registration? (How many dead men have voted?)

If more responsible government is to be achieved by authorizing more appointed officials, why should such elected officers as the treasurer and auditor be included? Both have fiduciary obligations to protect the public purse and must keep their independence to do so.

It is advocated that we have longer and more frequent sessions of the legislature. In the last session 1100 bills were presented, and the legislatures wasted much time in purging themselves. Something constitutional might well be done to alleviate this glut. Two houses and limited sessions impede the multiplicity of laws and achieve better government.

To write a proper constitution (dull as the job may be) not requiring frequent amendment, the test should be: Is this the framework of government or something for legislative enactment? The fetishes of the hour are environmental control and individual privilege. Both have been overdone by both federal and state authority, even to the extent of immunity for murder.

WALTER A. STAMM, Dillon

Con Con Buckling Under to Fears

Little Reform Seen for Document

By CHARLES S. JOHNSON Associated Press Writer HELENA (AP) — In trying to placate don't-rock-the-boat Montanans, Constitutional Convention delegates may be risking the support of those citizens who expected more than just a few token reforms.

News Analysis

Delegates understandably fret over the reaction of voters to change, for they will ratify or reject the new constitution June 8.

But many of the same citizens were among the 65 percent who voted in 1970 to call the convention because they wanted major changes — not a costly stamp of approval on the existing 1889 document.

If present trends continue, some of these voters are apt to be disappointed with the new constitution. So far, delegates have paid lip-service to change, except for a few long-needed legislative reforms, one of which was emasculated later.

Last week, for example, delegates passed an executive article that defies reform. Its only meaningful changes force the governor and lieutenant governor to run as a team and lay the groundwork for a full-time lieutenant governor.

Ignored were the words of former Gov. Joseph Dixon, who said more than 50 years ago:

"Let us nominate and elect the chief executive of this state, then give him full power to name his assistants in administering the various departments of the state government, and we will know exactly where to place our finger in locating blame or praise."

Instead, if the new document passes, citizens will continue to vote for a laundry list of state officials, even though most voters have no idea what each does and how well he performs his job.

Delegates buckled under to fears that eliminating any of the elected offices might backfire and sink the constitution.

When they met in November, delegates were told they had "an opportunity to initiate a new history — a history of dynamic and responsive state government."

They were told not to be afraid "to include new and progressive ideas in the constitution." It was no revolutionary or ivory-towered professor speaking; it was Gov. Forrest H. Anderson.

That voters approved amendments in 1970 calling the con-

vention, directing the legislature to reorganize the executive branch and allowing 19-year-olds to vote showed Montanans recognize the need for change, the governor said.

"And if a proposal is good, it will be approved by the people," he said.

Many of the delegates are not so sure.

And in the process, the liberal bloc that once clamored for reform has been effectively stifled at the convention.

For all their lofty principles, many of the would-be reformers have become political animals, using the convention as a springboard to the legislature and higher posts. Some started shedding their idealism and principles as soon as the attorney general ruled they could seek other elected offices this year.

Some delegates have missed key votes while off promoting the convention (and their unannounced candidacies). Others have changed their minds overnight, probably in the interest of their own political careers.

For example, they voted 59-31 Thursday to remove any age restrictions for candidates seeking the state's high elective offices. But after feeling a little heat in their kitchen Friday, they reversed this decision 55-33 and inserted a 25-year-old age limit, fearing voters would not go for the change.

After approving 90-day annual legislative sessions, for instance, delegates capitulated to rural appeals last week and cut the time to 60 legislative days a year.

HELENA (AP) — Despite retaining all seven state elected officials, Constitutional Convention delegates have adopted several changes in the proposed executive article. A potentially significant change could lead to a full-time lieutenant governor. Delegates agreed to a committee recommendation that would allow the lieutenant governor to be a full-time state official if the governor desires and if the legislature provides the necessary appropriations.

The article provides that the governor and lieutenant governor run as a team. At present, they run separately and sometimes end up as members of the opposite party or feuding members of the same party.

Ironically, in trying to increase the lieutenant governor's powers, the convention has stripped some of his present duties. In approving the legislative

inexperience also has hurt the reformers, most of whom are political novices. They are not as adept at parliamentary maneuvering as the former legislators in the body. Thus old pros, who generally back the status quo, often have gained the upper hand on the floor.

Unlike the liberals, the status quo delegates are aware of a fact of life in the convention: the more a delegates stands up and speaks, the less clout he has. So while the wily old pros lean back and wait for an opportune time to speak, many reformers, one-by-one, speak on practically every issue, often talking them to death. This often alienates the important swing groups — the uncommitted — who stand between the liberals and conservatives.

Another barrier the liberals often fall to overcome is the Butte-Anaconda-Dillon Democratic bloc, which has tended to support the status quo. These delegates, with a couple of exceptions, usually pool their eight or nine votes and try to attract others.

The Butte bloc, for example, led the fight against shortening the executive ballot, even going against fellow Butte delegate Thomas F. Joyce, chairman of the Executive Committee. Joyce and others who signed the committee majority report, wanted to delete the auditor and treasurer from the constitution.

Delegates might keep in mind that reformers around the state are just as capable as mustering opposition to a new constitution as standpatners.

Nobody pays the public

The views of several lobbyists with regard to the Constitutional Convention were presented recently in an article on the front page of the Tribune. The article was filled with dire predictions and a great deal of wishful thinking concerning the outcome of the new constitution. Each of the lobbyists apparently conducted a mini-survey and concluded that disenchantment with the Constitutional Convention was rampant within the state. Conflicting views were presented by the lobbyists as to why the new constitution would not be acceptable to the citizens of the state. One said that the convention was moving too rapidly and another contends that it was moving too slowly. One stated that the ideas presented at the convention were too innovative while another lobbyist thought that delegates were too much inclined to consider the feelings of the folks at home. So it goes.

Why should special-interest lobbyists be particularly pleased with the proceedings in Helena? Their activities have been restricted from the very beginning of the convention. In the event that a new constitution is adopted, their influence probably will be further diminished. By their very nature, special-inter-

est lobbyists do not represent the public at large. The well-being of the public is clearly the lesser of their concerns. It is a paradox that they should now presume to speak for the public.

It may be true that the galleries in Helena have not been packed with concerned citizens. However, it is also true that few people are paid, as are special-interest lobbyists, to sit in the gallery of the legislative chamber and to wander the halls of the state capitol in an effort to buttonhole and influence delegates. The many hours of public hearings and the deluge of letters received by the delegates testify to the interest of the public in the convention.

Many different points of view have been considered and discussed by the delegates in a manner that could serve as a model for any recent session of the state legislature. In spite of the views of a small number of special-interest lobbyists, it is likely that the convention will result in a vastly improved document that will meet the needs of Montanans in a modern society.

JACK H. STIMPFING, 3921 7th Ave. S.

Constitutional Convention Adopts Changes in Executive Article

HELENA (AP) — Despite retaining all seven state elected officials, Constitutional Convention delegates have adopted several changes in the proposed executive article.

A potentially significant change could lead to a full-time lieutenant governor. Delegates agreed to a committee recommendation that would allow the lieutenant governor to be a full-time state official if the governor desires and if the legislature provides the necessary appropriations.

The article provides that the governor and lieutenant governor run as a team. At present, they run separately and sometimes end up as members of the opposite party or feuding members of the same party.

Ironically, in trying to increase the lieutenant governor's powers, the convention has stripped some of his present duties. In approving the legislative

article, they provide for senators to choose their own leader, thereby eliminating the lieutenant governor from his present job of presiding over the Senate.

And they also approved an Executive Committee recommendation to remain the state's chief executive even when he is out of the state.

Delegates believed modern communications will allow the governor to remain in touch with his office.

However, if he is gone for any period of 45 days or longer, the lieutenant governor would be the acting governor.

Other changes include:

- Lower age limits. Candidates for governor, lieutenant governor, attorney general, superintendent of public instruction, secretary of state, auditor and treasurer have to be at least 25 years old in the 1889 constitution. Those running for the first four offices have to be

30. Delegates did turn down an attempt to remove any age requirement, which would have allowed anyone over 18 to run for office.

-Vacancies. The article spells out specific provisions for filling vacancies of executive officials.

-Veto power. The governor would be required either to sign or veto a bill. He could no longer employ the so-called pocket veto, by which if a governor does not sign a bill in a certain length of time it is vetoed.

-Amendatory veto. The governor could return any bill to the legislature with his objections and suggest amendments. If the legislators concur with the suggestions, they would return the bill to the governor to sign.

-Succession. The convention adopted provisions for replacing a disabled governor patterned after the 25th Amendment to the U.S. Constitution. It would permit the legislature after the lieutenant governor and attorney general submit a recommendation, to vote whether the governor can no longer discharge his duties because of

Local Delegates Offer Views On Many Con Con Proposals

By Mrs. Olive Rice

The six delegates from District 11 very graciously took time from their busy schedules for interviews. Excerpts for interviews. Excerpts follow:

J. MASON MELVIN

J. Mason Melvin, Bozeman, spoke of the two plans submitted by the Judiciary Committee. "I signed the minority report," he said, "which leaves it up to the legislature to appoint all courts except for the supreme and district judges.

"The majority report provides for the election of one J.P. for each county, with the legislature having the power to provide for more where needed.

"One thing I want to make very clear," he added. "And that is that neither plan has anything to say about abolishing the J.P. courts. The

minority plan leaves the J.P.'s up to the legislature."

When asked if, conceivably, the legislature could abolish the J.P.'s, Melvin answered, "Well, they could do that, I suppose, but that is not the intent of the minority report. I have no fear of what the legislature would do.

"Call it J.P.'s, magistrates, or whatever, the lower courts are not going to be abolished, because the district courts aren't going to listen to traffic violation cases."

BEN E. BERG JR.

Delegate Ben E. Berg, Jr. of Bozeman also signed the minority report of the Judiciary committee, one of the committees on which he serves.

He, too, was very anxious to correct any impression that the minority proposal would abolish the J.P. courts.

He quoted from the comments accompanying the minority report as stating:

"It should be pointed out that by deleting reference to justice of the peace, there is no intention to abolish or affect the present jurisdiction and operation of these courts, but rather to leave assignment of judicial power in these courts exclusively to the legislature where there is wide latitude for improvement and alterations that will adjust to the varying complexities of rural and urban problems in the administration of justice on the lower level.

"The J.P.'s we interviewed," Berg said, "have told us they didn't care how those courts were handled — by constitution or legislature.

"The states which have considered this problem

during the last 10 years have dropped the J.P. courts from the constitution."

GRACE BATES

Grace Bates, delegate from Manhattan, presented delegate proposal No. 140 calling for a bicameral legislature, she says, because she believes that is what the people want.

"A bicameral legislature," she explained, "gives better representation, with the house responsive to the voters because of elections every two years and the senate providing the continuity of longer terms, staggered.

"It gives us checks and balances which the unicameral form cannot offer.

"The legislative committee hopes that the convention will vote to leave the choice between a unicameral and a bicameral body to the people. In either case the proposals are for more power for the legislature, more open committee meetings and more legislative responsibility for running the state business."

FRED MARTIN

Fred Martin, Livingston, spoke as follows:

"As a member of the Public Information Committee, my concern is that we interpret what the people want and expect in a new constitution.

"Never in my knowledge have there been such dedicated delegates, conscious of their obligation to their constituents.

"They have listened, studied, analyzed and are now debating the various articles which will comprise Montana's new constitution, which will permit Montana to go forward in the generations to come, with the people through their elected legislators and officials able to adjust to meet whatever conditions arise.

"In doing this we must not put constitutional road blocks in our path. That is why it is necessary not to pre-judge at this time just what the final document will be."

RICHARD ROEDER

Richard Roeder, Bozeman, described the work of the Style, Drafting and Transition Committee, on which he serves, as being of the "utmost importance." After the reports are acted upon by the convention, he said, they are re-typed, with amendments and other changes made.

The style committee corrects grammar and syntax, improves the language where necessary and watches for any inconsistencies in versions from different committees.

If there is any duplication of items, the style committee chooses the best position.

When this work has been finished, the report returns to the convention floor for approval and then is checked again by the style committee.

"The Executive Committee," Delegate Roeder said, "would delete the auditor and the treasurer from the constitution.

"I plan a proposal from the floor to drop the Secretary of State and the attorney general as elective offices, too. No hope of getting it passed, but I want to put it out as an educational idea."

DOROTHY ECK

Dorothy Eck, Bozeman, crowded a brief interview in between a Bill of Rights Committee meeting and one on administration.

"The Bill of Rights proposal is almost unanimous," she reported. "There will not be any minority proposals from this committee."

(Vigorous debate, however, is expected when this report hits the convention floor, because this committee covers such a wide area.)

"Many of our administrative problems — in handling personnel — have come about because of the open meeting policy of the convention, but I'm still for open sessions in spite of any problems that may result from it," she added.

Mrs. Eck spoke a good word for the interns who have been successful in researching several studies.

The interns are in charge of the convention tour programs which have been started for the benefit of the many visitors.

These are your delegates. They will welcome your views on any part of the constitution.

Voting age and holding office

I am a retired rancher and we raised five children who are all married and have families and have proven their worth in this world.

I have had many high school boys working for me at different times and I enjoy being with them. I like their enthusiasm, the freedom of most of them in discussing different questions, and especially their energy, but does this qualify them to hold a public office?

Most of them have never contributed to their own livelihood and know little about financial planning or management. Generally speaking, they have been living under rules set down by someone else and have never had the real problems of life bump into them. Most of these youngsters haven't chosen their life's occupation yet, and as they look out over this great world, it has a very rosy hue.

No business executive would put a man, even his own son, into a responsible position until he has put him through the mill so he has the experience to know how problems are met and overcome. I say "No," wait until they are at least 25 years old.

Why all this furor about putting these kids into office? It certainly isn't that there is a shortage of candidates. I would say it is just a political ruse to try to get the votes of the 18-year-old kids. One candidate begins to plug for it, and all the others jump on the band wagon.

ELMER B. LUND, Big Sandy

At Constitutional Convention

Two Attempts to Shorten Slate of State Officers Fail

HELENA (AP) — Two attempts to try to shorten the slate of state elected officials failed Saturday at the Constitutional Convention.

Several delegates wanted to reconsider action taken Thursday, when they voted to keep the seven offices elective.

By adopting a minority report, the delegates voted to retain the governor, lieutenant governor, attorney general, superintendent of public instruction, auditor, treasurer and secretary of state as elective offices.

Some delegates had advocated allowing the governor to appoint some of the officials.

A motion by Robert Vermilion, D-Shelby, to reconsider the action failed 45-12. He wanted to vote on each office individually.

Later in the day, Margaret S. Wardell, D-Great Falls, tried to have convention rules suspended to reconsider the matter again. The rules only allow one reconsideration, and her attempt failed on a voice vote.

In other action, delegates agreed to an amendment by James R. Felt, R-Billings, to include a provision allowing the legislature to establish a post-auditor.

The position is allowed in the statutes but Felt wanted constitutional sanction in case there is a court challenge.

Discussion centered on whether the amendment should

be allowed in the executive article since it was more of a legislative matter.

However, the amendment was tacked onto the section outlining the duties of the state auditor, and delegates ap-

Unhappy Delegate Takes Leave

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA - A Constitutional Convention delegate, unhappy over defeat of a controversial proposal to establish a people's advocate, went home to Billings Friday "to think things over for a couple of days."

Delegate Donald Scanlin, a Democrat, said he expected to return Tuesday. Contacted at Billings by telephone, Scanlin told the Tribune why he left.

"Let's just say that I was unhappy over the statements made by the chairman of the rules committee (Marshall Murray, R-Kalispell) during the debate on the people's advocate pro-

posal. The 57-year-old teacher said the debate referred to by Scanlin took place Thursday prior to the 48-48 vote which killed reconsideration of the people's advocate proposal. The proposal, to create a new state officer to help cut through bureaucratic red tape, had gone under by a 48-43 vote Tuesday.

After delegate Mike McKeon, D-Anaconda, made the motion to reconsider the proposal Thursday, Murray said he was "a little tired about all the discussion." Murray suggested that delegates who resisted McKeon's motion should "merely remain silent and vote no."

Scanlin, a supporter of

McKeon's reconsideration motion, however, rose on the convention floor and said "I object to Murray's attempt to cut off debate." The debate, in fact, was not cut off and continued for approximately another hour. After several other delegates had spoken Scanlin read a statement supporting the people's advocate proposal.

Scanlin said he had requested and had received a two-day leave of absence from convention president Leo Graybill Jr. "I needed a rest," he said.

The convention's rules say that "no delegate shall absent himself from the sessions of the convention unless he has leave or be sick, or his absence be unavoidable."

Before he left, Scanlin had traded places with delegate Robert Woodmansey, R-Great Falls. This caused some initial confusion Friday when Woodmansey, sitting in Scanlin's former seat, was recorded as voting "aye" for the absent Scanlin.

Scanlin now has a seat assigned in the last row next to delegate Archie Wilson, R-Hysham.

Before the switch, Scanlin had been sitting in a seat next to the back row, in back of Murray, in front of Robert Vermillion, D-Shelby and next to John Schiltz, D-Billings.

Scanlin said his disagreements with Murray figured in the seating change.

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Con Con Delegates Discuss Water Rights Suggestions

Water rights was one of the many subjects discussed by District 11 residents and their Con Con delegates at the Feb. 13 informational meet.

Delegates Ben Berg, Mason Melvin, Richard Roeder, Dorothy Eck and Grace Bates were on hand to answer questions.

Water Rights

Man: "What about water rights?"

Eck: "The final proposal on that came out pretty good, I think. The debate was mainly over whether it should be left to the legislature or whether we should have a special administrative group

"As it stands now, the proposal leaves it to the legislature, but suggests an administrative group."

Berg: "I think water rights are best handled as they are now. It is faster this way and works very well."

Melvin: "Water rights have been under the judiciary for 100 years and this has worked well. Judge Lessley says that he can't remember a water rights case coming up here."

"Why discard a system that has worked satisfactorily for a century?"

Bates: "As I understand it,

no final decision has been made on that by the committee. But the last report I had was that adjudicated rights would remain the same as they are now."

Free Public Access?

Man: "What about the Natural Resources proposal - that Public Trust business? As I understand it, the way it is written the public will have access to any running water on an individual's place."

Bates: "I think they will give a real close look at this."

Man: "This public access proposal would negate any trespassing possibility."

Eck: "The 'Public Trust' proposal probably won't get much more consideration."

"The statement doesn't do much more than re-affirm what we have now: that is, that the government is the trustee of the environment and that the environment belongs to everybody."

"I do think an article on environment will include a statement like this."

Dept. of Agriculture

Man: "Is there a hearing on resources and agriculture this week?"

Eck: "No, I think they've

held their last hearing. However, I don't think they've reached any conclusions yet."

Bates: "There will be a Dept. of Agriculture. The main debate is over whether to have a board or a commissioner head it."

Delegate Roeder Explains Con Con Exec Proposal

Richard Roeder, District 11 Con Con delegate, offered a report on the Executive Committee's work at the convention.

Roeder made his remarks Feb. 13 at the Courthouse where he and delegates Ben Berg, Mason Melvin, Dorothy Eck and Grace Bates answered questions of an audience that spilled out of the Community Room into the hallways.

Executive System

Roeder: "The Executive Committee has received very little publicity."

"Our present executive system is very confused. It is not clear what the framers of

our constitution intended, and it is not clear whether what developed afterwards was what the framers intended.

"I think the framers intended that the Governor, secretary of state, attorney general, auditor and treasurer would watch over each other, provide checks on each other

"But it hasn't worked that way. It hasn't provided checks. Our committee has found that you have virtually two governments operating side by side with the auditor and treasurer stuck over here as historic relics."

"Our proposal calls for electing the Governor and Lt. Governor as a team; and for electing the attorney general, the secretary of state and the superintendent of public instruction."

"The minority report calls for electing the auditor and treasurer."

Man: "Are you assuming that appointing these would eliminate the deadwood?"

Roeder: "No, but it could very well."



4-H Staging Simulated Con Con

HELENA (AP) - Sixty 4-H members have been holding a simulated constitutional convention in the Capitol.

The delegates were elected from 4-H clubs from across the state and arrived in Helena Thursday. They have divided into six committees to make recommendations for a new,

state constitution.

The 4-Hers, who will adjourn at noon Saturday, are working with material and testimony prepared and presented at the Montana Constitutional Convention, which is in progress.

Dr. Ellis Waldron, Missoula University of Montana political science professor, is the chief adviser for the youth convention.

Democrats for Reform, GOP for Status Quo

By DANIEL J. FOLEY
Missoulian State Bureau

HELENA - Democratic delegates to Montana's Constitutional Convention are generally voting for reform, while a large number of Republicans are opposing most changes.

The State Bureau analyzed the votes of the 100 delegates on nine key issues decided in the past 10 days. Taken as a whole, delegates cast their votes for the reform position 47 per cent of the time.

Democrats voted for reform 57 per cent of the time, Republicans 32 per cent and Independents 42 per cent.

The analysis shows a striking difference between votes of urban and nonurban delegates. The 50 delegates who live in Billings, Butte, Missoula, Helena, Great Falls, Bozeman and Kalispell voted for reform 58 per cent of the time. The 50 delegates living in towns and in rural areas voted for reform 36 per cent of the time.

The reform percentage compiled by some other interest groups: farmers and ranchers 26, lawyers 48, ex-legislators 32, women 60.

From the analysis and from observation of convention debates thus far, these things seem clear:

— Although there are no party caucuses and no attempt is being made to enforce party discipline, there is still a very apparent philosophical difference between Democrats and Republicans, the survey confirms the axiom that Democrats are more liberal (favoring reform) and Republicans more conservative (status quo).

— Although Democrats have a 58-36 numerical edge over Republicans, many of the reforms are being defeated. Although more

News Analysis

than half the Democrats are voting for reforms, there is still a large block of status quo delegates in that party. Republicans, on the other hand, are overwhelmingly status quo as a group.

— A small block of status quo delegates, including former legislators who are successfully using parliamentary procedures, has been influential in turning around votes. Of the

nine issues studied only three votes were favorable to the reformers. But two others had been until this influential block marshalled its forces. The group convinced middle-of-the-road delegates of possible adverse voter reaction to the reforms and got delegates to change their minds.

In doing the survey the following were considered as reform positions: Votes favoring open legislative meetings, three-day notice of legislative hearings, reapportionment by a citizens' commission, establishment of a people's advocate and poll booth registration, and votes opposing biennial sessions, a "long ballot" of seven elected officials and a requirement that state officials be at least 25 years old.

Reformers were successful in gaining open meetings and the reapportionment commission and in defeating biennial sessions in favor of annual ones. They won early victories in favor of 90-day sessions instead of 60 and in favor of eliminating age requirements on holding of state office, but lost both issues in later votes.

The survey percentages may be distorted somewhat toward the status quo side because several reforms, such as single-member legislative districts and recorded votes, were

passed by voice vote and are not available for analysis. On the other hand, a vote toward the status quo on the size of the legislature also was not recorded.

One delegate voted for all nine reforms and seven did not vote for any of them.

Those most inclined toward reform included:

Nine votes: Robert L. Kelleher, D-Billings.

Eight votes: Harold Arbanas, D-Great Falls; Marjorie Cain, D-Libby; Louise C. Cross, D-Glendive; Leo C. Graybill Jr., D-Great Falls; George Heliker, D-Missoula; Lucile Speer, D-Missoula.

Seven votes: Richard J. Champoux, D-Kalispell; Dorothy Eck, D-Bozeman; Donald R. Foster, I-Lewistown; Noel Furlong, D-Kalispell; J. C. Garlington, R-Missoula; George Harper, I-Helena; Lyle Monroe, D-Great Falls; Arlyne Reichert, D-Great Falls; Mae Nan Robinson, R-Missoula; George W. Rollins, D-Billings; Henry L. Siderius, D-Kalispell; Margaret Warden, D-Great Falls.

Those most inclined toward status quo listed by votes for reform:

No votes favorable: Cedor B. Aronow, D-Shelby; Douglas Delaney, D-Grass Range; Leslie Joe Eskildsen, D-Malta; Mark

Etchart, R-Glasgow; Torrey B. Johnson, R-Busby; R. J. Studer Sr., R-Billings; Roger A. Wagner, D-Nashua.

One vote: John H. Anderson Jr., R-Alder; Betty Babeock, R-Helena; Don E. Belcher, D-Roundup; Max Conover, D-Broadview; Marian S. Erdmann, R-Great Falls; E. S. Gysler, R-Fort Benton; Bob Hanson, I-Ronan; David L. Holland, D-Butte (absent on five of nine votes); Charles H. Mahoney, I-Clancy; Robert B. Noble, R-Great Falls; Richard A. Nutting, R-Silesia; Sterling Rygg, R-Kalispell; Clark E. Simon, R-Billings; Archie O. Wilson, R-Hysham; Robert F. Woodmansey, R-Great Falls.

Two votes: Thomas M. Ask, R-Roundup; Lloyd Barnard, D-Saco; Grace Bates, D-Manhattan; Geoffrey L. Brazier, D-Helena; Wade J. Dahood, R-Anaconda; Otto Habedank, R-Sidney; Rod Hanson, D-Fairfield; A. W. Kamhoot, R-Forsyth; Catherine Pemberton, R-Broadus; Donald Rebal, D-Great Falls.

Something for Everybody in First Con-Con Article Adopted

By DANIEL J. FOLEY
Missoulian State Bureau

HELENA — The legislative article adopted last week by the Constitutional Convention has a little something for those favoring the status quo, a little something for reformers and even something for the people to decide.

The most controversial question — whether to have a one- or two-house assembly, will go to a vote of the people. If the unicameral option is adopted, another vote is scheduled for 1980 on whether to continue with it.

For those favoring the status quo, the size of the assembly will be about the same if the bicameral option is adopted and session length will still be limited to 60 days, although there

are provisions for modifying that.

The reformers pushed through annual sessions, open meetings, recorded votes in committee, single-member legislative districts and reapportionment by a citizen commission.

Here is a rundown of the provisions adopted by the convention:

Structure: When the constitution is up for

adoption, voters will be given a separate choice about whether to have one body of 100-106 as on the floor in final passage.

105 members of a house of 100-106 members and a senate of 50-53 members. The bicameral legislature now has 100 representatives and 50 senators.

Sessions: The length will still be limited to 60 days, but in the future it will be legislative days, not calendar days. Thus, legislators will

be able to recess or take off a weekend without losing working days. The section is also more flexible than the present constitution, because it allows the legislators as well as the governor to call special sessions. A legislature also could extend the time limit for future legislatures, but not for itself. The major change in the section is to annual sessions from biennial.

Open meetings: The proposed constitution mandates that all committee meetings be open, a change from the present practice in which appropriations meetings, conference committees and committee sessions to "mark-up" bills often are closed.

Recorded votes: The proposal requires that legislative votes be recorded in committee as

Apportionment: Each voter would cast a and one senator under a bicameral plan or one senator under a unicameral plan because of the single-member district concept. That would mean the end of multi-member districts, such as Yellowstone County where voters have to pick 12 representatives and six senators. Redistricting each decade would be done by a citizen commission instead of the legislature, which has not had much success in the past in reapportioning itself.

Vacancies: A vacancy in the legislature would be filled by special election rather than by appointment of county commissioners.

Officers: The legislature would choose all of its own officers, eliminating the lieutenant governor from the legislative process.

Compensation: The convention rejected a proposal for annual legislative salaries, but did write in a provision creating a salary commission to recommend legislative, executive and judicial pay.

Ethics: The proposal requires that laws be enacted to prevent conflicts between public duty and private interests at all levels of government.

Delegates rejected two proposed reforms, one creating a people's advocate to help citizens in dealing with government agencies and another requiring the legislature to give adequate notice of public hearings.

Convention Proves Willing to Take Second Look at Decisions

By JOHN KUGLIN

Tribune Capitol Bureau

HELENA — Reconsideration of hasty action has marked the first week of formal debate by Constitutional Convention delegates.

By reconsidering its own work, the one-chamber (unicameral) convention is acting much like a two-chamber (bicameral) body, just like each house of the Montana legislature is a check on the other house.

For instance, last Saturday the convention adopted a proposal for annual legislative sessions of up to 90 days, with provision for special sessions. The vote was 70-24.

Then on Thursday the delegates agreed to reconsider their action and by a 91-5 vote decided to go for annual sessions of 60 legislative days. The present constitution restricts the legislature to sessions of 60 calendar days every two years.

On another issue, 16 delegates Thursday seemed to change their minds on the issue of a proposal that would have created a new constitutional officer, the people's advocate, to help citizens cut through bureaucratic red tape.

The 48-48 tally was one vote short of what was needed to revive the proposal, which had been buried by a 48-43 vote Tuesday.

An analysis of the two votes shows that four delegates who had opposed an attempt to kill the citizens' advocate proposal Tuesday voted not to reconsider the question Thursday.

Ten switch-a-roo delegates who had tried to kill the proposal Tuesday voted to reconsider the question Thursday.

Possible vote shifts by 13 of the 100 delegates could not be determined because they were recorded as absent or not voting for at least one of the votes.

The issue of writing statutory law into the constitution and not the issue of partisan politics seemed to highlight the debate Tuesday and Thursday on the

people's advocate issue.

However, in the latest vote, reconsideration of the issue was largely favored by the Democrats and was mainly opposed by the Republicans and Independents.

Thirty-eight of the convention's 58 Democrat delegates voted to reconsider the proposal Thursday. Only eight of the 38 Republican delegates voted to reconsider. Only two of the six Independents favored reconsideration.

One of the Republican Delegates, Betty Babcock of Helena, explained that she voted "aye" only because she thought the

delegates should have the right to reconsider their action. Mrs. Babcock had voted against the citizens advocate proposal Tuesday.

The convention, under its rules, allows any delegate who voted on the prevailing side to move for a reconsideration of any section on the same session day of the convention or to file notice that he will make such a motion no later than the next succeeding session day.

Though the discussion leading to the 48-48 vote Thursday was merely on the motion to reconsider, 19 of the delegates took the occasion to engage in more

than an hour of debate. One delegate spoke three times.

This brought an admonition from President Leo Graybill Jr. at the rostrum. Graybill thought that the debate was largely unnecessary, because the issue before the convention was a motion to reconsider — not a substantive issue. In fact, Graybill said he had let the debate stray to show what can happen in "an undisciplined body."

At the beginning of the discussion, delegate Marshall Murray, R-Kalispell, chairman of the rules committee, had appealed for brevity. Murray said he was a little tired about all this discussion" and suggested that

those opposed to the motion to reconsider should "merely remain silent and vote no."

Unlike legislature, floor debate seems to change some delegates' minds. Extensive speech-making by a legislator is generally regarded as being directed either at the news media or at a gallery full of constituents.

The convention delegates

The 100 delegates who have been busy in Helena since Jan. 17 trying to hammer out an effective state constitution deserve credit for their general ability, dedication and conscientious work. They are a credit to the state.

The difficult program of writing a new state document to replace the wordy, cumbersome and restrictive constitution that has hobbled the state since 1889 is moving along remarkably well.

There has been a degree of friction and criticism. That's only to be expected. In fact, it would be lamentable if there weren't strong differences of opinion and friction. The delegates have made mistakes and will continue to make some — at least in the opinion of many Montanans. The delegates are human and as such are subject to the same frailties and imperfections their fellow citizens share. Delegates certainly did not become infallible from the moment they were elected or when they took their oaths of office.

Progress of the convention to date indicates that the delegates will recommend a greatly improved — and much

briefer — document to the voters at the primary election on June 8.

The delegates are taking advantage of the experience of states that have had constitutional conventions in recent years. Such states learned that it was advisable to present a basic constitution to the voters and then to allow voters the opportunity to approve or disapprove of controversial proposals as separate issues.

The Montana delegates decided that makes sense and will give voters the chance to decide upon the type of legislature — an improved bicameral system or a unicameral one — as a separate issue. The delegates are aware of the importance of keeping the number of separate issues to a minimum.

Although a degree of pessimism has broken out in recent days — at least in the minds of lobbyists — about the eventual success of the constitution at the hands of voters, the Tribune has sufficient faith in the common sense of the delegates and the citizens to think the proposed constitution will be a terrific improvement over the current one and that it will be approved.

Judges' Appointment, Election Combined

By CHARLES S. JOHNSON
HELENA (AP) — Hearing their leader's advice to compromise, Constitutional Convention delegates gave and took Tuesday before adopting a judiciary article that combines appointment and election of judges.

By a narrow margin, delegates also reversed a Saturday decision and returned justices of the peace to the new constitution.

Convention President Leo Graybill Jr., D-Great Falls, opened the day by telling delegates' time limitations necessitated compromises during debate.

And delegates did, combining portions of both the Judiciary Committee's majority and minority reports. Representatives of the Judiciary Committee's opposing factions met over the weekend and resolved some of the differences, except for several key issues, including the selection of judges.

Delegates combined elections, which the Judiciary Committee majority backed, with merit selections, which was backed by

the minority of the committee.

Under the plan adopted, when a vacancy on the Supreme Court or a district court occurs, a nominating committee will submit several names to the governor, who will pick one. The nomination then must be confirmed in the state Senate.

However, anyone may run against the judges in each primary election, with the top two candidates advancing to the general election. If no one runs against the incumbent judges, as often occurs, his name will go before the voters in the general election. Instead of voting for him or not voting at all, citizens will be vote yes or no on whether he should be retained.

Judiciary Committee Chairman David L. Holland, D-Butte, a strong proponent of elected officials, said he could live with the plan but questioned how an independent nominating commission could be picked. The mechanics would be left to the legislature.

"I know a man who has an office in Butte," Holland said, "and even if you had a com-

mission in Germany pick the Montana judges, he would have them out to dinner by Wednesday. He would get appointed and be checking every decision with them by Friday."

Dan Harrington, D-Butte, led the fight to retain justices of the peace in the constitution. Delegates had voted Saturday to delete specific references to them and leave the matter of lower courts to the legislature.

He said his proposal, adapted from the rejected majority report, would lead to an improved lower-court system. The legislature is directed to set qualifications, monthly salaries and training requirements. It passed 47-45.

Margaret S. Warden, D-Great Falls, opposed the move, saying: "Just because they don't have to be in the constitution doesn't mean they won't continue to be elected."

Arlene E. Reichert, D-Great Falls, said justices of the peace are not mentioned in 31 of the 50 state constitutions.

Attorney Wade J. Dahood, R-Anaconda, said he opposed the

present JP system but envisioned a much-improved setup under Harrington's amendment.

A later attempt to delete mention of JPs failed 53-45.

Terms of Supreme Court justices and district court judges also were increased. By a 49-48 vote, delegates decided to boost

Supreme Court justice terms from six to eight years and district court judge terms from four to six years.

J. C. Garlington, R-Missoula, said Montana had a combination of the shortest Supreme Court terms and low judicial salaries. The Missoula attorney said inducements such as longer terms were needed to attract competent lawyers to leave private practice for the bench.

His motion failed on a tie vote the first time but later was reconsidered.

Delegates voted to delete any constitutional reference to the clerk of the Supreme Court and leave his fate to the legislature.

Holland opposed the move, saying keeping the office elective would ensure better service.

Bruce M. Brown, I-Miles City, who made the motion to delete, replied:

"We don't give future generations the right to elect the clerk, we just lock it in the constitution."

Also deleted were references to county clerks of court and district or county attorneys. Action on these offices will be deferred until the local government article is considered.

Delegates changed their minds during the day and rejected a proposal by John M. Schiltz, D-Billings, to have the state appropriate funds for general election candidates for the Supreme Court and district courts. His plan passed 48-45 but later was overturned 49-47.

Judge in Idaho Discards State's Voter Registration

COEUR D'ALENE, Idaho (AP) — A judge here has ruled it is unnecessary to be registered in order to vote in Idaho and that there is no legal voter registration list existing currently in the state.

District Court Judge Watt E. Prather said in a memorandum opinion issued Friday, but released Monday, that there is no clear legal duty requiring Kootenai County Clerk Harold E. Peterson to mail out voter registration cards. The judge also said there is no clear legal right on the part of Idaho Secretary of State Pete T. Cenarrusa in connection with the cards. Peterson was the only county clerk among the 44 in Idaho who refused an order by Cenarrusa, the state's chief election officer, to mail out registration cards to "qualified electors." The order came following repeal of the old state elections law on May 10, 1970 and its replacement by a new statute.

"Registration is not necessary to exercise the right to vote and no voter in Idaho will be disenfranchised if he has not been registered," the judge wrote in the opinion.

Prather rejected Cenarrusa's contention that the Idaho constitution requires registration to be a qualified elector. "It (the constitution) only constitutionally permits the legislature to provide for a system of registration," he said.

The judge said he could not accept Peterson's claim that all

Idaho election laws were unconstitutional. "While this court agrees with respondent Peterson, in deploring the confusing multitude of election processes provided by Idaho law, it concluded the right of suffrage has not been constitutionally obstructed," Prather said.

The opinion upheld Peterson's claim that he could not accept Cenarrusa's order of last Dec. 15 requiring him to mail out preregistration cards. Peterson had maintained the state law said that a card should be sent to each "qualified elector" but that the term was defined as one "who is registered as required by law." Judge Prather said Peterson pointed out "he is thus placed in the position of being directed to mail registration cards to the persons who already have registration cards on file.

"Respondent argues, and correctly so, that he should not be required to perform a useless act," Prather said.

He also rejected the state's contention that voter lists existing under the old state election law were still legally in effect and should be used to determine who received mailed registration cards. "A voter registration list exists only by operation of law," Prather said. "Without a statute creating it and giving it efficacy, it is nothing more than a list of names with no more legal significance than a telephone directory."

Falls School Officials Say of State Job

Appointed Superintendent Asked

The Constitutional Convention probably will revise the present draft of the education article several times and hopefully will make the office of the State Superintendent of Public Instruction appointive instead of elective, Dr. Harold Wenaas, Great Falls superintendent of schools, said Tuesday.

"Generally, the feeling of (local) administrators and the school board is that the position should be appointive," Wenaas said, adding that the present wording of the article is "a compromise" by making the state superintendent an ex officio non-voting member of the proposed board of public education.

Along with the governor, the state superintendent also would be an ex officio non-voting member of the proposed board of public education.

Each board would have seven members appointed by the governor, and when they met together would be considered as the state board of education. The principle of two separate boards also has been contested, since the existing 11-member State Board of Education also a

department, but the operation of the University that he might not do the

Wenaas said that the compromise in retaining election superintendent of public instruction. Wenaas is president-elect of the boards, in effect, the Montana Association of School Administrators.

The existing State Board of Education consists of 11 members, including the state superintendent and attorney general as ex officio members. The governor appoints the remaining eight members by and with the consent of the Senate.

An associated question in the controversy, Wenaas noted, is "who appoints the superintendent?" Some persons he said, endorse the election of the state board of education, which in turn would appoint the state superintendent.

Other counter with the argument that there then would be 11 persons elected instead of one.

Further, Wenaas said, it has been discussed that the governor would appoint the state superintendent if the job were in a department covered by

'Great Debate' to Start On Montana Environment

BY DENNIS E. CURRAN
IB State Bureau

Montana's environment will have its own constitutional niche if the Constitutional Convention and the voters approve a recommendation from the convention's Natural Resources Committee.

A separate article intended to protect and enhance the state's environmental and natural resources will be debated by delegates this week, probably starting Wednesday.

Besides directing the legislature to keep Montana clean, the proposed new article would require reclamation, preserve and extend water rights and even protect cultural resources like ghost towns. The Committee also proposes a short separate article on agriculture.

The environmental proposal was drafted after weeks of haggling over wording. It provides: — "The state and each person must maintain and enhance the environment of the state for present and future generations."

— "The legislature must provide for the administration and enforcement of this duty."

— "The legislature is directed to provide adequate remedies for the protection of the environmental life support system from degradation and to provide adequate remedies to prevent unreasonable depletion of natural resources."

A second section would require that all lands disturbed by the taking of natural resources must be reclaimed to "as good a condition or use as prior to the disturbance."

While disappointing to some delegates who had their sights set on the "public trust" doctrine, the environmental statement would be a strong one if effectively implemented by the legislature. (The trust proposal also would require legislative implementation).

According to Committee member C. E. McNeil, who thinks the environmental statement would be the strongest of any state constitution, the clear duty to maintain and enhance the environment could not be contravened.

Montana's present constitution does not have a section or article on the environment.

Despite pressure from environmentalists, a majority of the committee rejected the idea of placing the environment in a "public trust" to be managed for the benefit of the people of the state. The main reason for the rejection was the fear that the trust proposals would interfere with private ownership of property.

The committee also rejected another plea from environmental groups — that citizens be allowed to go to court against polluters even if they have not suffered monetary damages. The committee majority rejected the idea because of fear of "frivolous" lawsuits.

However, the proposed article would not prevent the legislature from authorizing citizen suits if it so chose.

In addition, a minority report recommends a constitutional section granting citizens the right to sue governmental agencies if they fail to implement or enforce the act. The minority report's chief sponsor is Mrs. Louise Cross, the Committee chairman, who worked diligently for the public trust.

The public trust doctrine and provision for citizen suits against polluters may be offered from the convention floor as amendments.

Water rights, a subject of concern especially to rural residents, would have a new look under the Committee proposal — but a look intended to satisfy everybody.

All existing water rights, whether adjudicated or not, would be recognized and confirmed by the proposed section, and agricultural and industrial uses of water would again be recognized as beneficial uses.

But for the first time, recreation and stockwatering would be recognized as beneficial uses without need for diversion for future water rights.

Water Protected

And for the first time, all Montana water would be owned — by the state "for the use of its people." The provision is an attempt to guard Montana water, which presently isn't owned by anybody, from appropriation by thirsty downstream users in other states.

The proposed section also would direct the legislature to

administer and regulate water rights and provide for centralized records. However, the proposal would not change the present system of court-appointed local water commissioners.

The final section of the committee's proposed environmental article would direct the legislature to provide for the acquisition, restoration and preservation of cultural resources such as historic and scenic areas like ghost towns.

The proposed agriculture article directs the legislature to provide for a State Department of Agriculture and enact laws to "protect, enhance and develop" agriculture in the state.

It also would allow special levies on livestock and agricultural commodities for such purposes as predator and disease control and livestock and commodity inspection, protection and research.

The proposed agricultural article would be similar to provisions now contained in separate articles in the existing constitution. The committee's reasoning was that agriculture is the "largest and most important industry in the state" and should be "recognized."

Delegate tells of progress

Your front page story by Frank Adams entitled, "Constitutional Ratification Outlook Dim," which consisted of a survey of lobbyists, gives me great hopes for our new constitution. I cannot think of a better reason to vote for the new constitution than the fact that the power company and Anaconda lobbyists surveyed by your reporter are against it.

We are doing some great things here for the people. For instance, we have required the legislature to have recorded votes in the Committee of the Whole. This is the debate area where bills have always been killed by voice vote in the past. This will no longer be possible if any legislator wants a recorded vote. Naturally the lobbyists are against this.

We have also required recorded votes in committees, another favorite killing spot of lobbyists.

Single member districts were also adopted; these will make the legislator more responsive to his constituents and more likely to vote for the people rather than the company, because the people are going to be aware of how he votes and are going to be able to get to him if he doesn't vote right. Lobbyists are also opposed to this.

Annual sessions, which are now necessary for effective, efficient state government, have been adopted. This doubles the cost of the lobby interests because now they have to lobby every year instead of every other year. If you double every company's costs they are naturally going to be upset.

We have also instituted a wage commission plan, and annual salaries so that legislators will be adequately compensated, and consequently, more people — i.e. the poorer persons — able to participate. For over fifty years our legislators were paid six dollars a day. This made them more susceptible to "lunch with lobbyists," and consequently to their influences.

Every student of the Montana legislature is well aware of the "watering holes" the companies used to maintain for underpaid legislators. Hopefully, this subtle method of influence will now be eliminated.

These are a few of the things that we have done. When these facts are considered, I can understand why lobbyists are upset, and I would hope that upon reflection you and your readers would understand the real reasons why.

JEROME GATE, Billings
Delegate, District 8

Clears Lower Status

HELENA — By a overwhelming margin Tuesday, Constitutional Convention delegates voted to delete provision for a clerk of the Supreme Court in the Constitution.

The vote was 37-34. At the same time, the delegates rejected a motion that would have provided for the clerk in the Constitution — under the direct control of the Supreme Court.

The successful motion brought the support of convention first vice president John Toole, Bismarck, who said, "this convention should get rid of at least one elective office." This was an apparent reference to the convention's earlier action in retaining the seven top state officials as constitutional officers.

The convention also voted, 37-29, to delete the clerks of the district court as constitutional officers.

Democrats favoring removing the Supreme Court clerk's constitutional status (37): Aasheim, Arkansas, Balch, Blend, Bugbee, Casper, Cross, Eck, Geybill, Harbaugh, Haskins, Heibel, Jensen, Joynt, Mansfield, Melvin, Rehal, Schert, Roeder, Rolling, Scanlin, Skari, Sparks, Speer, Vermillion, Wagner, Warden.

Republicans favoring (26): Babcock, Berg, Berthelson, Bowman, Burkhardt, Choate, Erdmann, Felt, Garlington, Gysler, Hagedorn, Johnson, Kamhoor, Leuthold, Loendorf, Martin, Noble, Nutting, Payne, Pemberton, Robinson, Rygg, Simon, Stader, Toole, Ward.

Independents favoring (4): Oscar Anderson, Brown, Foster, Harper.

Democrats against removing the clerk (21): Arotow, Artz, Bates, Brazier, Delaney, Driscoll, Furlong, Rod Hansen, Harrington, Holland, Lorella, McCarvel, McQuaugh, McKean, Morris, Romney, Schiltz, Siderius, Sullivan, Swenberg, Van Buskirk.

Republicans against (1): John Anderson, Dahood, Stchar, Jacobsen, McNeil, Murray, Wilson, Woodmasey.

Independents against (2): Bob Hanson, Mahoney.

Absent or not voting (13): Arness (D), Ask (R), Barnard (D), Blaylock (D), Cain (D), Campbell (D), Cate (D), Champoux (D), Davis (D),

Constitutional reform debated

Montanans try to 'unshackle government'

By David Holmstrom
Staff correspondent of
The Christian Science Monitor

HELENA, Mont.

Under the gray dome of the windswept State Capitol here, a quiet revolution is in progress. Armed with words and a mandate from the people, 100 Montanans from every section of the state have gathered to change their government from top to bottom.

The scene is the Constitutional Convention of 1972 — Montana style — with lawyers, businessmen and politicians debating the first complete change in the state's Constitution since 1889.

For more than a decade Montana grumbled about a constitution which shackled and obscured the power of the Legislature and local government. With considerable push from the Montana League of Women Voters, the Legislature finally provided for a public vote on the issue. The historic result was a statewide vote of 133,632 to 71,643 in favor of a constitutional convention.

"What we are trying to do here," said Leo Graybill Jr., president of the convention (once-on as it is known), "is to make it easier for the people to get a handle on government, and for elected officials to do a better job."

Women included

In hopes of a bipartisan convention the delegate elected could be a current office-

holder, either at a state or local level. The delegates include 19 women (the largest delegation of women ever to serve at a constitutional convention in the United States), 24 attorneys, a radio announcer, a baker, a preacher, a retired Federal Bureau of Investigation agent, and—most surprisingly—19 cattlemen and farmers.

They have invaded the State Capitol and occupy the wood and marble chambers of the House of Representatives. Their work must be done in 80 days and is costing the state \$690,000. Delegates are paid \$45 a day just like state legislators.

The main issues under discussion—in committee first, then on the convention floor—include a bill of rights, the future of Montana's environment, legalized gambling, reshaping of all branches of government, taxation, home rule for cities, capital punishment, education, welfare, and what could be the most hotly debated issue: Should Montana have a unicameral or bicameral state legislature?

Youth center sought

The Montana Constitution of 1889 was written for a frontier society which distrusted government and extended certain privileges to some sections of society, like mining interests. Down through the years the Constitution was amended 37 times and became virtually a code of laws instead of a constitution.

For instance, the town of Augusta, with

a population of 500, wanted to build a youth center but couldn't, even though it had enough money. The town had to get permission from the Legislature because local governments had no power under the old constitution.

The result of such top-heavy power was that much of what the Legislature did was the kind of business usually handled by a city council.

"The state has existed by means of subterfuge for 60 years," said one delegate, referring to the sleight of hand used to conduct the government's business.

In all there are 100 delegates at the convention with each delegate assured of sitting on one committee. All convention meetings are open to the press and public, and there have been hearings by several committees to allow the public, including the 85 registered convention lobbyists, to air their opinions and suggestions.

Missing from the convention is any Indian delegate to represent the estimated 35,000 Indians in the state. "The problem with the Indian in Montana," said Cliff McKay, a Blackfoot and associate director of the Association of American Indian Affairs, "is that when Montana became a state in 1889 the federal government forbade the state to make laws that affected the Indians. Over the years the Indians have not identified with a political subdivision, and the state has not been able to act, even if it wanted to."

How Indians feel

There are seven reservations in Montana, occupying nearly one-quarter of the entire state. In theory, the convention could insist that the state become more involved in Indian affairs. But a handful of delegates said it was unlikely to happen. "Most Indians are not aware of, or interested in, the convention," said Mr. McKay.

Whatever changes the delegates make in the Constitution, the final approval rests with the people. Within six months after the convention adjourns, the public must vote on the document.

To prevent the entire Constitution from being turned down by the voters, it is highly likely that some of the more controversial sections — such as unicameral vs. bicameral — will be put to a separate vote.

If Montana adopts a unicameral legislature it will join Nebraska as the only other state legislature using the one-house approach. Recently the national Citizen's Conference on State Legislature rated the Nebraska Legislature as "the first in the nation in accountability."

Environment Article Completed

Montana water rights were expanded at the Constitutional Convention Thursday as delegates completed work on an environmental article.

Fearing that downstream states may try to claim some state water, they broadened the water rights as a protection.

The section, which is now, says state waters are "the property of the state for the use of its people..." C. B. McNeill, R-Polson, said the section in no way affects the past, present and future rights to appropriate water for beneficial uses.

McNeill, a member of the Natural Resources and Agriculture Committee that made the recommendation, said the section guarantees the state standing to claim all its waters for

use by Montanans in matters involving other states and the federal government.

However, a section that would recognize recreation and stockwatering as beneficial uses of water ran into trouble. The section, which was omitted, would have allowed those two activities to be carried on without the need of a diversion.

Delegates did approve a section directing the legislature to provide for the administration, control and regulation of water rights. Moreover, it must set up centralized records in addition to the present system of local records.

If the new document passes June 6, the legislature also must restore, preserve and ad-

minister historic and archeological sites, recreational areas and historical records.

The delegates passed this section on cultural resources that sponsors say includes the state's 50 historical sites and 500 ghost towns.

Arnold W. Jacobson, R-Whitefish, told the other delegates: "We need administration of them."

Other highlights of the proposed environmental and natural resources article approved by the convention are:

—Environmental protection. The state and its citizens are directed to "maintain and improve a clean and healthful Montana environment for present and future generations."

Montana's Water Rights Stressed by Delegates

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However, a section that would recognize recreation and stockwatering as beneficial uses of water ran into trouble. The section, which was omitted, would have allowed these two activities to be carried on without the need of a diversion.

Some favored deleting the section altogether while others wanted to classify recreational uses as being junior or subordinate to agricultural and indus-

trial uses.

Delegates did approve a section directing the legislature to provide for the administration, control and regulation of water rights. Moreover, it must set up centralized records in addition to the present system of local records.

McNeill said he offered the section because the legislature had refused to act on the matter.

"This is an ostrich approach to the problem," McNeill said of the legislature. "Substantial quantities of water are leaving the state by the day because of the way we manage them."

"If we want economic development in Montana, we must have water development," Mark

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Richard, R-Glasgow, said, calling for deletion.

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—Environmental protection. The state and its citizens are directed to "maintain and improve a clean and healthful Montana environment for present and future generations."

The legislature is directed to provide for the administration of the article and to establish enforcement procedures.

It also must provide "adequate remedies" for the protection of the "environmental life support system" from degradation and to come up with remedies to prevent "reasonable depletion and degradation" of natural resources.

McNeill called the environmental section the strongest in any state constitution.

Delegates rejected the concept of public trust and expressly allowing citizen-suits against polluters and governments agencies. Lands disturbed when natural resources are extracted or removed must be reclaimed. Again, the legislature is vested with the chore of setting standards and means of enforcement.

Action on Earmarked Funds Delayed

By CHARLES F. JOHNSON
Associated Press Writer

HELENA (AP) — After wrestling with the sticky highway subdivision amendment without a final decision Friday, Constitutional Convention delegates decided to wait until Saturday to continue the bout.

At issue is what to do with the amendment, which voters overwhelmingly passed in 1956. It requires that gasoline taxes and similar fees automatically go for highway-related uses.

The convention generally went along with a Revenue and Finance Committee recommendation that the section be made

less restrictive. The key portion would allow three-fifths of the legislators vote to appropriate the earmarked funds for other purposes.

But a powerful coterie of lobbyists—organized labor, automobile organizations, contractors, chambers of commerce and others—have let the word out that they will fight the new constitution if it contains the section approved by the committee.

Convention President Leo Grayhill Jr., D-Great Falls, proposed that voters be given a choice between two alternatives on the June 8 ballot. Thus if they opposed the less restrictive

measure, they could vote for another section and still support the new constitution.

Delegates will take up the question Saturday, and if they want to offer alternatives, they must decide on the sections.

Not all delegates liked the idea.

"I rather resent being threatened by powerful lobbyists that they're going to torpedo our work if we don't include the present amendment," Mae Nan Robinson, R-Missoula, said.

"On many of the things I've been for—poll-booth registration, the people's advocate, the right to sue and others—everyone says to the legislature,

that's legislative," she said. "Now we're saying highways are constitutional. Well if this isn't legislative, I don't know what is."

George W. Rollins, D-Billings, said delegates were sent to Helena to make the decisions, not to pass them back to the public.

Some delegates questioned whether Grayhill's alternative would be acceptable to proponents of earmarking since it still broadens the present amendment.

Grayhill's amendment, also backed by Vice-President John H. Toole, R-Missoula, would increase the scope of the present amendment to include "payment of obligations incurred for the development, construction, reconstruction, repair and maintenance of public transportation facilities . . ."

Toole said this would include mass transportation and such facilities as airports. Grayhill heads the Great Falls Airport Commission.

Former Mayor Marian S. Rindman, R-Great Falls, opposed the part of Grayhill's alternative that would add vehicle fines and forfeitures to the earmarked revenue.

She said the Great Falls Street Department had a special levy to pay for maintaining streets, while the driving fines went to the general fund, out of which policemen and firemen are paid.

Betty Beboock, R-Helena, said the 1956 amendment ought to be the other alternative to the committee recommendation, which she opposed.

Grayhill, however, said he did not favor putting the present section on the ballot.

"I'm trying to give the public two good choices, and if they vote for one of them, we're in," he said.

Proponents of earmarking highway funds spontaneously filed to withdraw from the committee recommendation earlier in the day. A motion to delete the earmarking section and replace it with the existing section failed 12-11.

Another 12-11 failed vote have increased the number of legislators needed to appropriate the highway funds from three-fifths to two-thirds.

Several other attempts also were rejected.

Many delegates were in dilemma, wanting to continue highway building but also favoring a more responsive Highway Department.

Those favoring the present section said a new section would jeopardize highway construction. State funds are matched by federal money.

"If you want to cut the highway program in half this next four years, just leave this section in as it is," Lloyd Barrard, D-Spoon, warned.

Others agreed, saying legislation, usually short of income, would turn to the highway fund for other appropriations.

Toole, who once backed the 1956 amendment, said it had led to a "giant bureaucracy."

"We are Euro-funding the Highway Department \$8 million a year," he said, calling for alternative proposals on the ballot. "It's not responsible to the people or the legislature."

Con-con researchers Upset

By DENNIS E. CURRAN
Standard State Bureau

HELENA — The Constitutional Convention's image is somewhat tarnished in the eyes of the research staff which did the convention's basic preparatory research.

Convention research analysts generally think the delegates are writing a bad constitution, a document which in the most part restates the 1859 constitution without breaking new ground.

"We're replacing the 1859 constitution with one written for 1920," says Jerry Holron, Local Government Committee research analyst.

"It's very timid and does not reflect the preparatory work that went into it," commented Bruce Slevers, Education Committee researcher.

It doesn't show any kind of thrust for reform that was implicit in the mandate of the voters.

State Bureau news analysis

"As a body, they have yet to grasp what they are doing," said Jim Grady, the research analyst for the General

Government Committee. "They don't see it's a chance to start from the ground up. They don't understand that a Constitutional Convention isn't supposed to follow old traditions, it's supposed to be drawing on old traditions but establishing a new one, new principles, new guidelines."

"WE HAVE THE 1859 constitution almost verbatim — I'm not sure I could vote for it," complained Roger Barber, revenue and finance committee researcher.

The State Bureau asked seven of the 10 convention research analysts for their personal observations of the convention's work so far and found uniform disillusionment bordering on bitterness. Most of the young, well-educated research analysts have been doing research for the convention since last spring, and most of them have written detailed books about constitutional reform.

For them, the high point of the convention so far has been the legislative article, with its reforms of annual sessions, expanded sessions, single-member districts, openess and the unicameral-bicameral choice.

They said the low point for most of them has been the convention's action on the executive and environmental articles.

"I was disappointed when the legislative article came off the floor because they put in lots of things that are purely procedural," said legislative researcher Rich Bechtel. "But now that I've watched what they've done to the others, I'm happy. I'm tickled to get what we got."

"I'm disappointed and disillusioned," said Natural Resources researcher Chuck Sullivan. "I think they were well-intentioned, but they didn't get the job done for the environment."

THE RESEARCH analysts offer a variety of explanations for the convention's actions, starting with lack of time for debate and research. But they also charge that many delegates seem to be voting their emotions, biases and self-interests rather than taking reasoned approaches on the issues.

"What discourages me most is that many people don't spend any time reading and are voting purely on emotional reaction," complained Sandra Muckelston, a lawyer and the Judiciary Committee's research analyst. She added that many delegates "return to stand above their personal biases."

Rick Applegate, the Bill of Rights researcher, said that because delegates did not read research reports, "they were left with their own preconceived notions."

Barber, who is a lawyer, charges that many of the lawyer-delegates are using the convention to make sure that provisions which have created much litigation in the past stay in the constitution now.

"I think it's unfortunate the delegates turn to the lawyers — their influence is exaggerated, and I wish people would question their motives," he said.

Holron sees the convention being plagued by the same inertia which sometimes stalls the legislature.

"YOU'VE GOT to put in new language to do something, but there's just that terrific inertia

to do anything," he said.

The analysts say they also are angered by delegates' fears that the time back home will reject changes.

"Rather than writing a quality document, they are shying away from confronting the critical questions," Applegate said.

Grady said the delegates seem to be concerned about "settling" the constitution and not concerned enough about writing it and said he thinks the people will accept change if it is explained to them.

"I don't think the people of Montana are afraid of innovation," he said.

Research analysts also are highly critical of several delegates whom they believe have sacrificed principles solely for political self-advancement.

But despite their harsh views toward the convention's work so far, most of the researchers think the convention has been a good educational experience for the state.

The Gospel Truth Due At Con Con

By Capitol Bureau

HELENA — Two ministers will soon be arguing against each other on the floor of the Constitutional Convention.

That's the gospel truth. Delegate William Burkhardt, R-Helena, is a Congregational minister. Delegate Gene Harbaugh, D-Poplar, is a Presbyterian.

Both are members of the convention's education committee. The two delegates Wednesday received their assignments on "carrying" proposed sections for constitutional change when the education article was debated on the convention floor.

Rev. Burkhardt will preach for the committee's majority report, which recommends retaining present wording in the constitution which prohibits public aid to private schools.

Rev. Harbaugh will minister to the needs of a minority report which recommends adding words to ensure that private schools can receive federal funds under the Montana constitution. Harbaugh was one of the supporters of the private report.

Graybill Warns Convention Of Time, Money Pressures

By CHARLES S. JOHNSON
Associated Press Writer

President Leo Graybill Jr., said today the time-pressed Constitutional Convention is in danger of failing its objective — writing a new constitution.

In a speech to the other 99 delegates, the Great Falls Democrat said delegates had two "vital duties," drafting a constitution to change Montana government for the better and making the convention work within its means.

Graybill said the need for change was evident and voters recognized the need when approving the convention.

"They expect us to accomplish important changes," Graybill said. "Our efforts must be innovative. We must make the system work better." He told delegates they should not enact change for the sake of change but changes "to improve and safeguard Montana's future."

He said the 100 members were delegates, not representatives.

"We are sent here to use our abilities and to reason out a new document," he said. "It is

our solemn duty to do as we think best...

"Yet I constantly hear that the people won't accept this or that; that someone back home objects; that we have called the county clerk; or that the newspapers have discovered the truth from the people. The plain fact is that we should write the constitution — and it should be the best one we can arrive at together."

He told delegates that Montanans expected their leadership. On his second point, Graybill said writing the constitution had to be accomplished within the means available. The budget limits the session to nine or 10 weeks, and delegates are starting their seventh week.

"It is no answer to insist on the unlimited right to discuss issues," he said. "We have the right, but we do not have the time or money." Graybill said delegates could complete their task, but said it would require hard work.

"In candor, we sometimes act like a group of politicians, preparing for the election, not like leaders drawing a blueprint for Montana's future," Graybill said.

He said delegates must tend to the business at hand, "the business of compromising on a better constitution." Delegates should not become politicians again, until the document is written and explained to the voters, he said. Delegates should use the committee structure more, Graybill said, since committees have held hearings and studied the various constitutional issues extensively.

"We're not free, each of us, to write the constitution as we may like," he said, calling for compromise. Instead of offering new amendments from the floor, delegates should opt for either the committee majority or minority proposals in most instances, he said.

Con-Con Callers Are Against State 'Trust'

The Natural Resources Committee of the Constitutional Convention heard 24 callers during a telephone hearing Monday night most of them against making the environment a "public trust" but for the right to sue polluters—at least major polluters.

Most of the callers were from the west side of the state, with tiny Darby taking honors for the most calls made—seven. Fourteen cities and towns were represented during the hearing, most of them from timber-producing areas of Montana.

The tally was about 2-1 against the idea of a public trust, which would set the state up as steward or monitor for the state's land, air and water for the public.

Thus far the measure has been rejected by committees in the Constitutional Convention but could yet become an issue

on the floor. Most callers, however, said they would like to see the right to sue polluters, such as large industry, that contribute substantially to effluents. No action was suggested against what was considered the small polluter, however.

The program was carried live by the Inter Mountain Network.

Time Pressing In on Con Con

By CHARLES S. JOHNSON
Associated Press Writer

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"We must draft the constitution for Montana's future — not for the election," he said. "The people will support us when we have shown intelligent leadership."

How They Voted

Tribune Capitol Bureau
HELENA — The Constitutional Convention Tuesday, by a 53-45 vote, decided to protect the jobs of justices of the peace by mentioning them in the constitution.

In a tally Tuesday, delegates voted 47-45 to adopt a new section of the judicial article, proposed by delegate Dan Harrington, D-Butte, which provided for at least one JP in each county under a system to upgrade the office.

The 53-45 vote killed the move by delegate Max Conover, D-Broadview, to delete Harrington's earlier motion.

Democrats for deleting mention of JPs in the constitution (27): Arbranas, Arness, Blaylock, Blend, Bugbee, Cain, Campbell, Champoux, Conover, Cross, Eck, Furlong, Graybill, Harlow, Heliker, McDonough, Melvin, Monroe, Reichert, Reeder, Rollins, Scanlin, Skari, Spears, Speer, Vermillion, Warden.

Republicans for deleting JPs (26): Berg, Berthelson, Bowman, Burkhardt, Choate, Harrington, Hagedank, Loendorf, Martin, Payne, Pemberton, Robinson, Rygg, Toole, Wilson, Woodmansey.

Independents for deleting JPs (2): Brown, Foster.

Democrats for retaining JPs (31): Aasheim, Aronow, Arts, Barnard, Bates, Belcher, Brazier, Cate, Davis, Delaney, Driscoll, Eskildsen, Rod Hanson, Harbaugh, Harrington, Holland, James, Joyce, Lorello, Mansfield, MacCarvel, McKeon, Rebal, Romney, Schultz, Siderius, Sullivan, Swanberg, Van Buskirk, Wagner.

Republicans for retaining JPs (19): John Anderson, Ask, Babcock, Dahood, Drum, Erdmann, Eichart, Felt, Gysler, Jacobson, Johnson, Kamhoo, Lenthold, McNeil, Murray, Noble, Nutting, Ward, Studer.

Independents for retaining JPs (4): Oscar Anderson, Bob Hanson, Harper, Mahoney.
Absent or not voting: Kelleher (D), Simon (R).

Republicans in favor (19): Berg, Bowman, Burkardt, Choate, Dahood, Drum, Harrington, Hagedank, Jacobsen, Loendorf, Martin, Murray, Payne, Pemberton, Robinson, Rygg, Studer, Toole, Ward.

Independents favoring (3): Brown, Foster, Harper.

Democrats against longer terms (29): Aasheim, Arness, Aronow, Artz, Bates, Belcher, Brazier, Cain, Davis, Driscoll, Eskildsen, Graybill, Rod Hanson, Harbaugh, Harlow, Harrington, Heliker, Holland, McKeon, Rebal, Romney, Scanlin, Schultz, Siderius, Sullivan, Swanberg, Van Buskirk, Vermillion, Warden.

Republicans against (16): John Anderson, Ask, Babcock, Berthelson, Erdmann, Eichbert, Felt, Gysler, Johnson, Kamhoo, Lenthold, McNeil, Noble, Nutting, Wilson, Woodmansey.

Independents against (3): Oscar Anderson, Bob Hanson, Mahoney.

Absent or not voting (3): Barnard (D), Kelleher (D), Simon (R).

Convention Proves Willing to Take Second Look at Decisions

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA — Reconsideration of hasty action has marked the first week of formal debate by Constitutional Convention delegates.

By reconsidering its own work, the one-chamber (unicameral) convention is acting much like a two-chamber (bicameral) body, just like each house of the Montana legislature is a check on the other house.

For instance, last Saturday the convention adopted a proposal for annual legislative sessions of up to 90 days, with provision for special sessions. The vote was 70-24.

An analysis of the two votes shows that four delegates who had opposed an attempt to kill the citizens' advocate proposal Tuesday voted not to reconsider the question Thursday.

Ten switch-a-roo delegates who had tried to kill the proposal Tuesday voted to reconsider the question Thursday.

Possible vote shifts by 13 of the 100 delegates could not be determined because they were recorded as absent or not voting for at least one of the votes.

The issue of writing statutory law into the constitution and not the issue of partisan politics seemed to highlight the debate Tuesday and Thursday on the

delegates should have the right to reconsider their action. Mrs. Babcock had voted against the citizens advocate proposal Tuesday.

The convention, under its rules, allows any delegate who voted on the prevailing side to move for a reconsideration of any section on the same session day of the convention or to file notice that he will make such a motion no later than the next succeeding session day.

Though the discussion leading to the 48-48 vote Thursday was merely on the motion to reconsider, 19 of the delegates took the occasion to engage in more

than an hour of debate. One delegate spoke three times.

Unlike legislature, floor debate seems to change some delegates' minds. Extensive speech-making by a legislator is generally regarded as being directed either at the news media or at a gallery full of constituents.

Then on Thursday the delegates agreed to reconsider their action and by a 91-5 vote decided to go for annual sessions of 60 legislative days. The present constitution restricts the legislature to sessions of 60 calendar days every two years.

On another issue, 18 delegates Thursday seemed to change their minds on the issue of a proposal that would have created a new constitutional officer, the people's advocate, to help citizens cut through bureaucratic red tape.

The 48-48 tally was one vote short of what was needed to revive the proposal, which had been buried by a 48-43 vote Tuesday.

people's advocate issue.

However, in the latest vote, reconsideration of the issue was largely favored by the Democrats and was mainly opposed by the Republicans and Independents.

Thirty-eight of the convention's 58 Democrat delegates voted to reconsider the proposal Thursday. Only eight of the 36 Republican delegates voted to reconsider. Only two of the six Independents favored reconsideration.

One of the Republican Delegates, Betty Babcock of Helena, explained that she voted "aye" only because she thought the

than an hour of debate. One delegate spoke three times.

This brought an admonition from President Leo Graybill Jr. at the rostrum. Graybill thought that the debate was largely unnecessary, because the issue before the convention was a motion to reconsider — not a substantive issue. In fact, Graybill said he had let the debate stray to show what can happen in "an undisciplined body."

At the beginning of the discussion, delegate Marshall Murray, R-Kalispell, chairman of the rules committee, had appealed for brevity. Murray said he was a little tired about all this discussion" and suggested that

The convention delegates

The 100 delegates who have been busy in Helena since Jan. 17 trying to hammer out an effective state constitution deserve credit for their general ability, dedication and conscientious work. They are a credit to the state.

The difficult program of writing a new state document to replace the wordy, cumbersome and restrictive constitution that has hobbled the state since 1889 is moving along remarkably well.

There has been a degree of friction and criticism. That's only to be expected. In fact, it would be lamentable if there weren't strong differences of opinion and friction. The delegates have made mistakes and will continue to make some — at least in the opinion of many Montanans. The delegates are human and as such are subject to the same frailties and imperfections their fellow citizens share. Delegates certainly did not become infallible from the moment they were elected or when they took their oaths of office.

Progress of the convention to date indicates that the delegates will recommend a greatly improved — and much

briefer — document to the voters at the primary election on June 6.

The delegates are taking advantage of the experience of states that have had constitutional conventions in recent years. Such states learned that it was advisable to present a basic constitution to the voters and then to allow voters the opportunity to approve or disapprove of controversial proposals as separate issues.

The Montana delegates decided that makes sense and will give voters the chance to decide upon the type of legislature — an improved bicameral system or a unicameral one — as a separate issue. The delegates are aware of the importance of keeping the number of separate issues to a minimum.

Although a degree of pessimism has broken out in recent days — at least in the minds of lobbyists — about the eventual success of the constitution at the hands of voters, the Tribune has sufficient faith in the common sense of the delegates and the citizens to think the proposed constitution will be a terrific improvement over the current one and that it will be approved.

Democrats for Reform, GOP for Status Quo

By DANIEL J. FOLEY
Missoulian State Bureau

HELENA - Democratic delegates to Montana's Constitutional Convention are generally voting for reform, while a large number of Republicans are opposing most changes.

The State Bureau analyzed the votes of the 100 delegates on nine key issues decided in the past 10 days. Taken as a whole, delegates cast their votes for the reform position 47 per cent of the time.

Democrats voted for reform 57 per cent of the time, Republicans 32 per cent and Independents 42 per cent.

The analysis shows a striking difference between votes of urban and nonurban delegates. The 50 delegates who live in Billings, Butte, Missoula, Helena, Great Falls, Bozeman and Kalispell voted for reform 58 per cent of the time. The 50 delegates living in towns and in rural areas voted for reform 36 per cent of the time.

The reform percentage compiled by some other interest groups: farmers and ranchers 26, lawyers 48, ex-legislators 32, women 60.

From the analysis and from observation of convention debates thus far, these things seem clear:

Although there are no party caucuses and no attempt is being made to enforce party discipline, there is still a very apparent philosophical difference between Democrats and Republicans, the survey confirms the axiom that Democrats are more liberal (favoring reform) and Republicans more conservative (status quo).

Although Democrats have a 58-36 numerical edge over Republicans, many of the reforms are being defeated. Although more

News Analysis

than half the Democrats are voting for reforms, there is still a large block of status quo delegates in that party. Republicans, on the other hand, are overwhelmingly status quo as a group.

A small block of status quo delegates, including former legislators who are successfully using parliamentary procedures, has been influential in turning around votes. Of the

nine issues studied, only three votes were favorable to the reformer. But two others had been until this influential block marshalled its forces. The group convinced middle-of-the-road delegates of possible adverse voter reaction to the reforms and got delegates to change their minds.

In doing the survey, the following were considered as reform positions: Votes favoring open legislative meetings, three-day notice of legislative hearings, reapportionment by a citizens' commission, establishment of a people's advocate and poll booth registration, and votes opposing biennial sessions, a long ballot of seven elected officials and a requirement that state officials be at least 25 years old.

Reformers were successful in gaining open meetings and the reapportionment commission and in defeating biennial sessions in favor of annual ones. They won early victories in favor of 90-day sessions instead of 60 and in favor of eliminating age requirements on holding of state office, but lost both issues in later votes.

The survey percentages may be distorted somewhat toward the status quo side because several reforms, such as single-member legislative districts and recorded votes, were

passed by voice vote and are not available for analysis. On the other hand, a vote toward the status quo on the size of the legislature also was not recorded.

One delegate voted for all nine reforms and seven did not vote for any of them.

Those most inclined toward reform included:

Nine votes: Robert L. Kelleher, D-Billings.
Eight votes: Harold Arbanas, D-Great Falls; Marjorie Cain, D-Libby; Louise C. Cross, D-Glendive; Leo C. Graybill Jr., D-Great Falls; George Heliker, D-Missoula; Lucile Speer, D-Missoula.

Seven votes: Richard J. Champoux, D-Kalispell; Dorothy Eck, D-Bozeman; Donald H. Foster, I-Lewistown; Noel Furlong, D-Kalispell; J. C. Garlington, R-Missoula; George Harper, I-Helena; Lyle Monroe, D-Great Falls; Arlyne Reichert, D-Great Falls; Mae Nan Robinson, R-Missoula; George W. Rollins, D-Billings; Henry L. Siderius, D-Kalispell; Margaret Warden, D-Great Falls.

Those most inclined toward status quo (listed by votes for reform):

No votes favorable: Cedor B. Arnow, D-Shelby; Douglas Delaney, D-Grass Range; Leslie Joe Eskildsen, D-Malta; Mark

Etchart, R-Glasgow; Torrey B. Johnson, R-Busby; R. J. Studer Sr., R-Billings; Roger A. Wagner, D-Nashua.

One vote: John H. Anderson Jr., R-Alder; Betty Babeock, R-Helena; Don E. Belcher, D-Roundup; Max Conover, D-Broadview; Marian S. Erdmann, R-Great Falls; E. S. Gysler, R-Fort Benton; Bob Hanson, I-Tonan; David L. Holland, D-Butte (absent on five of nine votes); Charles H. Mahoney, I-Clancy; Robert B. Noble, R-Great Falls; Richard A. Nutting, R-Silesia; Sterling Rygg, R-Kalispell; Clark E. Simon, R-Billings; Archie O. Wilson, R-Hysham; Robert F. Woodmansey, R-Great Falls.

Two votes: Thomas M. Ask, R-Roundup; Lloyd Barnard, D-Saco; Grace Bates, D-Manhattan; Geoffrey L. Brazier, D-Helena; Wade J. Dahood, R-Anaconda; Otto Habeland, R-Sidney; Rod Hanson, D-Fairfield; A. W. Kamhuot, R-Forsyth; Catherine Pemberton, R-Broadus; Donald Rebal, D-Great Falls.

Something for Everybody in First Con-Con Article Adopted

By DANIEL J. FOLEY
Missoulian State Bureau

HELENA - The legislative article adopted last week by the Constitutional Convention has a little something for those favoring the status quo, a little something for reformers and even something for the people to decide.

The most controversial question - whether to have a one- or two-house assembly, will go to a vote of the people. If the unicameral option is adopted, another vote is scheduled for 1980 on whether to continue with it.

For those favoring the status quo, the size of the assembly will be about the same if the bicameral option is adopted and session length will still be limited to 60 days, although there are provisions for modifying that.

The reformers pushed through annual sessions, open meetings, recorded votes in committee, single-member legislative districts and reapportionment by a citizen commission.

Here is a rundown of the provisions adopted by the convention:

Structure: When the constitution is up for

adoption, voters will be given a separate choice about whether to have one body of 100-well as on the floor in final passage.

105 members of a house of 100-106 members. Apportionment: Each voter would cast a and a senate of 50-53 members. The bicameral ballot for one representative and one senator legislature now has 100 representatives and 50 under a bicameral plan or one senator under a unicameral plan because of the single-member district concept. That would mean the end of multi-member districts, such as Yellowstone County where voters have to pick 12 representatives and six senators. Redistricting each decade would be done by a citizen commission instead of the legislature, which has not had much success in the past in reapportioning itself.

Sessions: The length will still be limited to 60 days, but in the future it will be legislative days, not calendar days. Thus, legislators will

be able to recess or take off a weekend without losing working days. The section is also more flexible than the present constitution, because it allows the legislators as well as the governor to call special sessions. A legislature also could extend the time limit for future legislatures, but not for itself. The major change in the section is to annual sessions from biennial.

Open meetings: The proposed constitution mandates that all committee meetings be open, a change from the present practice in which appropriations meetings, conference committees and committee sessions to "mark-up" bills often are closed.

Recorded votes: The proposal requires that legislators' votes be recorded in committee as

Ethics: The proposal requires that laws be enacted to prevent conflicts between public duty and private interests at all levels of government.

Vacancies: A vacancy in the legislature would be filled by special election rather than by appointment of county commissioners.

Officers: The legislature would choose all of its own officers, eliminating the lieutenant governor from the legislative process.

Compensation: The convention rejected a proposal for annual legislative salaries, but did write in a provision creating a salary commission to recommend legislative, executive and judicial pay.

Delegates rejected two proposed reforms, one creating a people's advocate to help citizens in dealing with government agencies and another requiring the legislature to give adequate notice of public hearings.

Unicameralism accepted

EDITOR'S NOTE: The Montana Constitutional Convention still is considering the possibility of a unicameral legislature. This report is from Lincoln, Neb., site of the only unicameral legislative body in the nation. The writer — Odell Hanson — has covered legislatures both under the bicameral and unicameral concepts. Here is his report.

By **ODELL HANSON**
LINCOLN, Neb. (AP) — For 35 years, Nebraska has harbored the nation's only unicameral (one-house) legislature. Abandoning the system is about as remote from the minds of Cornhusker State residents as secession from the union.

Nobody has been trampled in the rush to follow the trail blazed by Nebraska, but at home, the system stands thoroughly accepted.

Not a serious move to revert to two-house lawmaking has developed since voters in 1934 approved the enabling constitutional amendment.

The system came under particular scrutiny after the U.S. Supreme Court enunciated the "one man, one vote" doctrine. Students of government wondered if one house wouldn't do as well as two, if both must be apportioned solely on the basis of population.

Observers from states eyeing a possible switch to one-house legislating have turned up frequently, but no state has made the plunge.

The Unicameral — Nebraskans use the word as a noun — has been "a little like the bearded woman in the circus sideshow," an observer once suggested. "She gets a lot of attention but nobody wants to

take her to lunch."
The 1972 Legislature currently is in the midst of a session limited to 60 legislative days.

From its inception in 1937, the Unicameral had met in regular session every two years. That changed last year when a constitutional amendment providing annual sessions of limited length took effect.

In odd-numbered years, lawmakers can meet for 90 legislative days, but may carry bill-over to the 60-day even-year session which follows.

The legislature is composed of 49 state senators elected on non-political ballots. They are elected for four-year terms on a staggered basis and receive an annual salary of \$4,800. Only while doing legislative work between sessions, such as interim studies, do the senators draw expense money. Then they receive only actual expenses.

The late U.S. Sen. George W. Norris of Nebraska is credited largely with inducing his home state to adopt the unicameral system.

He wore out two sets of automobile tires in the summer of 1934, campaigning for the constitutional change.

The early 30's were depression years and Nebraskans may have been influenced also by the chance to economize.

It had cost \$106,600 in salaries to pay 100 house members and 33 senators in the last bicameral legislature.

Membership was increased from 43 to 49 and terms of office were changed from two to four years in 1965. There have been recurring moves to switch from non-political to partisan election of senators, but the legislature itself has never chosen to put the issue on the ballot. Initiative petition efforts have fallen short. The legislators, in short, like the absence of party labels.

The legislature has its critics. They complain that too many bills are introduced and passed. Over the past two decades, an average of more than 60 per cent of bills introduced have

become law. They contend the body, shorn of party divisions, lacks leadership but is composed of 49 independent senators going individual ways without group discipline.

Defenders of the system maintain the smaller, single body has attracted a better quality legislator, saves money, is more responsive to the public and brings proceedings into the open.

'Public Trust' Switch Draws Objection

Tribune Capital Bureau
HELENA — A state representative has taken issue with another legislator's interpretation of the public trust doctrine. Dorothy Bradley, D-Berkeley, challenged George Darrow's, R-Billings, withdrawal of support for the doctrine.

Rep. Bradley outlined her objections in a letter to Leo Graybill, Jr., convention president.

"Mr. Darrow states that the broadly proposed public trust concept 'does inadvertently impinge on private property rights,' she wrote. The lone woman House member pointed out that private property rights

are not absolute. "They are subject to due process of law, and the considerations of public health, safety, morals and general welfare," she said.

"Furthermore," she added, "I do not believe the sanctity of private property was ever intended to be a license to degrade and abuse land merely because one owns the land."

Darrow stressed the "need for protecting private property owners against environmental harm from the actions of a few," she said. Ms. Bradley went on to say that she too was in favor of protection for private property owners as well as protection for non-property owners.

available for the subterranean project in the District this should have priority for the winter of 1970-1971." Berrigan is quoted in one of more than a dozen letters read into the trial report by Asst. Atty. Gen. William Lynch.

However, less than two months later, the government claims, a purported plan to kidnap presidential aide Henry A. Kissinger threatened to push the tunnel bombing scheme into the background.

"Why not coordinate it with the one against Capitol utilities?" Berrigan was quoted as writing in an Aug. 22, 1970 letter that is part of the in-

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Montana Rejects Short Ballot

By **CHARLES S. JOHNSON**
HELENA, Mont. (AP) — Rejecting a committee report, Constitutional Convention delegates voted Thursday to retain all seven executive officers as elected officials.

The governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, auditor and treasurer will continue to be elected on what some call the long ballot. The key vote to adopt a minority report was 58-44.

Executive committee members had recommended in a majority report that the posts of auditor and treasurer be deleted from the Constitution. Legislators would have had to grapple with the problem of whether the positions should be

retained. But delegates overturned the majority report and accepted the minority report, signed by two Republicans, Betty Babcock, Helena, and Archie O. Wilson, Bismarck.

They also resisted a move from the floor to make the public instruction superintendent an appointed official. The committee majority report,

which would have left the method of the superintendent's selection up to the legislature, also was overturned.

In arguing against a shorter ballot, Wilson said the people must retain their right to vote for the auditor and treasurer, who he said are the state's major financial officers.

He drew support from David L. Holland, D-Butte, who said:

"I was brought here to write a better Constitution, and it must be accepted by the voters."

Holland, a strong opponent of appointed officials, said the left and officeholders should lead a fight against the proposed document, which voters must ratify or reject June 6.

Holland also hinted that the public might think the convention-Baronocrats, who held a 58-36 majority, were trying to push out Auditor E. V. (Sonny) Omholt and Treasurer Alex B. Stephenson, both Republicans.

However, Stephenson cannot seek re-election under the existing Constitution, and Omholt wouldn't be affected this year anyway.

Pollution is killing life on South Rims

By **ROGER CLAWSON**
Gazette Staff Writer

The mammoth South Rims — monument to a romantic Indian legend — probably will not be developed.

Perhaps saving the huge butte south of the Yellowstone River from the residential development which is springing up on the North Rims is the Montana Power Co.

ACCORDING to reports from University of Montana researchers, the massive bluff is "not a fit place to live."

Montana Power Co.'s steam plant below the bluff spews invisible pollution that is carried by the prevailing winds up the face of the cliffs and spread over the bunch-grass plateau above, say researchers.

Grass, trees and animals living on the top of the butte were found to contain massive concentrations of fluoride.

THE FLUORIDE, says UM researcher Jerry Croghan, comes "from the Montana Power Co. smoke stack."

Clarence C. Gordon, a botany professor who directed the research project for the state board of health, reported recently to Mayor Willard Fraser:

"Resulting analysis showed that there is both sulfur dioxide and fluoride damage in the conifer trees on this Rimrock and fluoride accumulations in the bones of mice of up to 3,000 parts per million."

According to Croghan, fluoride accumulations of more than 35 ppm are unhealthy.

MICE TAKEN from elsewhere in the Billings area showed fluoride accumulations of no more than 200 ppm.

Croghan, who spent weeks crawling over the face of the Rimrocks, says the situation atop the bluff is not unlike that at Garrison where emissions from the Rocky Mountain

Phosphate plant crippled cattle. The effects of fluoride poisoning are slow in showing, says Croghan:

"FIRST THE teeth rot and fall out. Then the animal becomes crippled, is unable to drink, goes down on its front feet and is unable to get up."

Croghan says humans are affected in a similar way but the process is slower.

"Humans are not confined to a small acreage. They can get away for a breath of air. Their food also comes from outside the area."

Asked if he would like to live atop the Rimrocks where he worked during the research project, Croghan answered, "No!"

Scientific Researcher Champions Legislative Reform

By FRANK ADAMS
Tribune Capital Bureau

HELENA — As a research assistant at the McLaughlin Research Institute in Great Falls, Aftue Reichert's regular job is working with 5,000 mice. "So I'm really out of my element here," she says, working with the 39 other delegates to the Constitutional Convention.

Mrs. Reichert has many interests as a delegate, but she has been perhaps most fluent in championing legislative reform, especially through a bicameral proposal of which she was the chief sponsor. In an interview she said her

interest in the legislature began in the 1930s and in subsequent sessions when she was on the state board of the League of Women Voters and did some lobbying.

But her reform ideas didn't begin to crystallize until the last session when she took time off from the lab to do a weekly television broadcast on legislative hearings.

Mrs. Reichert: When I conceived the idea for this program I did a pilot using the journal from the previous session as background material . . . following bills through and showing just what happened in some committees where a bill would pass overwhelmingly in one house, go to a committee in another, and virtually die.

Question: Is that where you got the idea for a unicameral?

Mrs. Reichert: Yes. That's

when I first thought that a unicameral system would be so much more effective for everyone concerned. I thought there must be a way to improve the system and I think that's the obvious way.

Question: How did you become one of the leaders in the convention for the unicameral idea?

Mrs. Reichert: In my broadcasts last session I kept preaching unicameralism even then, before it was a big state issue. Because I had looked into the Nebraska plan and I had communicated with people who knew something first hand about how it worked.

"I went to a citizens committee on the state legislature, and at that meeting I talked to George Harper and other people who were interested; d. When we left the orientation session we were

going to do something, each of us, but not many did much in that interim. What I did was take petitions and get the names of the people who were interested to sign.

Then I talked with research analyst Rich Bechtel and made plans to get it introduced right away. Through telephone contacts we drew up the proposal.

Question: How many delegates signed it?

I got 40 people to sign it with the idea that they were not committed to any of the sections within it. I stopped there, although I could have gotten more. Some people pressured me. They said, "get 51 and then we won't have to worry about bicameral. We'll get unicameral in the body of the constitution and that'll be it."

I said "I think that's poor

no less than 100 . . . then it was amended because they thought, "well, they better have a top limit because it could go on and on." It ended up no less than 100, no more than 105. My contention is that when a lot of people voted for the upper limit of 105 they did not know they were negating the possibility of voting ever on the 75 to 100. We never voted on that and parliamentarily that's the way it goes.

The bicameral is even worse. And the bicameralists are having second feelings about it. There were 19 for unicameral and four for bicameral in our committee, but we still insisted that we were going to write the best of both. And we tried to do that. When we got on the floor we had a realistic bicameral. We had a 120 maximum — 80-40 for the bicameral. They made

They made it up to 150 with a minimum of 150 which you now have. Afterwards, some of the bicameralists had misgivings. They felt that it's just too large.

But as far as the whole legislative article, I think the most innovative thing we could do is have a unicameral and, second, annual sessions. And I do think it's unfair when you criticize the 60-day limit, so-called, because it's really no limit. Number one, it's 60 legislative (not calendar) days. Number two, it can be extended by a majority vote of the legislators. Number three, we have that provision where in the future you can make the session even bigger. So I'm hoping that one of the first sessions if they want to make it longer they can do that in subsequent sessions.

Mrs. Reichert said the reaction she received in Great Falls during the weekend from everyone was "don't worry about which group of people is going to vote it down because of this or that. Write a good constitution." My contention is: OK Maryland wrote a beautiful constitution. They didn't have the sense enough then to submit it in sections.

If we just write a lousy constitution to satisfy everyone, we won't have anything to work with in case we have to.

I'd rather write the best we can and then work — not worry about the electorate. I think the people in this state have enough sense to know a good constitution when they see one. They don't want the same old thing or they wouldn't have voted for this convention in the first place.

Delegates, Have Courage

The week-kneed efforts of Constitutional Convention delegates to second-guess the folks back home — worrying about whether or not Montana voters will accept constitutional reform — are deeply disappointing to every citizen who voted the convention into being for the very purpose of achieving reform.

A statement made on more than one occasion by Senator Mike Mansfield should be framed and hung in the room of every delegate. Indeed, it ought to be uttered, along with the prayer, before the opening of every convention session.

Mansfield's statement, basically, is that he was sent to Washington to represent the people of Montana — but not to have his actions and decisions dictated by them. In other words, Mansfield decides what he thinks is best for the people of Montana based on his background and knowledge. He tries to give the people what they need without undue worry about what they may or may not want.

This takes guts. It takes conviction. And it is the highest form of responsible representation. For Mansfield realizes, as the convention delegates should, that his

knowledge, his access to information and his close relationship with other representatives of the people qualify him to make decisions relative to his job better than anyone else.

The people of Montana willingly placed their trust and the future of Montana in what they thought were the firm hands of a resolute body of concerned delegates.

The delegates owe the people no less. It is their duty to write a good constitution and trust the people to recognize it for what it is and accept it.

Of course there is some risk. If our forefathers had done the "safe" thing we wouldn't have a country or a state now. If the citizens of Montana had done the "safe" thing they wouldn't have voted the convention into being in the first place.

A well-written constitution with the proper reforms will sell itself.

The press, the majority of Montana voters and groups within the state have overwhelmingly supported the convention and constitutional reform. They must be trusted to recognize and help sell a good constitution.

How about it, delegates?

psychology because the people interested in bicameral will think this is a railroad job." And I never thought that just one or the other should be included in the constitution. I understand there's still some who would like to have either unicameral or bicameral in the body and have the other one down below.

Question: You mean than as alternatives on the ballot?

Mrs. Reichert: Yes. I think alternatives would be fairer. And I think the people deserve this choice. And I think they're capable of making the choice.

Question: What about the size?

Mrs. Reichert: I'm not very happy about the size. In our committee proposal, we had 75 to 100 for unicameral. Well, with a parliamentary maneuvering being what it is, by the time the amendment was made that it be

Con Con Delegate Says Article on Education Won't Hurt Vo-Tech

Tribune Capitol Bureau

HELENA — A statement by Great Falls school trustees concerning the impact on vo-tech schools of the education article proposed to the Constitutional Convention has brought a reply from delegate Richard Champoux, D-Kalispell.

Champoux, chairman of the convention's Education Committee, said that the trustees' statements, published in the Tribune last Friday, could create a "misconception."

The article quoted school

of the university system. Champoux, in a prepared statement, said: "There is no reason whatever to believe that the article proposed by the Education and Public Lands Committee will have any adverse impact on the vo-tech institutions."

In fact, Champoux said, "the proposed language places even less of an emphasis upon state control of such institutions than does the existing constitutional language."

Champoux then issued the following three-point explanation:

—1. Local control. The existing constitution states that "the general control and supervision of the state university and the various other state educational institutions shall be vested in a state board of education whose powers and duties shall be prescribed and regulated by law." The committee's proposal, he said, states that the board of public education "shall exercise general supervision over the public school system and such other public educational institutions as assigned by law." There

is no additional power given to the board which would have jurisdiction over vo-tech schools. "The committee has explicitly insisted," the chairman said, "that the powers which are now possessed by local boards are to remain with them."

—2. Governing board for vo-tech. There is no need to fear that vo-tech would be absorbed into the U system. Champoux cited justifying comments in the education committee's proposal. The comments explained that under existing law vo-tech centers will remain with the

delegate Maurice Driscoll (director of the Butte center) assured the committee that their preference was to leave vo-tech unmentioned in the constitution, Champoux said.

—3. Political commodity. The charge that the proposed language might make vo-tech into a "political commodity" is "somewhat illogical and completely unfounded," the chairman said. Presently, he argued, the legislature can assign vo-tech to whatever jurisdiction it wishes, because the legislature had divided the present board of

board chairman Orville Gray and trustee William MacFadden as voicing deep concern over vo-tech education becoming a political commodity, with control and funds going to the junior colleges under the state university system instead of remaining with local school boards.

The trustees were worried that wording in the Education Committee's tentative draft, which creates separate boards of higher education and public education, could result in vo-tech being placed under control

public school system and under jurisdiction of the board of public education. However, language in the new proposal is flexible so that vo-tech could be accommodated in the system of higher education, if necessary in the future.

"These comments of intent by the committee could not be misconstrued into the presumption that vo-tech should become a part of the university system," he said. The committee worded its proposals because representatives from vo-tech institutions across the state, including dele-

education into a board of education and an ex-officio board of regents.

Because there will be no change in the legislature's ability to exercise such power, he said, the question of jurisdiction over the funding of vo-tech would remain no more and no less a political decision than it presently is.

Champoux said that boards of trustees and superintendents across the state have carefully studied the committee's proposed article, and have given it their full endorsement.

HUD Marks \$30,000 For State Con Con

HELENA—The fiscally tight Constitutional Convention apparently is about to get \$30,000 from the U.S. Department of Housing and Urban Development.

Harold Price, director to the community development division of the State Planning and Economic Development Department, told the planning commission that HUD's regional office in Denver has agreed verbally to make a \$30,000 grant to the commission.

Price said that the grant must be matched with \$16,000 in state funds and must be used strictly for information-education activities.

Though the applicant for the grant is the planning department, Price said that a sub-contract would be entered into either with the convention, itself, or possibly the preparatory Constitutional Convention Commission.

Planning commissioner John Ruffatto, Missoula, commented that unless the work of the convention is properly publicized the proposals for constitutional

change will be voted down by the people.

Planning department Director Perry Roys agreed that the public should be informed on the convention's work.

After the meeting, Price told the Tribune that some of the activities of North Dakota's recent constitutional convention were funded under a HUD grant. "HUD is quite interested in funding projects for the planning and management of local government," Price said.

Price said that planning department staff members had conferred on submitting the grant with Con Con President Leo Graybill Jr.

Price said he understood that the funds would be used primarily to explain the work of the convention between when it adjourns (probably in late March) and the date of the ratification election June 6.

The tentative HUD promise of funding will be good news for the convention's public information committee, which has been disturbed over reductions in the budget for in-

formation and education. Some of the money previously allocated for information education activities had been shifted to pay convention operating expenses.

A plan to have the state finance judges' political campaigns failed by a slim margin Tuesday at the Montana Constitutional Convention.

Chief sponsor of the plan was delegate John M. Schiltz, D-Billings, who was an unsuccessful candidate for chief justice of the Montana Supreme Court in 1970. He lost to incumbent James T. Harrison Sr. by 63,000 votes.

"This would eliminate the possibility of a man with less ability and more money from being elected," Schiltz said, calling his proposal "the most progressive thing I've seen at the convention."

"It also would stop lawyers from contributing to judges' campaigns."

His plan was approved 46-45 but later reconsidered and killed 49-47.

Under the proposal, candidates for the state supreme

court and district courts who survived the primary elections from the legislature. Candidates would not have been allowed to spend any more money.

Schiltz noted that lawyers traditionally are the biggest contributors to judges' campaigns, which he does not think is right. During his campaign, he would not accept contributions from lawyers, but he said he received some anonymous donations of about \$1,180 from attorneys.

Jean M. Bowman, R-Billings, opposed the plan.

"As a taxpayer, I don't wish to have part of my taxes pay for someone's campaign," she said.

James R. Felt, R-Billings, and a lawyer, backed Schiltz.

"I have never contributed to a judge's campaign," he said.

"It makes me feel a little uneasy. But somebody's doing

it."

Schiltz predicted all campaigns might someday be financed by governments because of rising costs. He noted that Sen. Edmund Muskie expects his campaign to cost about \$40 million if he wins the Democratic nomination for the presidency.

He also drew support from President Leo Graybill Jr., D-Great Falls.

"The whole issue is whether we are going to continue to let the judiciary get the (campaign) money from the big corporations who have cases before the supreme court," the Great Falls attorney said.

Delegates, however, were reluctant to include the new concept in the proposed judiciary article. Schiltz said he knew of no other states that financed campaigns.

would have received a certain amount of campaign funds

Convention Debates Funding State Judicial Campaigns

Con Con Profiles

Style Committee Most Crucial

By JOHN KUGLÁN
Tribune Capitol Bureau
HELENA — "We have a perfectly good committee of hair-splitters," John Schiltz once jokingly told his fellow delegates. But the Committee on Style, Drafting, Transition and Submission — usually referred to as the Committee on Style, probably has the most crucial job of any of the convention's procedural and substantive committees.



Schiltz

The naive, witty Schiltz, who ran an unsuccessful razzle-dazzle campaign to unseat Montana Supreme Court Chief Justice James T. Harrison in 1970, is chairman of the Committee on Style.

Schiltz, who refused contributions from attorneys during the 1970 campaign, presides over a committee with an unusual makeup — six of the 11 members are attorneys. The vice chairman is William Burkhardt, R-Helena, a minister. Assisting the committee is University of Montana law school professor Gardner Cronwell.

The convention's rules are specific on the duties assigned to the committee on style.

The committee "shall make only changes as to style, form and grammar" after the delegates finish debating and voting on the reports of their committees.

More importantly, "the committee on style shall prepare for submission to the electorate the proposals of the convention." The final decision on the method of submission still will be made by the entire convention.

"Our biggest problem, and one that is terribly important, is how many alternative propositions we're going to place on the ballot," the Billings attorney said.

Schiltz fears that too many separate proposals — 10 for instance — may be placed on the ballot June 6 by the convention.

"By the time a voter gets to proposition nine or 10 he may get tired and not vote," Schiltz lamented.

The problem, he said, is the wording in the convention's enabling act. The act says that "if a majority of the electors voting at the special election shall vote for the proposals of the convention the governor shall by his proclamation declare the proposals to have been adopted."

This means that more than half of the persons voting at the election must vote on each proposition for it to pass, he said.

In other words, if 100,000 Montanans voted in the election, yet cast less than 50,001 votes for or against any one proposition, that proposition would fail.

In other states, which had similar voting provisions in their Con Con enabling acts, proposals at the bottom of the ballot failed because of lack of voter interest, Schiltz said.

Schiltz is trying to prevent attempts by other delegates to "blind" his committee to a long list of separate propositions on the ballot.

If an extremely important proposal passes or is defeated by a 51-49 vote of the 100-member body Schiltz concedes it may deserve placement on the ballot as a special issue.

However, if a proposal fails by a 70-30 vote on the convention

floor "most of the voters would probably reject it, anyway," he said.

Another problem facing the style committee, its chairman said, is that "inevitably from time to time we will run into problems of a substantive nature" when scanning proposals for problems with style, form and grammar.

Though the committee is prohibited from making substantive changes in reports it scans, Schiltz believes it will be necessary to point out some errors, from time to time, when the style committee reports back to the convention.

The committee has subcommittees composed of laymen and attorneys to follow floor debate to get some sense of the intent of the delegates' work. During their debate on the legislative article, the subcommittee consisted of Robert Kelleher, D-Billings, an attorney, and Richard Roeder, D-Bozeman, a college professor.

"Often what the intent of what a delegate is doing seems to be on the convention floor isn't the same as what we read in the written proposals we receive," Schiltz said.

There should be no question of intent by the time delegates sign the final constitution to be ratified by the voters, Schiltz said. Each committee has supplied written comments to explain the reasoning behind their proposals. There are the recorded debates on the convention floor. Finally, the style committee will explain its changes.

"No court in the future should ever wonder what was intended by the farmers of this constitution," Schiltz said.

When the committee meets early each morning in a wing of the law library in the capitol,

most of the discussion is on a higher plane than whether an I is dotted or a T is crossed.

"We're looking for uniformity, like this was written by one person," Schiltz said. He explained, "In some places our present constitution refers to 'legal voters.' In other places it mentions 'qualified voters.' We're going to refer to all electors qualified to vote as 'qualified electors.'"

The committee soon decided that saying the legislature "may" do something meant that this was merely a suggestion from the convention to the legislature. But saying the legislature "shall" do something means it "must" do something.

In the interest of uniformity, whenever the convention decides the legislature "shall" do something the style committee will change this to "must."

Another job assigned to the style committee is to decide a schedule of when revisions, alterations of amendments to the constitutions, if adopted by the voters, take effect.

Schiltz is a man worried about deadlines. His busy committee tries to stay no more than two days behind the action taken by delegates on the convention floor.

The Enabling Act says the convention's work must be submitted to the voters not less than two months nor more than six months after adjournment. That means a deadline of April 6 if the ratification election will be June 6. "To meet this deadline we feel we should finish not later than March 24," Schiltz says.

Then, the style committee will work for about a week to place the constitution in final form. After the brief recess, the delegates would return for the formal adoption and signing of the proposals for constitutional changes.

Delegate Returns In Humor

INDEPENDENT RECORD
State Bureau

Disgruntled delegate Don Scanlin, D-Billings, left the Constitutional Convention last week for a weekend of rest in Billings, but Tuesday he was back with a resolution to cure the Convention's ills:

"Mr. president and delegates, since it is becoming increasingly obvious that this body is unable to discipline itself, be it resolved that this Constitutional Convention adopt a bicameral system, namely: all members of the legal profession and former legislators assemble themselves in the senate chambers. Delegate (George) Harper will join with them to maintain the proper decorum. They may have all the research, secretarial and clerical assistance deemed necessary. Above all, give them complete TV coverage. Let them put together a constitution.

"Have one lawyer, delegate (Russell) McDonough, stay here as legal counsel. Supply a few pencils, one pad regular size, 8 1/2 x 11 paper. Taking information available in committee reports, in a few days a document will be produced.

"When the members in the Senate complete their work, both constitutions will then be submitted to the electorate to choose between the two."

Delegate Scanlin's proposal has not been accepted as of yet.

Convention Delegates Refuse 'Clean' and 'Healthful' Amendment

HELENA (AP) — Montana Constitutional Convention delegates argued over adjectives today, when they began consideration of an environmental article.

They rejected an attempt to add the words "clean" and "healthful" to a subsection of an environmental article proposed by the Natural Resources and Agriculture Committee.

The committee recommended a subsection saying: "The State of Montana and each person must maintain and enhance the environment of the state for

present and future generations."

Delegate George James, D-Libby, unsuccessfully tried to amend the section to add the words "clean" and "healthful" before "environment" and also tried several other modifications.

The attempt failed 44-40.

Those who signed the committee report resisted, saying the adjectives would dilute the environmental section. C. B. McNeil, R-Polson, said the section was the strongest in any state constitution and thus opposed the amendment.

A Missoula delegate, Bob Campbell, a Democrat, labeled the unamended section as being "absolutely worthless."

He was supported by Mae Nan Robinson, R-Missoula, who said the descriptive adjectives had been used in most state and federal laws. She also criticized the use of the word "maintain" in the proposed subsection.

"I think it's clear we don't want to maintain the present environment in Missoula or Columbia Falls," she said.

George B. Heliker, D-Missoula, quoted a University of

Montana law professor who said the descriptive adjectives were needed. John P. McCrory of the law school wrote Heliker that the adjectives were needed to insure that the present environmental problems are not perpetuated.

Joseph McCarvel, D-Anaconda, asked if the amendments would allow nonsmokers to take smokers to court for polluting the air. Another delegate, Max Conover, D-Broadview, expressed fears that a tougher section might hurt Montana agriculture, but James said he was certain the

Control of U System Subject of Controversy

By DENNIS E. CURRAN
Missoulian State Bureau

HELENA — The State Department of Administration is challenging the Constitutional Convention Education Committee proposal to give the state University system more internal freedom.

In a letter circulated at the convention Thursday, the administration department contended that the committee proposal would remove the universities from control of the legislature and central state government.

The department recommended that the board of regents' power over financial and administrative affairs be prescribed by law.

However, the education committee's position is that higher education won't be completely free from control of purse-clutching legislators but needs greater internal freedom than it now has.

The committee proposes two separate state boards of education for elementary and secondary education and higher education. Higher education would be governed by an appointed board of regents which would be "a body corporate" and which would "govern and control the academic, financial and administrative affairs" of the University System.

Freedom Objective

Academic freedom is the goal of the committee proposal.

The committee reasoned that to protect higher education from outside interference and control and the "centralized, bureaucratic state," the board of regents should be made a separate corporate entity with power over its internal administration and budgeting.

"Without overtly intending to curtail freedoms, the modern state has absorbed an increasing amount of power and control in the name of efficiency," the committee report said.

The administration department, which handles statewide accounting and budgeting, said in the unsigned letter that it favors safeguarding academic freedom.

However, the letter said the committee proposal would "shatter" the concept of the strong state executive by removing the University System from centralized control.

Giving the universities full autonomy could exempt them from legislative audits, using the state treasury system, having construction programs reviewed by the state architect, central purchasing, warrants and motor pool, statewide accounting or various executive branch reviews, the administration department said.

"If the University System is excluded from the state's financial and administrative rules and regulations, it will be impossible to adequately report on the state's financial operations," the letter said. "The taxpayers are entitled to know where and how their whole tax dollars are being used."

But the Education Committee's research analyst, Bruce Sievers, said that under a board of regents with corporate powers, the University System would not be removed from all central accounting controls, reviews and audits.

While possibly not binding by law, legislative audit recommendations and executive branch reviews probably would be taken seriously by the regents, if for no other reason than the legislature's financial control over the University System appropriations, Sievers said.

"If they (regents) would keep thumbing their noses at the state, the legislature could come back and cut their funds," he said.

In cases of conflict between the University System and state agencies, it might be necessary to go to court, he said.

The education Committee report will be debated late next week.

Con Con Tempers Flare As Floor Debates Go On

By Mrs. Olive Rice

Tempers are getting short at the Constitutional Convention. Chairman Graybill must frequently warn that debate has to be kept strictly to the issue under consideration if the convention is to finish anywhere near on schedule.

During one debate, Delegate Carl Davis was complimenting a committee on its excellent report when he was cut short by the chairman's gavel.

"You allowed the gentleman back of me to speak about an hour," Davis complained. "Now may I continue?"

"Yes," Graybill conceded, "but keep to the subject."

Several evening sessions have added weariness to the already tense and strenuous days of debate.

Scrapping Proposals
Some committee members are troubled over the scrapping of laboriously formed committee recommendations during the floor debates.

One delegate said to me in a "don't-use-my-name" tone, "I'm scared. The committees have spent weeks of research and study and effort on these proposals."

"Then they get out on the floor and one or two eloquent speakers can tear the work apart in minutes and we wind up with something entirely different."

Other delegates want many more changes than are being made.

Hanging over all is the knowledge that pet sections may be changed even after having been passed in the course of the debates, because the reports as passed go to the styling committee from which they must be returned again to the committee as a whole to be approved or amended.

It is no wonder if the delegates are a little edgy!

Many Proposals Killed
Many of the proposals which would have meant radical change in Montana government have been defeated by the delegates.

Some observers are complaining that the folks back home are "stifling" the convention and that delegates are concentrating on what voters will accept.

"For whom is this constitution being written, if not for the folks back home?"

One of the "big change" provisions will be put on the June 6 ballot as a separate item for the voters to decide.

The people will decide which form of legislature they want — a unicameral (one house) or bicameral (two-house) body.

If the voters choose the unicameral form, a provision for a referendum in 1980 would give them another chance to approve or reject the unicameral form after a few

Debate on Legislature

During the debate on the number of members of the legislature (unicameral form) several interesting points were brought out.

A portion of the section being debated read, as it came from committee, "The number . . . shall be no less than 75 and no more than 100 members."

Debate on this section went somewhat along these lines:

Delegate George Harper, Helena: "The fewer members we have, the more it guarantees that the individual member is important."

"You have less staff that way and more efficiency. The single member districts give good representation."

"The average number of legislators all through the west is about 81 (both houses). The average number of representatives per thousand, nationally is 1 for every 25,000 people."

"Montana would have 1 for every 7,000 people with 100 legislators."

Donald Foster, Lewistown, wanted to change the number to read 90 minimum and 104 maximum.

He said, "This number is big enough to make it difficult for lobbyists to control, yet small enough to make rural districts representative."

The final vote on the number between 100 and 105 for the unicameral portion of the proposals. The bicameral finished with 100-106 in the House and 99-93 in the Senate.

Changes in Proposals

Action by the delegates this past week resulted in some innovations, but they reversed themselves on several of the more unusual proposals.

Proposals accepted by the delegates include:

1) Formulation of a new commission to redistrict the state after each census. The commission would be selected by the legislature.

2) Single member districts (as set up by the commission mentioned above).

3) Required roll call vote for important issues (legislative).

4) Directive to the legislature to set up conflict of interest proposals to cover all government officers (state and local).

5) Section calling for elective offices to include governor, lieutenant governor, attorney general, secretary of state, superintendent of schools, treasurer and auditor.

6) Section requiring open meetings (legislative committee meetings, sessions and hearings).

Defeated Proposals

Proposals defeated include delegate Robert Kelleher's "parliament" plan and the proposal to create an office of "the people's advocate."

The Judiciary plan should be in the hands of the Style Committee now.

Next to come up before the delegation are the Natural Resources report, followed by Revenue, the Bill of Rights and Public Health reports. If the delegates can stand this paper,

A larger legislature is more responsive to the people than a small legislative body with a large staff.

Carl Davis: "The committee says, 'We want to give the rural areas a feeling of representation.'"

"I know the committee didn't mean that as it sounds. We want to give the rural areas real representation. The larger number will do this."

Gregg Bates' View

Gregg Bates: "It is very interesting to see the change of mind toward a large number."

"When we first came to Helena 49 to 60, was a satisfactory number," he said, "and now we are talking about 100."

The debate went on, with one member saying that the House chambers will not hold many more than 101.

When a motion was made not to put a maximum number into the constitution, Donald Foster said, "I suggest that this is a trap."

"Don't forget that the voters have to pass on this, and with 100 they might think we were working for a legislature of two hundred and they would vote against it."

By the time to vote on the section, there were so many motions, a substitute motion, substitute motions that Delegate Bates asked, "What are we voting on?"

Environmental Protection Opinions

Con Con Delegates Wide Apart on Ecology

By JOHN KUHLEN
Tribune Capitol Bureau
HELENA — The Constitutional Convention sold out to the state's coal and copper mining interests and to the agricultural lobby in voting for weak provisions for environmental protection, in the opinion of some liberal delegates.

News Analysis

"We put up a good fight," but we lost," said one delegate.

"At least the environment is mentioned in the constitution for the first time," said Louise Cross, the reform-minded chairman of the convention's Natural Resources and Agricultural Committee, a housewife from Glendive.

Conservative delegates, on the other hand, regard the weakened environmental provisions as a triumph for common sense that ranchers, miners, contractors and the general public will accept.

Both liberals and conservatives seem to regret that the final environment and natural resources article does not contain a provision to establish beneficial uses of water. Scrapping of this section, which had been recommended by a majority of the members of Mrs. Cross' committee, is regarded as an invitation for dry downstream states to stake their

thirst with Montana's water. The section was killed after some delegates favored listing recreation as a junior water right to agricultural and industrial uses.

The final environment and natural resources article, which is only 336 words, fails to include many provisions favored by environmentally-oriented delegates, including 1. A citizen's right to sue alleged polluters or governmental agencies. 2. A public trust doctrine under which the air, water and land of the state would be common property held in trust for all citizens and 3. Tougher provisions to prevent eastern Montana from being desecrated by strip mining.

Regional provincialism and delegates' occupations figured in some of the votes, as the environmental issues produced some of the most heated debate of the entire convention before packed galleries. A Billings contractor opposed a provision which would have required mined lands to be reclaimed "to a beneficial and productive use" because this would pose problems for highway contractors. A Butte delegate, who told the convention he came to the convention to "represent the people of Silver Bow County," supported a weak reclamation statement to keep the Anaconda Co. in business and to protect

the jobs of his constituents who work for the company. The delegate said it was impossible for the company to reclaim the huge Bertiney Pit in Butte. "They cannot do it, they will not do it and no force on earth can make them do it," he said.

Here's what the environment-natural resources article does:

1. Environment. The state and each person must maintain and improve a clean and healthful environment for present and future generations and the legislature must provide for the administration and enforcement of this duty. The legislature is directed to provide adequate remedies for the protection of the environmental life support system from degradation and to provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

2. Reclamation. All lands disturbed by the taking of natural resources must be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed by the taking of natural resources.

3. Ghost towns. This section, aimed at saving the state's ghost towns, says that the legislature must provide for the identification, acquisition, restoration, enhancement, preservation and administration of scenic, historic, archeological,

scientific, cultural and recreational areas, sites, records and objects, and their use and enjoyment by the people.

4. Water rights. All existing rights for any useful or beneficial purpose are recognized. The right of way for water transportation systems, such as ditches, is considered a public use. All surface, underground, flood and atmospheric waters within the state are the property of Montana, subject to appropriation for beneficial uses as provided by law. The legislature is directed to provide for the administration, control and regulation of water rights and to establish a system of centralized records.

The convention gave special treatment to the state's largest industry by retaining and improving the constitutional status of the Department of Agriculture.

Here's what the new agricultural article says:

1. Department of agriculture. The legislature must provide for this department and enact laws and provide appropriations to protect, enhance and develop all agriculture of the state.

2. Special levies. The state may levy taxes on livestock and agricultural products for such purposes as disease and predator control, inspection and research and promotion.

School Board Association Continues Debate on Con Con Education Plans

Tribune Capitol Bureau
HELENA — The Montana School Boards Association has delivered another attack on the proposals of the Constitutional Convention's Education Committee, which are scheduled for debate later this week.

The association begins its latest letter to delegates with a jab at what it terms "ambiguous" language. For example, what is the "full educational potential of each person" asks MSBA lobbyist James Kenny.

"The ambiguity can be realized when we admit there are few people anywhere that have developed their full educational potential," says Kenny. "The goal of the people should be equality of educational opportunity as stated in the second sentence of proposed Section 1. Legislative interpretation of the word 'full' may lead to an over-extended educational emphasis that would be completely beyond the ability of the people of Montana to finance."

Kenny expressed concern that language of the section on public school fund revenue specifying distribution to the schools rather than the school districts could be an invitation to the legislature to avoid the local school district system of financing public schools.

The committee report says restrictions in the present constitution as to the distribution of school funds to schools "are considered obsolete in light of present conditions."

Kenny questions leaving school elections up to the legislature as suggested by the com-

mittee, saying it is important enough that the elections be separate from other elections that it be specified in the constitution.

The MSBA has advocated retention of a single board of education rather than separate boards for lower and higher education as proposed by the committee, and repeats the stand in the letter. Kenny also makes another pitch for appointment of the state superintendent of public instruction by the board, rather than continued election as recommended by both the education and executive committees and already tentatively approved by the convention.

Kenny says the committee has apparently tried to offer the appearance of a single board by providing that the two separate bodies "shall meet periodically on matters of mutual concern."

"The obvious fallacy in this attempt," he says, "is that the two boards will never have any matters of mutual concern except to compete with one another intently and aggressively for finances before the legislature without either board having any concern for the overall problems of Montana education."

Graybill's common sense advice

Constitutional Convention delegates will draft a greatly improved state document within their budgetary time limit if they follow the sensible guidelines presented by President Leo Graybill Jr.

Graybill cautioned his fellow delegates not to waste as much time as they have been doing because convention time is running short.

Stressing that this is the seventh week of a convention with money for only nine or 10 weeks of operation, Graybill urged delegates to follow some self-discipline rules. One guideline, "Avoid long speeches and statements for the record and the folks back home," is especially significant for delegates wishing to use the convention as a springboard to political office.

After emphasizing that voters recog-

nized the need for an improved constitution when they authorized the convention, Graybill said the people expect delegates to accomplish important changes in the new constitution. "Our efforts must be innovative," he said. "We must make the system work better." He said delegates should not enact change for the sake of change but "changes to improve and safeguard Montana's future."

"We were sent here to use our abilities and to reason out a new document," he declared. "It is our solemn duty to do as we think best."

The delegates will write a good constitution if they follow the sound guidelines presented by their hard-working president. Graybill's speech, in the opinion of the Tribune's Capitol Bureau, was a "positive sign of leadership."

Pollution Suit Authority Turned Down by Con Con

HELENA (AP) — Six attempts to allow citizens to sue alleged polluters or governmental agencies failed at the Constitutional Convention Wednesday.

Delegates spent the day trying to draft a proposed environmental article and reached some tentative conclusions. One of them, unless overturned, would not expressly permit citizen suits.

They rejected the public-trust doctrine, which would have allowed citizen suits, and adopted an article that says in part:

"The state of Montana and each person must maintain and improve a clean and beautiful Montana environment for present and future generations."

It directs the legislature to provide for the administration and enforcement of the section. It also calls on the legislature to provide "adequate remedies" to protect "the environmental life support system" and natural resources from degradation and unreasonable depletion.

The section, except for a couple of changes, is the same as the one recommended by a majority of the members of the Natural Resources and Agriculture Committee.

Jerome J. Cate, D-Billings, unsuccessfully tried to insert a public-trust statement, which would have set the state's environment up as a trust, held for the citizens by the state.

Objections were raised, saying it would infringe on private property rights.

12 Strong Words Omitted

By CHARLES S. JOHNSON

HELENA (AP) — After several hours of debate and amendments, Constitutional Convention delegates approved a land-reclamation section identical to a committee recommendation, except for the omission of a dozen important words.

In part, the section says: "All lands disturbed by the taking of natural resources must be reclaimed." Left off the end of this sentence were words saying the land had to be reclaimed "to as good a condition or use as prior to the disturb-

The legislature is directed to set reclamation standards and enforcement procedures.

Natural Resources and Agriculture Committee members originally recommended the stronger section but most halled out when it reached the floor.

In the morning, delegates adopted a section similar to the one finally approved but added an amendment by Jerome J. Cate, D-Billings, to require that lands be reclaimed "to a beneficial and productive use."

The section was reconsidered later in the day and changed. Contractor R. J. Stander Sr.,

R-Billings, said the amended section would pose problems for highway builders.

"How can I make a rock slope beneficial or productive?" he asked. "Haven't we gone too far?"

Cate said the two adjectives he added, "beneficial" and "productive," were "about the most moderate words we could have used."

Supporting the motion to reconsider was Thomas F. Joyce, D-Butte, who said his Silver Bow County constituents depended on the mining industry for jobs and did not want to shut down the Anaconda Co.

"About 7 1/2 million tons of material have been taken out of the Berkeley Pit," Joyce said. "It's completely impractical to reclaim it."

Joyce also responded to firing by Donald R. Foster, D-Lewistown, that the convention had buckled under to Anaconda Co. pressure in the morning by turning down a stronger reclamation article.

"It's not a matter of buckling under to the company," Joyce said. "It's a matter of common sense."

In the morning, Foster had asked:

"If you delegates ran on the platform of supporting the company, I wonder how many of you would have been elected?"

He also questioned how Butte Democrats could vote for the company and say they supported the public.

"I guess that's a way of life over there," he said.

Committee Chairman Louie Cross, D-Glendive, favored a strong reclamation article because of the rich coal deposits in eastern Montana that are being strip mined.

"Believe me," she said, "if you destroy the land, we will topple our number one industry (mining)."

However, some delegates believed a strong section would cripple the hard rock mining industry in Montana.

Wade J. Dehood, R-Anaconda, conceded that reclamation was needed but opposed the original committee proposal.

"I think the manner in which this is worded could have a disastrous effect on mining in Butte."

Douglas Delaney, D-Grand Range, favored deleting the entire section. Under the proposal, he said it could prevent him from having a small gravel pit on his ranch.

Richard Roeder, D-Butte, wanted the original committee section.

"I grew up in Appalachia," he said. "I'd like to have the money to take you back and show you communities that would make Butte look like a garden spot."

Most of the committee members spoke against their own section on the floor. They said the environment section passed yesterday was adequate to handle reclamation matters.

Others, including Joyce, criticized the section for being legislative in intent.

Joyce said future legislatures ought to set the standards, not the convention.

The motions to amend the committee section and reconsider passed by large margins.

Nonsmoker Fumes Over Fumes

HELENA, Mont. (AP) — As smoke fumes drifted to the top of the chamber, a nonsmoking Montana Constitutional Convention delegate proposed Thursday that smoking be outlawed in state buildings.

Grace Bates, D-Manhattan, submitted the proposal and asked:

"Why should people who do not smoke be subjected to this pollution?"

Offering support was another nonsmoker, George James, D-Libby.

"This is a step toward clean politics," he quipped. "This would eliminate the smoke-filled room."

Puffing his pipe, John M. Schiltz, D-Billings, rose and said he was stalling for time so he could enjoy his last smoke.

Smoker Dave Drum, R-Billings, said he had observed that during debates "those who smoke most talk less."

Added smoker Miles Ramsey, D-Hamilton: "A woman is only a woman, but a good cigar is a smoke."

A Great Falls Democrat, Virginia Blend, opposed the motion. She said the state would have to come up with a new way to finance the University System's long-range building program, which is funded by cigarette taxes.

Having made her point, Mrs. Bates withdrew the motion, saying it was a legislative, not a constitutional, matter.

For bingo

I am writing in response to the article "The Case For Bingo" by John Hoodack S. J. I agree with his opinions and am sure many more in this area do also, though they may not write in about it.

If a poll or survey was taken on this subject, I'm sure you would find that many people want Bingo legalized, if only in fund raising projects of nonprofit organizations.

As I have noticed, everyone that plays, enjoys it, no one is too bothered if they do not win. This is good entertainment for older people and a good way to be with your friends occasionally.

Dorothy Bateman, Glasgow, Mont.

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Judge Selection Combined

By CHARLES S. JOHNSON
Associated Press Writer

Hoeding their leader's advice to compromise, Constitutional Convention delegates gave and took Tuesday before adopting a judiciary article that combines appointment and election of judges.

By a narrow margin, delegates also reversed a Saturday decision and restored justices of the peace to the new constitution.

Convention President Leo Graybill Jr., D-Great Falls, opened the day by telling delegates time limitations necessitated compromises during debates.

And delegates did, combining portions of both the Judiciary Committee's majority and minority reports. Representatives of the Judiciary Committee's opposing factions met over the weekend and resolved some of the differences, except for several key issues, including the selection of judges.

Delegates combined elections, which the Judiciary Committee majority backed, with merit selections, which was backed by the minority of the committee.

Under the plan adopted, when a vacancy on the supreme court or a district court occurs, a nominating committee will submit several names to the governor, who will pick one. The nomination then must be confirmed in the State Senate.

However, anyone may run against the judges in each primary election, with the top two candidates advancing to the general election. If no one runs against the incumbent judges, as often occurs, his name will go before the voters in the general election. Instead of voting for him or not voting at all, citizens will vote yes or no on whether he should be retained.

He said his proposal, adopted from the rejected majority report, would lead to an improved lower-court system. The legislature is directed to set qualifications, monthly salaries and training requirements. It passed 47-45.

Margaret S. Warden, D-Great Falls, opposed the move, saying: "Just because they don't have to be in the constitution doesn't mean they won't continue to be elected."

Arylene E. Helchert, D-Great Falls, said justices of the peace are not mentioned in 21 of the 81 state constitutions.

Attorney Wade J. Dehood, R-Anaconda, said he opposed the present JP system but envisioned a much-improved set-up under Harrington's amendment.

A later attempt to delete mention of JPs failed 53-47.

Vote, delegates decided to boost supreme court justice terms from six to eight years and district court judge terms from four to six years.

J. C. Harrington, R-Missoula, said Montana had a combination of the shortest supreme court terms and low judicial salaries. The Missoula attorney said inducements such as longer terms were needed to attract competent lawyers to leave private practice for the bench.

His motion failed on a tie vote the first time but later was reconsidered.

Delegates voted to delete any constitutional reference to the clerk of the supreme court and leave his fate to the legislature.

Holland opposed the move, saying keeping the office elective would ensure better service.

Bruce M. Brown, D-Falls City, who made the motion to delete, replied:

"We don't give future generations the right to elect the clerk, we just lock it in the constitution."

Also deleted were references to county clerks of court and district court attorneys. Action on these offices will be deferred until the local government article is considered.

Delegates changed their minds during the day and rejected a proposal by John M. Schiltz, D-Billings, to have the state appropriate funds for general election candidates for the supreme court and district courts. His plan passed 46 - 45 but later was overturned 49 - 46.

How They Voted

Tribease Capital Service

HELENA - Constitutional Convention delegates by a 6-5 vote rejected election of judges by the people.

The vote, one of many taken on the selection, election and terms of district judges and supreme court justices, was on a motion of David Hoard, D-Suite, to accept an amended version of the majority proposal by the convention's Judiciary Committee.

Democrats for election of judges (5): Arness, Aronow, ATZ, Bernard, Bates, Belcher, Brazier, Chambliss, Davis, Deaney, Driscoll, Erickson, Graybill, Rod Hanson, Harrington, Heliker, Holland, Joyce, Loretto, McCarvel, McKean, Rebst, Ramsey, Schiltz, Siderius, Sullivan, Swenberg, Van Baskirk, Wagner.

Republicans for (16): John Anderson, Ask, Babcock, Chosta, Dehood, Drum, Erdmann, Erickson, Gysler, Jacobsen, Layman, McKel, Murray, Nobis, Nutting, Ryo.

Independents for (2): Oscar Anderson, Bob Hanson.

Democrats against election of judges (3): Ashelm, Aronow, Blylock, Blund, Bugbee, Cain, Campbell, Conover, Cross, Eck, Furlong, Harbaugh, Harlow, James, Kalkreuth, McCarvel, McCarver, Melvin, Menner, Reichert, Reeder, Sellings, Scanlin, Skarl, Soerka, Spier, Vermillion, Warden.

Republicans against (2): Berg, Berthelson, Bowman, Burkhardt, Pat, Geraldson, Hebedank, Johnson, Kamboot, Lawndorf, Martin, Payne, Robinson, Siderius, Simons, Spoor, Toole, Ward, Wilson, Woodmansey.

Independents against (2): Foster, Harper, Brown.

Absent or not voting (2): Cate (D), Mahoney (I).

PUBLIC TRUST, 3-48

HELENA - Delegates rejected a "public trust" concept for the environment Wednesday. It would have made it a public trust for the state to create, maintain and enhance a clean and healthy environment, and allow citizens enforcement.

Here's how the 44-37 vote went: Democrats for (27): Aronow, ATZ, Bernard, Blylock, Bugbee, Campbell, Cain, Chambliss, Conover, Cross, Eck, Furlong, Harbaugh, Harlow, James, Kalkreuth, McCarvel, McCarver, Melvin, Menner, Reichert, Reeder, Sellings, Skarl, Spier, Vermillion, Warden.

Republicans for (11): Bowman, Leonard, Payne, Robinson, Woodmansey.

Independents for (2): Foster, Harper.

Democrats against (26): Ashelm, Aronow, Bates, Belcher, Blund, Bugbee, Cain, Conover, Davis, Deaney, Driscoll, Erickson, Graybill, Heliker, Kalkreuth, McKean, Menner, McCarvel, McCarver, Melvin, Menner, Reichert, Reeder, Siderius, Skarl, Spier, Vermillion, Warden.

Republicans against (9): John Anderson, Ask, Babcock, Berg, Berthelson, Burkhardt, Chosta, Dehood, Drum, Erdmann, Erickson, Gysler, Hebedank, Jacobsen, Johnson, Kamboot, Layman, Martin, McKel, Murray, Nobis, Nutting, Pennington, Ryo, Simon, Spoor, Ward, Wilson.

Independents against (2): Oscar Anderson, Brown, Bob Hanson.

Absent or not voting (1): Arness (D), Felt (D), Harlow (D), James (D), Kalkreuth (D), Mahoney (I), McCarvel (D), Toole (R).

CITIZEN ENVIRONMENTAL SUITS, 44-37

HELENA - Delegates Wednesday rejected a concept that would permit citizens environmental suits. Here's how

the 44-37 vote went.

Democrats for (34): Ashelm, Aronow, Aronow, Bates, Belcher, Blund, Bugbee, Cain, Campbell, Conover, Cross, Eck, Furlong, Graybill, Harlow, Harrington, Heliker, James, Kalkreuth, McKean, Melvin, Menner, Reichert, Reeder, Rollins, Romney, Scanlin, Schiltz, Skarl, Spier, Van Baskirk, Vermillion, Warden.

Republicans for (7): Bowman, Burt, Harst, Layman, Loendorf, McKel, Payne, Robinson.

Independents for (3): Brown, Foster, Warner.

Democrats against (28): Aronow, Bernard, Bates, Belcher, Blund, Brazier, Conover, Davis, Deaney, Driscoll, Erickson, Felt, Harlow, Harst, Harst, James, Kalkreuth, McKean, Melvin, Menner, Reichert, Reeder, Siderius, Skarl, Spier, Toole, Ward, Wilson, Woodmansey.

Republicans against (2): John Anderson, Bob Hanson.

Independents against (2): Oscar Anderson, Bob Hanson.

Absent or not voting (2): Arness (D), Felt (R), Mahoney (I), Swenberg (D), Toole (R).

'Great Debate' Due On State Revenue

By DENNIS E. CURRAN
IR State Bureau

A streamlined taxation article with a new tax appeal board for Montana taxpayers and allowance for future statewide property taxation will come before the Constitutional Convention this week for what promises to be another strenuous debate.

Two minority reports and an anticipated move to strengthen the highway earmarking provision suggest another of the floor fights which so far have torn convention committee reports to shreds.

The taxation proposal, drafted by the convention's Revenue and Finance Committee, is a 14-section hybrid article which incorporates subject matter from the 42 sections in the three existing constitutional articles dealing with finance.

While retaining fundamental principles "important enough to be frozen in constitutional ice," the committee in general deleted most of the statutory detail and proposes to leave it to the Legislature.

The committee noted that in theory the constitution would not have to say anything about taxation because the state government already has the inherent power to tax without the constitution. But committee members felt the need for some statements authorizing governmental power or restricting it.

Here are the major points in the committee proposal:

TAX APPEAL BOARD - A new board would be created to hear appeals from individuals unhappy with property tax assessments and to audit the state assessing agency.

The committee objected to the present situation, where the same governmental bodies which establish the tax procedures also hear the appeals. The committee said it heard "overwhelming" testimony that the present appeal method is not objective and reasoned that an independent board would be a better solution.

The bipartisan board would have five members, appointed

by the governor from different districts and confirmed by the Senate.

PROPERTY TAXATION - The committee proposal would direct the state to appraise, assess and equalize all property in the state and would remove the present two-mill limit on state property taxation, allowing future legislatures to establish statewide property taxation if they chose.

EARMARKING - Under pressure from the highway lobby, the committee retained the 1956 amendment requiring that highway-related taxes like fuel and gross vehicle weight taxes be "earmarked" for highway construction and maintenance.

"Extensive testimony indicates its exclusion may well jeopardize the final product of this convention," the committee said.

However, under its proposal highway taxes could also be used for drivers' education and tourist promotion and extended for local street and highway work.

Most important, the committee would allow the legislature, with a three-fifths vote, to override the earmark and appropriate highway tax money for other uses.

STATE INDEBTEDNESS - The committee proposal would remove the "unrealistic" existing \$100,000 debt limit but require a three-fifths vote of the legislature to incur any debts. The proposal also specifically would require a balanced state budget and prohibit the legislature from going into debt to balance the budget.

LOCAL GOVERNMENT - The committee proposes to remove the constitutional limitation which prevents local governments from receiving financial aid from state taxes. The legislature now employs elaborate subterfuges to circumvent the restriction but still manages only a trickle of aid.

The committee also proposes to remove from the constitution the existing local government debt limit of five per cent of taxable valuation and instead leave the local limits up to the Legislature.

ConCon argues 'clean, healthful'

HELENA (AP) - Montana Constitutional Convention delegates argued over adjectives Wednesday when they began consideration of an environmental article.

They rejected an attempt to add the words "clean" and "healthful" to a subsection of an environmental article proposed by the Natural Resources and Agriculture Committee.

The committee recommended a subsection saying: "The State of Montana and each person must maintain and enhance the environment of the state for present and future generations."

Delegate George James, D-Libby, unsuccessfully tried to amend the section to add the words "clean" and "healthful" before "environment" and also tried several other modifications.

The attempt failed 44-40

Those who signed the committee report resisted, saying the adjectives would dilute the environmental section. C. B. McNeil, R-Poison, said the section was the strongest in any state constitution and thus opposed the amendment.

the unamended section as being "absolutely worthless."

He was supported by Mae Nan Robinson, R-Missoula, who said the descriptive adjectives had been used in most state and federal laws. She also criticized the use of the word "maintain" in the proposed subsection.

"I think it's clear we don't want to maintain the present environment in Missoula or Columbia Falls," she said.

George B. Heliker, D-Missoula, quoted a University of Montana law professor who said the descriptive adjectives were needed. John P. McCrory of the law school wrote Heliker that the adjectives were needed to insure that the present environmental problems are not perpetuated.

Joseph McCarvel, D-Anaconda, asked if the amendments would allow nonsmokers to take smokers to court for polluting the air. Another delegate, Max Conover, D-Broadview, expressed fears that a tougher section might hurt Montana agriculture, but James said he was certain the courts would be reasonable in

Only Unicameral Legislature Mirrored in Convention Thought

EDITOR'S NOTE: The Montana Constitutional Convention will be considering the possibility of a unicameral legislature. This report is from Lincoln, Neb., site of the only unicameral legislative body in this nation. The writer — Odell Hanson — has covered legislatures both under the bicameral and unicameral concepts. Here is his report.

By **ODELL HANSON**
Associated Press Writer
LINCOLN, Neb. (AP) — For 25 years, Nebraska has harbored the nation's only unicameral (one-house) legislature.

Adopting the system is about as foreign to the minds of Cornhusker State legislators as secession from the Union.

Nobody has been trampled in the rush to follow the trail blazed by Nebraska, but at home, the system stands thoroughly accepted.

Not a serious move to revert to two-hous. lawmaking has developed since voters in 1924 approved the enabling constitutional amendment.

The system came under particular scrutiny after the U.S. Supreme Court enunciated the "one man, one vote" doctrine. Students of government wondered if one house wouldn't do as well as two, if both must be apportioned solely on the basis of population.

Observers from states eyeing a possible switch to one-house legislating have turned up frequently, but no state has made the plunge.

The Unicameral — Nebraska uses the word as a noun —

has been "a little like the bearded woman in the circus sideshow," an observer once suggested. "She gets a lot of attention but nobody wants to take her to lunch."

The 1972 Legislature currently is in the midst of a session limited to 60 legislative days.

Annual Sessions

From its inception in 1937, the Unicameral had met in regular session every two years. That changed last year when a constitutional amendment providing annual sessions of limited length took effect.

In odd-numbered years, lawmakers can meet for 90 legislative days, but may carry bills over to the 60-day even-year session which follows.

The legislature is composed of 49 state senators elected on non-political ballots. They are elected for four-year terms on a staggered basis and receive an annual salary of \$4,800. Only while doing legislative work between sessions, such as interim studies, do the senators draw expense money. Then they receive only actual expenses.

The late U.S. Sen. George W. Norris of Nebraska is credited largely with inducing his home state to adopt the unicameral system.

He wore out two sets of automobile tires in the summer of 1934, campaigning for the constitutional change.

A liberal acclaimed as the father of REA (Rural Electrification Administration) and TVA (Tennessee Valley Authority), Norris brought to the fore the force of his own per-

sonality and persuasive argument.

He would note that the bicameral arrangement was patterned after Britain's Parliament where the two houses represented different classes of people — Lords and Commons.

"But in this country," he said, "we have no such classes and the constitutions of our various states are built upon the idea that there is but one class. If this be true, there is no sense or reason in having the same thing done twice, especially if it is to be done by two bodies of men elected in the same way and having the same jurisdiction."

The early 30's were depression years and Nebraskans may have been influenced also by the chance to economize.

It had cost \$106,400 in salaries to pay 100 house members and 33 senators in the last bicameral legislature.

The Unicameral began with 43 members, who split up a constitutionally set \$73,000 limit on total biennial pay. That amounted to \$372.09 per senator per year. Voters approved a pay raise to \$2,400 in 1961 and \$4,800 in 1969.

Membership was increased from 43 to 49 and terms of office were changed from two to four years in 1966. There have been recurring moves to switch from non-political to partisan election of senators, but the legislature itself has never chosen to put the issue on the ballot. Initiative petition efforts have fallen short. The legislators, in short, like the absence

of party labels.

The legislature has its critics. They complain that too many bills are introduced and passed. Over the past two decades, an average of more than 60 percent of bills introduced have become law.

Critics and Defenders

They contend the body, shorn of party divisions, lacks leadership but is composed of 49 independent senators going individual ways without group discipline.

Defenders of the system maintain the smaller, single body has attracted a better quality legislator, saves money, is more responsive to the public and brings proceedings into the open.

Deterrents to hasty or contrived action are written into the state constitution and legislative rules or encouraged by custom.

At least five legislative days must elapse between in-

roduction and passage of a bill. Nearly every bill introduced is referred to a standing committee for a public hearing. Once approved in committee, a bill makes at least three floor appearances for debate, scrutiny and amendments. The governor must approve each bill passed, veto it or let it become law without his approval. A three-fifths vote can override his veto.

Legislation which has majority support cannot be pigeonholed, and any senator may call for a record vote on any proposition before the full body at any time.

"It's like working in a fish bowl," senators say.

A daily worksheet shows the status of every bill before the body and newsmen have the run of the legislative floor at all times, except when bills are receiving their final reading — a word-for-word reading aloud, required by the constitution — just before the final vote.

Survey challenged

In reference to your front page headline, "Constitution Ratification Outlook Dismal, Survey Finds," I must express my amazement that Frank Adams as a professional journalist would sign his name to such a concoction of journalistic mish-mash.

This analysis of the state wide image of the Convention is based on such nebulous sources as "a lobbyist who has been traveling over the state from Billings west and up to Havre," "one lawyer who travels around quite a bit," or "one lobbyist (who) said he was 'up to Ovando and quizzed the people in Trixie's, and the people knew something was going on.'" These are the same types of "reliable" and "informed" sources which contributed so much to the sensationalism and humbug in other now defunct periodicals and papers.

I cast no aspersions on the lobbyists; I am sure what they told Adams are their candid impressions. Since the article did not attribute the quotes to particular people, however, the Tribune overtly disregarded its policy to "Report the news fully and impartially in the news columns."

How is the public to know that Adams didn't interview every anti-convention lobbyist at the capitol? Certainly the spheres of association of these people might be quite different from those of strong reform minded lobbyists.

Adams states "The indirect nature of the survey may open it up to challenge by the scientific pollsters." This is the only conclusive statement in the entire story. I wouldn't stake a career on drawing meaningful conclusions from the inconclusive, nonrandom ill-advised survey that Mr. Adams conducted.

Walter Lippman said in 1965, "As the free press develops, the paramount point is whether the journalist, like the scientist or scholar, puts truth in the first place or in the second." I would encourage following its established reporting policies.

RANDY GRAY, 3100 4th Ave. N.

Proud of ConCon

"I attended a session of ConCon Feb. 24 and have a few comments to make.

...Was amazed at the attendance. Ninety-seven out of 100 delegates in their seats at the opening gavel. Our Yellowstone County delegation was all present—two of them hadn't finished reading their papers when the session opened.

Debate was interesting, although at times somewhat drawn out. At one point I was amazed at voluble Chet Blaylock

from Laurel. Came Chet's turn to speak and he said, "I support the amendment," and sat down.

This is a hard working group of people. They were in session until 11 o'clock the previous evening. There are many women delegates—I didn't count them, and they were being heard. Making sense too.

I think we can be proud of the convention. Sixty days might not be enough time for them to finish the job. Why do we Montanans insist on putting time limits

on our legislators? One woman delegate reminded the convention that the last minute rush at our recent legislatures has cost the state some \$10 million through inadvertent boo-boos.

As I left the hall I wasn't sure if in the end they would unite behind a unicameral house, buy some more bi-cameral setups, try annual sessions or be for meeting every other year as in the past. Whatever they decide I think I'm going to like it.

Dick Hughes
920 Burlington Ave.

The small society

by Brickman



Con Con Extends Rules For Agriculture Dept.

HELENA (AP) — The Montana Constitutional Convention retained Thursday the constitutional status of the Department of Agriculture.

However, delegates enlarged the status of the agriculture. They directed the legislature to provide for the department, as the 1889 constitution does.

The legislature, in addition, must "enact laws and provide appropriations

The legislature, in addition, must "enact laws and provide appropriations to protect, enhance and develop all agriculture of the state." The old section merely provided for the department and a commissioner of education.

The section was approved and recommended by the Natural Resources and Agriculture Committee.

Daphne Bugbee, D-Missoula, asked why the department was included in the constitution when another section allows for 20 or fewer executive departments.

Proponents such as A. W. Kambhoo, R-Forsyth, said that agriculture was the state's largest industry.

"It certainly is entitled to a place in the constitution," he said.

Mrs. Bugbee termed the section unnecessary.

Delegates approved the section 77-4. Voting against it were Mrs. Bugbee; Richard Raeder, D-Bozeman; Lucile Spoor, D-Missoula, and Jean Bowman, R-Billings.

The other agricultural section which maintains the right of the state to levy livestock and agricultural goods, also passed.

It allows levies for such purposes as disease and predator control, inspection, research and promotion.

Mrs. Bugbee also questioned the need to include this section in the new document.

"If my children and I want to put money in the bank, it's our business," she said. "Why put it in the constitution?"

E. S. Gysler, R-Port Benton, said the Montana Supreme Court has said that if farmers and ranchers are going to assess these levies, it must be spelled out in the constitution.

Dislikes News Coverage

Editor, Independent Record: As the wife of a Constitutional Convention delegate, I wish to protest the reporting of this convention by your Helena based reporters. I think the time has come for responsible reporting.

The Feb. 20 issue of your paper, for instance, carried a story of the award of a Red Cross Certificate of Merit to a Corvallis girl. At no point in this report was there a mention of the fact that Delegate Mrs. Lawrence Pemberton, last year's Montana Newswoman of the Year, was the one who came from the floor to introduce the young lady and that Mrs. Pemberton represented the American Red Cross. Mrs. Pemberton has long been a member of the Red Cross in Montana and a national representative. She made quite a speech of introduction and the only mention went to our president the Honorable Leo Graybill.

On top of that (and other slanted news) your reporter Daniel J. Foley reported in the Feb. 27 edition that we are at a status quo; but he was wrong! He just plain neglected to say that the legislative days (five-day work week) were reduced from 90 to 60 days. This amounts to three months of legislative days vs. the old Constitution of approximately 44 legislative days.

If it had been left at 90 legislative days that would have approximated four months. This would actually set up a very professional legislature.

The people of Montana do not want this. This legislature

would meet annually, not bi-annually.

So, we resent your reporting and have a right to do so. If the news media continues in this manner I suggest that you are asking for trouble. The people of this country do not respect this type of reporting and will some day do something to restrict it. I believe in freedom of speech all the way, but I expect objective, not slanted reporting from you and we as American citizens demand it.

Mrs. Topsy B. Johnson Busby, Mont.



"If they'd set the voting age still lower, I'd support Gas who runs the soda shop."

Con Con Tax Proposals Worry Butte's Sen. Lynch

BUTTE — State Sen. Neil J. Lynch of Butte, concerned with the possible impact of Constitutional Convention delegate tax proposals has issued the following statement concerning state property tax levies:

"I am concerned with the proposal of the Montana Constitutional Convention to eliminate or remove the present 2 mill limit on property taxes that the state may levy. I am afraid that this would open Pandora's box and cause the already excessive property taxes to skyrocket.

At the present time the lion's share of property taxes are levied at the local level with some limitations. The constitution allows a statewide levy up to 2 mills. If the latter limitation is removed it could mean that we would be faced with an unlimited state property tax in addition to our local property taxes. We can ill afford any additional property taxes. I realize that this move of the Con Con was promoted by court decisions which require state equalization of property taxes for educational purposes. There are some counties in Montana that pay much greater property taxes than others and it would be desirable to equalize this situation.

"However, we must be assured that there will be no further increase in property taxes in those counties which have already reached an intolerable limit. If the Constitutional Convention feels that the 2-mill state property tax limit must be removed, I would ask that some assurances be given that it would mean that the total property tax on any individual dwelling be not increased from its present level. "In other words that state levy should be in levies of local property taxes and not in addi-

The 'right' to die

There is a proposal floating around the Constitutional Convention in Helena labeled "The Right to Die." I would like to set the record and the lady from Alberton who made the proposal straight. The correct name for the "right" to die is euthanasia.

The idea of euthanasia originally was an easy, painless death for those suffering from prolonged and incurable diseases. However, euthanasia gradually expanded to include not only the physically ill but the mentally ill as well. It has also been used by some societies to remove anyone deemed "unfit." The classic example of such a society was Nazi Germany. Hitler's idea of "unfit" was anyone who did not fit his mental picture of a pure Aryan.

I have two objections to euthanasia. The first is religion. My religious convictions tell me that only God has the right to decide when, where and how we must die. Advocates of euthanasia say that doctors play God when they make life and death decisions. I disagree. Doctors promise that they will do all in their power to preserve life.

The second reason I oppose euthanasia is fear. I am basically distrustful of government. If we stand by and allow the killing of the terminally ill, I fear that in time, little by little, we might expand the use of euthanasia to mentally ill and society's misfits. Who knows what might happen if we allow something like this to start?

G. MICHAEL REYNOLDS, Nampa.

Constitution Protects Agriculture

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The legislature, in addition, must "enact laws and provide appropriations to protect, enhance and develop all agriculture of the state." The old section merely provided for the department and a commissioner of education.

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To Influence Con Con Decisions State Office Is Accused of Using 'Scare Tactics'

Chamoux Accused of Scare Tactics
The chairman of the Constitutional Convention's Executive Committee Saturday accused the State Department of Administration of using "scare tactics" in attempting to influence the decisions of the convention.

Public Information Director Con Con to Phase Out One Job

HELENA (AP) — The phasing out of the job of public information director at the Constitutional Convention was announced Saturday.

The Administration Committee approved Saturday a request from the Public Information Committee to notify Director Elizabeth Harrison that her job will end March 12.

Public information activities, however, are expected to pick up considerably when the convention adjourns.

An additional campaign to inform voters of the convention's work is planned between the convention adjournment and June 3 when voters will ratify or reject the new constitution.

The Public Information Committee decided to terminate Miss Harrison's job at an unannounced meeting Thursday.

Margaret S. Warden, D-Great Falls, who heads the committee, said:

"We decided against keeping Elizabeth for money reasons."

The Public Information Committee, as well as the convention, has been hard-pressed for funds. However, the convention is likely to receive about \$20,000 in federal funds for public information activities.

Mrs. Warden said the meeting, which Miss Harrison attended, was not announced because "it just came up."

Mrs. Warden said post-convention informational activities had not been determined. Some of the committee members may work on the campaign without pay, she said.

It is believed that Miss Harrison is being let go for other reasons, too. Some delegates said privately that President Leo Graybill Jr., D-Great Falls, has not spoken to Miss Harrison, his choice for the job, for several weeks.

Graybill reportedly was angered when Miss Harrison signed an employe petition protesting his "dismissal of a secretary."

Miss Harrison did not want to discuss her termination.

She had worked as an assistant for Harriet Miller, former superintendent of public instruction, in the past. Miss Miller recently announced her resignation for Congress.

It was not clear what she would do or say anything that would hurt the efforts of the people who are working here."

Miss Harrison said she would handle her affairs as "in a work as best as I can."

spell, referred to an unsigned letter circulated by the state agency as a "parade of horrors" and said "the very tactics and exaggerations employed in this case, substitute the need to provide constitutional protection for genuine public officials from unwarranted state interference."

Chamoux was referring to a memo issued by the office of State Controller Doug Saxby, which stated that a proposal recommended by the convention would give the State University System complete autonomy in fiscal and administrative matters without any existing legislative controls. Saxby, who heads the State Department of Administration, had listed 12 areas in which he said the committee's proposal would exempt the U system from state fiscal and administrative controls.

Chamoux's prepared statement said that the "summons of a letter by a state agency filled with untruthful and a few instances of a regrettable act."

Chamoux said that the letter, which was discovered to have been written by Saxby, was distributed unsigned to a few convention delegates and was only incidentally discussed by the press.

Chamoux charged that when a member of the Education Committee said asked the Department of Administration for information about the letter, he was told there was no such letter because "it was not the business of the Department of Administration to get involved in convention debates."

Chamoux said the department ignored the opportunity to publicly express its views during two weeks of open and well-publicized hearings in the Capitol two floors above its own office.

Chamoux labeled as "blatantly untrue" the primary charge in the department's letter that the proposed provision would give the U system complete autonomy in the areas of finance and administration without any control by the legislature or central government.

Chamoux said the department should retract its false accusation because the legislature would "still be absolutely free to appropriate exactly the budget it desires and to audit its use."

Secondly, Chamoux said that the department's claim that it would be impossible to sub-

stantly report on the state's financial operations was absurd. U system units have been turning out annual reports of double entry books for years, he said, and would continue to do so in the proposed system. The committee chairman said that there are nine full-time certified accountants employed by the U system, compared to one in the Department of Administration. Chamoux said the Department of Administration had never turned out a financial report reflecting the total financial operations of the state and that it is the department which has been negligent in informing the taxpayers how their dollars have been spent, not the U system.

Thirdly, referring to the list of 12 controls from which the U system is supposed to be exempt if the new provision is adopted, Chamoux said that some exemptions would not be made, some are trifling, some relate to programs not even in existence and a few relate to bureaucratic controls which are presently in dispute.

The release then related Saxby's list, point by point. For instance, Chamoux said that the proposal would not exempt U system operations from legislative audit of their operations, as claimed by Saxby. "The legislative auditor works for the legislature and would continue to audit units of the University System as he saw fit. Legislative auditors are continuously

at work inspecting the operations of the universities in those states with similar provisions," he said.

Saxby had claimed that the proposal would exempt U units from having their construction reviewed by the state architect. Yet, Chamoux said, the new Science Building at the University of Montana, which has severe architectural defects, was reviewed by the state architect.

Chamoux thought that Saxby's statement that the proposal would exempt U units from the statewide budgeting and accounting system was "an interesting charge, because it is a system not even in existence."

Saxby said the proposal would exempt the U system from executive review of personnel practices. Chamoux maintained the wording does not prohibit executive review. "Most certainly," he said, "the U system would not want its hiring practices subject to political manipulation. The executive branch has placed personnel on the U system payroll previously and such political placements are not in the best interests of education."

In conclusion, Chamoux said that typical of the intent of the letter was the "McCarthyite tac-

to the constitutional status of a Board of Regents."

Saxby had said in his letter that "an autonomous board is not responsible to the people. This was vividly demonstrated

during the campus riots at the University of California at Berkeley. It took the governor several years to get control of the board and force changes in campus policy. In the meantime, considerable damage to the prestige of the institution developed."

Chamoux said that anyone who has any knowledge of higher education knows that the Berkeley situation had nothing to do with the powers of the Board of Regents. More violent confrontations occurred at San Francisco State which had a governing board with no constitutional protection whatsoever, he said. There have been no riots at the Universities of Georgia, Michigan, Minnesota, Colorado or others which have governing boards with constitutional status almost identical to that proposed for Montana, he said.

The real intent of the Department of Administration, Chamoux said, as revealed in the letter, is that "the department is on the way to becoming the most powerful agency in state government, through its growing control over centralized funding, and it does not want this power position threatened."

Chamoux said that the committee's aims were to: Provide more effective and rational coordination of the entire system of higher education through the Board of Regents, protect internal freedom in the U system and to protect higher education from creeping controls from centralized bureaucracies.

Agency Fights U System Proposal

By DENNIS E. CURRAN
ER State Bureau

The State Department of Administration is challenging the Constitutional Convention Education Committee proposal to give the State University System more internal control.

In a letter circulated at the convention Thursday, the Administration Department contended that the Committee proposal would remove the universities from control of the legislature and central state government.

The Department recommended that the Board of Regents' power over financial and administrative affairs be prescribed by law.

However, the Education Committee's position is that higher education won't be completely free from control by purse-wielding legislators, but needs greater internal freedom than is now law.

The Committee proposes two separate state boards of education for elementary and secondary education and higher education. Higher education would be governed by an appointed board of regents which would be "a body corporate" and which would "govern and control the academic, financial and administrative affairs" of the university system.

Academic freedom is the goal of the committee proposal.

The Committee resumed that to protect higher education from outside interference and control and the "centralized, bureaucratic state," the Board of Regents should be made a separate corporate entity with power over its internal administration and budgeting.

"Without overtly intending to curtail freedoms, the modern state has absorbed an increasing amount of power and control in the name of efficiency," the committee report said.

The Administration Department, which handles statewide

accounting and budgeting, said in the unsigned letter that it favors safeguarding academic freedom.

However, the letter said the Committee proposal would "shatter" the concept of the strong state executive by removing the university system from centralized control.

Giving the universities full authority could exempt them from legislative audits, using the state treasury system, having construction programs reviewed by the state architect, central purchasing, warrants and motor pool, statewide accounting or various executive branch reviews, the Administration Department said.

"If the University System is excluded from the state's financial and administrative rules and regulations, it will be impossible to adequately report on the state financial operations," the letter said. "The taxpayers are entitled to know where and how their whole tax dollars are being used."

But the Education Committee's research analyst, Bruce Stevens, said that under a board of regents with corporate powers, the University System would not be removed from all central accounting controls, reviews and audits.

While possibly not binding by law, legislative audits, joint resolutions and executive branch reviews probably would be taken seriously by the regents. "If for no other reason than the legislature's financial control over the University System appropriations," he said.

"If they (Regents) would keep thumbing their noses at the state, the legislature could come back and cut their funds," he said.

In cases of conflict between the University System and state agencies, it might be necessary to go to court, he said.

The Education Committee report will be debated late next week.

For Future Voters

Our next generation of Montana voters may well be some of the best informed in the state's history as far as constitutional law, background, philosophy and state government are concerned. It will be due, in part, to a project initiated by Dolores Colburg, state superintendent of public instruction.

Packets of information concerning the Constitutional Convention are being mailed to Montana educators from the superintendent's office.

Mrs. Colburg says the material, called the Idea and Resource File, is designed to give Montana educators background and ideas from which to launch a study of the Constitutional Convention and its related activities.

Information in the file includes everything from how to organize a tour of the Capitol during the convention to special studies on

the constitution and convention and detailed reports on the decisions, debates and workings of the convention.

The file is growing constantly as additional inserts are mailed out during the convention.

It is neither prescriptive nor limited to any specific class level but is designed to help disseminate information that can be adapted to each school's curriculum.

While tomorrow's voters are, in general, better educated than we, they will also face a host of new problems. A good understanding of the constitution and the philosophy behind it will surely be a big asset in helping them to work within the framework of that charter.

The Idea and Resource File should do much to foster that understanding.

Reclamation Battle Sees a New Twist

INDEPENDENT RECORD
Helena Bureau

Constitutional Convention committee reports frequently run into tough opposition when they hit the convention floor. But Thursday's battle over land reclamation brought a new twist.

Members of the Natural Resources Committee led the effort to scuttle their own majority report on reclamation.

Delegate Douglas Delaney, D-Grand Range, started the onslaught with a motion to delay the Committee's strong reclamation action tentatively. He explained that he felt the environmental protection section organized Wednesday is sufficient.

Delaney told delegates that the committee proposal, requiring reclamation to "be good" as a condition for use prior to distribution, might prevent him from having a gravel pit on his Granite County ranch.

Others members of the Committee, including John Anderson, R-Alder, and Jeff Braxton, D-Deer Lodge, criticized Delaney's motion. And Committee members Steve Gyster, R-Foot Butte, and A. W. Kimball, R-Foothills, admitted they'd be happier with different language.

The switch angered Helene George Harper, M-Deer, who noted that Wednesday the same Committee used the "reclamation is always best" argument in registering all efforts to change even one word of its committee report on environmental protection.

Harper noted that the Committee members opposing the report Thursday had all signed it. "I'm really concerned," Harper said. "This committee did not act in good faith with the body."

Harper later explained that three of the members tried to put out a minority report but were voted out of order.

Con Con Asked To Assure School Funds

HELENA (AP) — The Montana Education Association, asking it "would like to see greater safeguards of the public school fund, put its teeth behind the proposed education article of the Constitutional Convention.

"M.E.A. President Will Brown of Missoula said the organization would urge only that an amendment be provided for the safe investment of public school funds, the funds of the state university and funds of other state institutions. In substance, the board of state funds of interest. Overall, he said, the article drafted by the education and Public Funds Committee "will adequately provide for meeting the educational needs of Montanans in the future."

Says State Association Exec

Trend Is to Single Education Boards

Tribune Capitol Bureau

HELENA — Jim Kenny, executive secretary of the Montana School Boards Association, says that while it's true that most states have more than one board of education, the trend is toward single boards.

The MSBA has been lobbying the Constitutional Convention for retention of a single state board of education, as opposed to a proposal by the education committee that separate boards be established for public schools and universities. The organization approved a single-board resolution without a dissenting

vote, at its annual meeting last fall. (Ninety per cent of the pupils in the state are in districts whose boards are members of the MSBA.)

In a recent counter-attack on the MSBA's position, education committee chairman Rick Champoux, D-Kalspell, said Montana and Idaho are the only states with a single governing board for education.

Kenny says he can think of at least one more — New York — but that "we argue that there are only four or five states where two boards are locked into the convention." The others, he says, got their dual-board systems through legislative action.

Kenny says he checked with the executive secretary of the National Association of State Boards of Education Friday and

was told that the nationwide trend is toward a unified board and the concept of "career education," that is, looking at the child's education as an entirety.

Kenny says the official — David Transgard of Denver — said the best example of a unified board is New York's which governs everything from kindergarten to post-graduate college. And Transgard cited Utah, Colorado, and Indiana as three states in the throes of a struggle arising out of their dual boards.

The trustees' fear, among other things, that a separate board for public schools would tend to weaken local control over education. But Champoux — a college professor — says "the committee feels that the (two) boards strike a proper balance between centralized administration and the coordination of education."

Delegate Sees 'Hypocrisy' in Con Con Votes

Tribune Capitol Bureau

HELENA — The youngest Constitutional Convention delegate Friday accused some of her fellow delegates of "hypocrisy."

Mae Nan Robinson, R-Missoula, saw an inconsistency when delegates argued that some environmental provisions defeated earlier this week were "statutory" yet some of the same delegates Friday supported a ban on using certain funds for non-highway purposes.

Mrs. Robinson said it was too bad that the environmentalists did not have a strong lobbying group behind them. Like the

lobbyists opposing diversion of certain highway funds. She read a long list of lobbying groups which she said had supported the so-called anti-diversion amendment for certain highway funds.

Mrs. Robinson thought it was too bad that "a few powerful lobbyists can tell us what to do." She observed that the trend of the convention has been to "not believe in something constitutional, if you don't believe in it's statutory."

Con Con Sample Shows Support for Constitution Draft

By JOHN KUGLIN
Tribune Capital Bureau

HELENA — Montana's half-drafted constitution is supported by an overwhelming majority of the convention delegates polled by the Tribune.

Despite the fact that votes on many major issues carried or lost by razor-thin margins, most of the delegates queried said they would ask the voters to ratify the first proposals for constitutional change adopted by the convention.

Twenty-five of the convention's 160 delegates — representing a cross-section in political philosophy, age, occupation and geographical distribution — were polled.

Comments made by the delegates ranged from an opinion that "there's lots of goodies in this new constitution" to the statement that the environmental provisions are "a farce."

Delegates have voted on reports dealing with the legislature, natural resources-agriculture and the judicial and executive branches. They have voted on most of the proposals by the general government committee. When the poll was taken, delegates were finishing debate on revenue and finance issues. Delegates will vote on five new reports during the next two weeks.

The delegates polled most frequently agreed that the legislative article was the convention's best piece of handiwork to date.

Three of the 25 delegates — Charles Mahoney, J. Clancy, Grace Bates, D-Manhattan, and Erv Gysler, R-Port Benton — were unsure whether they would ask the voters to approve the first proposals adopted by the convention.

Three delegates — Archie Wilson, R-Hyham, Frank Arness, D-Libby, and Robert Kelleher,

D-Billings, — said they could not ask the people to ratify the first half of the constitution.

Nineteen of the delegates said they would, at this point, ask the voters to ratify the proposals at the June 6 special election. They were Jerome Cate, D-Billings, Carl Davis, D-Dillon, Robert Vermillion, D-Shelby, Daphne Bugboe, D-Missoula, Marian Erdmann, R-Great Falls, Mac Nan Robinson, R-Missoula, George Rollings, D-Billings, George Harper, J-Helena, Ariyna Reichert, D-Great Falls, Dan Harrington, D-Butte, William Swanberg, D-Great Falls, Mark Etchart, R-Glasgow, Fred Martin, R-Livingston, John Anderson, R-Alder, Ralph Studer, R-Billings, John Leuthold, R-Molt, Louise Cross, D-Glendive, Jerome Loendorf, R-Helena, and Virginia Blend, D-Great Falls.

"I don't think I could tell the people to vote for it, though I suppose that what we've done is

inoffensive," said a disappointed Arness. The executive article, in his opinion, is "no improvement. It is just a recognition of what is already there. The Judicial Article is a step backward." However, Arness thought that the proposals by a majority of the members of the Revenue and Finance Committee "are modestly progressive." Arness, an attorney, doesn't believe the convention has "even come close to re-examining the fundamental structure of our government. I thought we should give the voters a choice. It's no choice to restate the present constitution there is no real alternative for the voters."

Kelleher, also an attorney, said he would not vote against ratification of the constitution. "But at this time I don't feel like going out and breaking my back to get it ratified," he said.

In Kelleher's opinion, Montana's 1299 constitution has been

revised to about the year 1905. "When we started the reformers outnumbered the standpatters. But the standpatters were outmaneuvered by the lukewarm reformers," he said.

"We had a beautiful opportunity. We could have written a good document," he said.

Wilson was dismayed by the convention's action Friday in centralizing property tax equalization. "This is a good example of a unicameral body. Proposals are passed through too quickly without the opportunity to reconsider hasty action," Wilson said.

Mrs. Bates, one of the delegates who hasn't decided if she will ask the voters to approve, everything the convention has done up to now, said "The voters are asking for a better constitution, not change for the sake of change."

Typical of comments by supporters of what the convention

has done was the statement of Mrs. Reichert. "It would be ridiculous to work against the constitution."

"I've put my whole heart into this. I'm very satisfied. I'd have no qualms about asking the voters to approve what we've done," Mrs. Blend said.

"The delegates are generally more optimistic about what we've done than the people in general are," said Leuthold, one of many delegates who writes a column for weekly newspapers in his area.

"The more controversial issues have been handled satisfactorily. I'd ask the people to vote for it," said Anderson.

"I'll work like a dog for it," said Swanberg.

Though he said he would support what the convention has done, Rollins said he opposed submitting some issues, such as whether to have a unicameral or bicameral legislature, to the

people as separate proposals. "The people didn't send us up here to choose alternatives," he said.

Though Mrs. Robinson said she could "certainly campaign for this constitution," she was very disappointed that the convention didn't take a stronger stand in support of environmental issues.

"Practically everything we have done is an improvement at this point," Vermillion said. Vermillion said that the portions of the convention's work that he didn't agree with he would at least explain to the people. "I'm going out and ask people to vote for it," he said.

"We have made some good reforms. This is a constitution that I think people in my area will accept," Davis said.

"If we do nothing else, the reforms we made in the legislative section makes this worth campaigning for," Cate said.

President's Panel: States Fund School

WASHINGTON (AP) — State governments should assume the major burden of financing public education, reducing reliance on the local property tax, a presidential commission recommended Monday after a two-year study.

President Nixon's Commission on School Finance said the federal government should help speed the process by providing incentives to state governments to help them switch over to state-financed education within five years.

But the federal role in financing education should only be supplementary, the 18-member commission said. It was a recommendation that runs counter to those of many private educational groups which have urged an increasing federal role.

The commission said incentives to smooth the path to greater state-financed education could be set up in several ways, with the cost to the federal government estimated at \$4 billion to \$5 billion over five years of transition.

As the report was released, Nixon held a 75-minute meeting on school busing with his Cabinet

committee. A spokesman said the President will be holding more meetings before making his position known on the busing issue. No statement is likely before Tuesday, he said.

The school-financing panel urged an additional outlay of \$1 billion a year to help inner-city schools through a federal matching program.

The commission said it deliberately avoided the issue of saying where the new federal money would come from, since it would have to become involved in "many considerations of intergovernmental relations and tax policies."

It acknowledged that one proposal under discussion is the value-added tax, a form of a national sales tax that President Nixon has under consideration. But it took no stand on the idea.

The tentative proposal for the value-added tax put forth by Nixon would bring in about \$16 billion a year, with the federal money being used to supplant the local property tax. The proposal is under study by the Advisory Commission on Intergovernmental Relations.

People's voting power best check

It is about time age requirements for elective office were lowered to include all registered voters. After all, some are more capable for elective office at 25 than some are at 45.

However, just lowering the age for prospective candidates is not enough. Unreasonable filing fees will still keep the candidacy door shut for the great majority of voters, especially in the gubernatorial contest. Petitions instead of the primary election option is also detrimental, along with most of the residency requirements. Some people say, let's keep the two party

system. I say that an open option for independent candidates will make the two major parties work more to the interests of the people, thus preserving themselves by their efforts on our behalf.

Bicameral legislatures are no longer needed, especially in Montana. If the Initiative and Referendum is retained, even with a unicameral there is checking power. Actually what better checking power is there than the petition and voting power of the people?

GENE D. HALSEY, Billings

The small society

by Brickman



ConCon has committee of nitpickers

By DENNIS E. CURRAN
Gazette State Bureau

HELENA—It's shortly after 3 a.m. Saturday and 10 people are huddled over their second or third cups of coffee talking about commas and misplaced modifiers.

"Pretty dull fare, I'm afraid," one of them, a tall, silver-haired man, grins in the direction of a newspaper reporter.

But important fare. The people are part of what is now the Constitutional Convention's most active committee—the Committee on Style, Drafting, Transition and Submission, or Style and Drafting for short.

THE COMMITTEE HAS the important job of making Montana's new constitution make sense. Like newspaper editors, the committee members "scrutinize every word and phrase to make sure it says what it's supposed to say."

"We're seeking precise, exact words," says committee Chairman John M. Schiltz, a 37-year-old Billings attorney who in 1970 ran unsuccessfully for the chief justice's seat on the Montana Supreme Court.

Will we have another hot issue?

On Saturday, the hot issue before Schiltz's committee is the judicial article. He hopes to finish it Tuesday and move on to natural resources and taxation.

HIS BUSY COMMITTEE, which is sometimes jokingly called "scruple and dissecting," meets every day at odd hours in an attempt to keep up with the fast pace of the convention. The convention must finish its work by April 6 in order to be able to put the constitution on the June 3 election ballot, and this means the style committee can't be more than a few days behind the convention as a whole.

And to committee members rise early to hover over commas and modifiers, subjects and verbs, meanings and intent.

"It lacks parallelism, but I'm not going to sweat about that," Crowwell, observes of a phrase as the meeting draws to a close. "It expresses the intent. It's a half sentence, but makes sense."

"Which is the ultimate goal," adds Schiltz.

between style and substance, it checks with the committee that proposed the article and checks the record for intent.

But in one area, the committee is assigned to deal with substance and that role has already caused a minor flap.

The committee recommends which items should be submitted to the voters separately or in alternative form. By its recommendations, it conceivably could resurrect an issue already killed on the floor, but Schiltz is quick to point out that the final decision rests with all the delegates.

"My committee isn't going to decide anything," he tells delegates. "We'll make recommendations and then the fight is on."

BUT SCHILTZ THINKS those recommendations and fights must wait until after all committee reports are debated. He objects to deciding now what should go on the ballot separately.

"I don't want to be bound to put something on the ballot until we judge the relative merits," he says. "I think it's premature just because we have a hot issue at the moment—next

The silver-haired man, Delegate J. C. Garlington, a Missoula attorney, notes that often words approved by the convention take on new and different meanings when subjected to the cold, court-like analysis of the style committee.

SCHILTZ'S COMMITTEE includes some of the best minds in the convention and has the largest professional staff. Six of the 11 members are lawyers, and the staff includes two young lawyers and Gardner Crowwell, a University of Montana constitutional law professor.

With one exception, the style committee does not deal with the substantive issues of the convention. It does not, for example, decide whether justice courts belong in the constitution; it merely works on the grammar, clarity and readability of the JP provision approved by the convention.

"There's great concern with fudging with anything substantive," Schiltz said. "If we do, I raise the flag and say it's substantive or it may be substantive."

WHEN THE COMMITTEE gets into a gray area be-

Article's strength questioned

By DENNIS E. CURRAN
Gazette State Bureau

HELENA — Montana's Constitutional Convention has approved a nice-sounding new article protecting the environment, but some delegates question whether that's enough.

While some hail it as the "strongest" environmental protection statement in any state constitution, others call it unenforceable verbiage which doesn't do anything and which may be restrictive.

If all hinges on interpretation — and to a great degree the extent it is implemented by the Legislature.

The environmental statement as adopted provides:

—THAT THE STATE and each person must "maintain and

improve a clean and healthy environment."

—THAT THE LEGISLATURE must provide enforcement of the duty and provide "adequate remedies" for protecting the "environmental life support system" and preventing "unreasonable depletion and degradation of natural resources."

—THAT ALL LAND disturbed by the taking of natural resources be reclaimed as provided by the Legislature.

According to a majority of the convention's Natural Resources Committee, the statement is the strongest in the country. It means, they contend, that Montana's already fine environment would get even better.

But committee Chairman

Loise Cross and a minority of the convention, about 40 delegates, disagreed. Arguing that the majority proposal was not only weak but possibly restrictive, they launched a spirited, but generally unsuccessful, fight to expand and strengthen it.

THEY VOICE THREE major objections to the environmental provision:

First, they say the provision never clearly states an individual right to a clean environment, only a duty to maintain a clean environment.

Second, they say the provision does not allow citizens a hand they should have in enforcing the duty.

Third, they say the Legislature is not forced to take positive ac-

tion to protect the environment because of the lack of qualifying guidelines and goals in the provision.

AS AN EXAMPLE, they cite the provision that requires land reclamation — period. It does not specify any degree of land reclamation, meaning that the Legislature could provide for an absolute minimum of reclamation and meet the constitutional mandate. The mandate to "maintain and improve" the environment is so broad, they say, the Legislature can claim that it already is doing that.

The two research analysts who worked on environmental protection, Rick Applegate and Chuck Sullivan, think the provi-

sion may actually be restrictive and may in the future limit the Legislature and citizens' standing to sue.

THOSE WHO challenged the majority report led off with a modified public trust proposal and then resorted to various attempts to provide for citizen lawsuits or qualifying guidelines in the provision.

Generally they were unsuccessful, but fate has provided them with a second chance when the Bill of Rights report is debated starting Tuesday. Already there is talk of attempting to add a stronger environmental protection measure to the Bill of Rights.

PUBLIC AWARENESS SOUGHT

Dear Editor:
On behalf of the members of the Public Information

Committee of the Montana Constitutional Convention, I want to express our appreciation for the excellent newspaper coverage of Convention activities to date, and to offer our full cooperation in assisting you in your efforts to keep the people informed.

In this connection, I would welcome an indication from you as to any special needs or problems with which we might assist, and I would like to assure you that we shall do our best to provide full cooperation.

It is impossible for us to overestimate the importance of the service which the press is providing in creating public awareness of this historic event.

As we move from the preliminary work of the Convention into the drafting phase, and as the new Constitution takes form to go before the electorate in June, your services become even more vital. With an informed public as our goal, we want you to know of our willingness to assist you, as you may suggest.

Please let us know if we can be of service.

Sincerely,
Margaret S. Warden
Chairman, Public Information Committee

New Bill of Rights Argued

Convention Considers Public Information Limits

BY DENNIS E. CURRAN
IR State Bureau

An expanded bill of rights aimed at making government more responsive to the will of the people has been drafted by the Constitutional Convention's Bill of Rights Committee.

The committee retained all the rights stated in the 1909 Montana Constitution and expanded some of them and even added new ones.

In general, the new rights seek to give the public greater involvement in government while affording the public continued protection from government. The bill of rights, the Committee report says, tries to insure "a more responsible government that is constitutionally commended never to forget that government is created solely for the welfare of the people."

Here are the new rights as proposed by the committee:

INDIVIDUAL DIGNITY. The dignity of the human being is inviolable. No person shall be denied the equal protection of the law, nor be discriminated against in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas, by any person, firm, corporation or institution; or by the state, its agencies or subdivisions.

RIGHT OF PARTICIPATION. The public shall have the right to expect governmental agencies to afford every feasible opportunity for citizen participation on the operation of the government prior to the final decision.

RIGHT TO KNOW. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy exceeds the merits of public disclosure.

RIGHT OF PRIVACY. The right of privacy is essential to the well-being of a free society and shall not be infringed without the showing of compelling state interest.

ADULT RIGHT. Persons 18 years of age are declared to be adults for all purposes and shall

have the right to hold any public office in the state.

RIGHTS OF PERSONS UNDER AGE. The rights of persons, all fundamental rights of this article except where specifically precluded by laws which enhance the protection of such persons.

NON-IMMUNITY FROM SUIT. The state and its subdivisions shall have no special immunity from suit. (After June 1, 1973).

In addition, the committee proposes some changes and expansions to existing sections of the bill of rights.

It proposes substituting the federal freedom of religion provision, noting that it is simpler and claiming that the present Montana provision has "anti-Mormon bias." The change would not allow public aid to nonpublic education, however.

EMINENT DOMAIN. The right of the state to take private property after just compensation — would be expanded to give private citizens more protection. If they fight the state in court and win, they would be entitled to their legal expenses as well as payment for the property. However, other reforms proposed for eminent domain were defeated.

INDEPENDENT RECORD State Bureau

A University of Montana journalism professor has blasted a proposed constitutional "right-to-know" section as an "ill-conceived provision" which might lessen rather than enhance the public's right to know what its government is doing.

Prof. Robert C. McGiffert says in a letter being distributed to Constitutional Convention delegates that it would be better to have no provision at all than the proposal of the Bill of Rights Committee.

The bill of rights proposal provides that the public should be able to examine government documents and deliberations except when "the demand of individual privacy exceeds the merits of public disclosure."

McGiffert says that last phrase would be "an invitation to public officials to deny the citizen and the press access to records and meeting."

"Under this doctrine, a county assessor or treasurer could block a citizen's efforts to inspect some of the most critical of county documents," he said. "Under this doctrine, inequity and corruption could flourish undetected, with constitutional sanction."

The journalism professor, who teaches a course in law of the press, suggested an alternative wording: "the right of every person to inspect documents and attend meetings of all public agencies shall not be infringed."

He said his proposal would allow the legislature to protect the confidentiality of specific matters, like the names of welfare recipients or juvenile defendants.

"This approach would be far better and far safer than granting government and its officials the right to keep their actions, records and proceedings secret on the basis of such a hazy principle as an undefined 'individual demand of privacy,'" He said.

McGiffert's letter was addressed to Francis Mitchell of Common Cause who has been working to include a right to know provision in the constitution.

The Montana Press Association is distributing McGiffert's letter to delegates and is backing the professor's proposed right to know provision.

Montana Ready to Change Its School Finance System

BY DENNIS E. CURRAN
IR State Bureau

Montana should be ready, constitutionally at least, if John Ferraro's landmark California school financing case comes to Montana.

By allowing statewide property taxation, the revenue and finance article approved by the Constitutional Convention last week gives Montana the flexibility to meet an expected challenge to its present school financing system.

Montana has school funding formulas similar to those in California, where the California Supreme Court told a young Mexican-American, John Ferraro, that using unequal local property tax bases to support public education is unconstitutional because it discriminates against the poor.

Without proper equalization, a local district can spend as much per pupil for education as a poor district and still have a lower tax rate, the court noted.

That case is not binding on Montana, but many think the outcome of the ruling may come. The California theme has been picked up by at least three other courts and now is headed for the U.S. Supreme Court.

The convention's taxation article does not abolish local property taxation in favor of statewide property taxation, but does make some significant changes in the basic structure which would allow future

statewide administration of property taxation would be required. The old two-tier

system, which spelled out state and county boards of equalization, could be replaced by a state-level system of appraisal, assessment and equalization as provided by law. The legislature could continue the boards

of equalization or abolish them. Second, the existing two-mill limit on statewide property taxation was deleted, allowing the legislature to go to a statewide property tax system if it chooses

A 'Desperate Need'

A reader, apparently taking mild issue with our Feb. 17 editorial on "one-issue groups" who would shoot down an entire constitution because they disagree with a single provision, has asked us for some elaboration.

He wants: The Independent Record to specify those areas in the present Montana constitution that are, in the words of the earlier editorial, "desperately in need of modernization."

"Then," says the reader, "the citizenry might be able to determine whether the delegates are directing their attention to those areas as they exist in the opinion of one editor which may or may not be shared by others."

After campaigning for years for constitutional reform in Montana, we had assumed, perhaps erroneously, that further explanation was unnecessary. But perhaps it is, especially in view of the timidity of Constitutional Convention delegates to bring about significant changes in the present pathetic document.

There is desperate need for modernization in the legislative provisions, and to some extent the convention has done so. The voters will have the opportunity to vote on whether there shall be two houses in the Legislature or one. And the convention has put

ing for lawmakers to be elected from single-member districts.

There is a desperate need for modernization in the executive provisions, and here the convention has flunked miserably by retaining all the present elective state offices. This will maintain the inefficient and ineffective division of executive authority and responsibility.

There is desperate need for modernization in the judicial provisions. Here the convention has provided a better method of selecting judges, but in a complete lapse of reason, voted to retain constitutional protection for justices of the peace.

There is desperate need for modernization in provisions for local government — cities and counties. They are hamstrung by the present constitution. The convention has scheduled debate on local government later this month.

There is desperate need to write a constitution that is a real constitution, not a mishmash of statutory law that locks the wheels of progress.

In voting overwhelmingly for a Constitutional Convention, Montanans recognized that their constitution was in desperate need of modernization. But too many of the delegates seem to have

Mahoney 'Worried' About Convention

The honeymoon between Delegate Charles H. Mahoney and the Constitutional Convention is over.

It ended Saturday when the convention, acting on revenue and finance provisions, eliminated the ceiling for state bonded indebtedness and placed no limit on the statewide property tax levy.

"I was taking everything the convention did in stride until Saturday," Mahoney told the Helena Kiwanis Club Monday. "Now I am worried about the convention."

He also expressed concern that the new constitution will permit certain classes of property to be exempt from taxation.

Mahoney said he sees the danger that a governor such as Louisiana's late Huey Long and a willing Legislature can put the state deeply into bonded indebtedness, finance the debt with unlimited statewide property tax levies and then exempt certain classes of property, thereby putting the burden on remaining classes.

The independent delegate from Clancy acknowledged that the present constitutional delimitation of \$100,000 without a vote of the people is unrealistically low, but he said there should be some limit beyond which the state cannot go into bonded indebtedness without approval of the people.

"We can't raise income taxes any more," Mahoney said. "The sales tax is dead. So we're going straight back to property, and if we decide to exempt certain classes of property, then where do we go?"

Under the present constitution, the statewide property tax levy can't go beyond two mills without voter approval.

Mahoney also predicted that an effort will be made this week to get a stronger environmental provision in the Bill of Rights than the one approved in the natural resources section.

Although he said he has frequently disagreed with many of them, Mahoney praised his fellow convention delegates, saying, "Never before have 100 people gathered in the State of Montana who are more dedicated and more honest. They are making their own decisions. Nobody is going to tell them what to do."

Mahoney also predicted that an effort will be made this week to get a stronger environmental provision in the Bill of Rights than the one approved in the natural resources section.

Dahood criticizes con-con coverage

Standard State Bureau
HELENA — A Constitutional Convention leader, Wade Dahood, Tuesday blasted the news media for accenting the negative and neglecting the positive in reporting the convention.

Dahood, chairman of the Bill of Rights Committee, said in a prepared statement that the news media has not fulfilled its obligation to accurately reflect the work of the convention.

"The Montana Constitutional Convention has passed constitutional proposal, annual legislative sessions, governor - lieutenant governor running as a team, some merit selection and retention of judges, and a revised revenue and finance article which includes reforms like elimination of unrealistic debt limits and restrictions against equitable statewide taxation.

Dahood also cited justice court reform, inclusion of environmental and reclamation provisions and reduction of the age limit for holding major state offices from 30 to 25.

However, it should be pointed out that many delegates and students of government have questioned how far-reaching some of the reforms are, especially in light of reforms considered but rejected by the convention.

(The State Bureau has attempted to report passage of all the provisions Dahood cites, as well as the limitations contained in some of them and the defeat of other proposals).

Dahood, an Anaconda lawyer who has been mentioned as a possible Republican candidate for governor, told the State

structure and progressive provisions," he said. "However, the reports that people by the news media have accentuated the negative and substantially disregarded the positive."

Dahood cited 10 reforms adopted by the convention and he noted that other committees, including his own, have additional reforms proposed.

Among the reforms he lists are the unicameral legislative

Bureau that he keeps hearing the proposed constitution is in trouble with the voters already, and he thinks that's because the news media have not reported enough of the good things the convention has done.

Have Woman Official Pushes for City Utility

Tribune Capitol Bureau

HELENA—An alderwoman from Havre has urged constitutional convention delegates to support a proposal to authorize cities and towns to establish their own electrical systems.

Mrs. Donald Conley, in a letter to the Convention delegates, said that the fact that the 1971 legislature gave rural electric cooperatives some territorial protection indicates that "the private power companies may be losing their hold on the state."

Mrs. Conley says that attempts by some Montana cities to establish their own electrical systems have been blocked because of the accepted constitutional provision that Montana cities cannot issue revenue bonds, or apparently any other kind of bond, to pay for electric facilities.

She said that delegates must make certain that the new constitution gives municipalities the right to condemn and finance electrical facilities through issuance of revenue bonds and by other means.

For 1 or 2-House Proposals

Legislature Size Cut

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Delegates suspended their rules and whittled down the size of the proposed unicameral and bicameral legislatures at the Constitutional Convention Tuesday.

They adopted amendments to offer Montanans a choice between a two-house legislature with a Senate of 40 to 50 members and a House of 80 to 100 representatives and a unicameral chamber of 90 to 105 members.

The action, done for several reasons, required that the rules be suspended since the 100 delegates already had approved size limits for both alternatives.

Overturned Tuesday was a section calling for a bicameral legislature with a Senate of 50 to 53 members and a House of 100 to 106 members. Delegates also rejected their earlier unicameral limits of 100 to 105.

The 1971 legislature, which had 55 senators and 104 representatives, reapportioned the state so those running this fall will vie for 50 Senate seats and 100 House positions.

Bruce M. Brown, I-Miles City, supported the motion of Magnus Anselm, D-Anselope, to reconsider action, saying the size limits were too restrictive.

"People experienced with reapportionment say we're in

great dangers with the range," he said.

Anselm, chairman of the Legislative Committee, said he had detected "lots of dissatisfaction with the size of the bicameral size." His committee had recommended a bicameral legislature with a Senate of 30 to 40 members and a House of 60 to 80 members and a unicameral body of 75 to 100.

A strong proponent of bicameralism, Anselm had said earlier he believed the large bicameral size might cause cost-conscious voters to opt for unicameralism because of the reduction in the number of members.

Some delegates opposed reconsidering the article. They said it could start a precedent and lead to delegates trying to open up other articles already approved.

"This convention has deadlines to meet," David L. Holland, D-Bozeman said. "This was hard fought on the floor and fully debated."

The convention, operating on a tight budget, started its eighth week of debate Tuesday. Leaders hope to finish next week, but they have set aside \$40,000 in case debates run over to a 10th week.

Carl M. Davis, D-Dillon, who led the move to raise the sizes from the committee recommendations several weeks ago, op-

posed the attempt to reduce the limits.

"Both the unicameralists and bicameralists are trying to make their articles appealing at the expense of representation," he said.

Thomas M. Ask, R-Roundup, said rural Montana would "completely lose representation" if the sizes were lowered.

But it was two delegates from rural districts—Anselm and Mark Etchart, R-Glasgow—who led the fight for reducing the size of the bicameral proposal.

Supporting the change was E. S. Gyster, R-Port Benton, who said:

"Regardless of what happens number-wise, some towns can control it (the legislature) ... Unless the rural groups start getting together, as they will in a couple of weeks, we're dead sunk no matter what the numbers."

Miles Romney, D-Hamilton, called the lower bicameral limits a "terrible mistake."

Etchart's motions to cut the lower bicameral limits passed 62-30, and Anselm's attempt to reduce the ceilings passed 77-16.

Unicameral supporter Arlyne E. Reichert, D-Great Falls, successfully moved to cut the lower limit of the one-house proposal from 100 to 90.

Abortion Issue Flares, Fails in Con Con

HELENA (AP) — An attempt to outlaw abortions in a new constitution failed Tuesday at the Montana Constitutional Convention.

Robert L. Kelleher tried to amend a section of the proposed bill of rights to ban abortions. His motion was rejected 71-15.

In a section on inalienable rights, Kelleher, a Billings Democrat, tried to insert the word "conceived" in place of

"born" in a section saying:

"All persons are born free and have certain inalienable rights."

"What's the use of having the rights of the living if I don't have the right to be born?" Kelleher asked. "The fetus is the most unprotected human being."

Wade J. Dahood, R-Anaconda, said the issue was legislative and thus did not belong in the constitution. Dahood is

chairman of the Bill of Rights Committee.

In the 1971 legislature, Rep. Dorothy Bradley, D-Bozeman, introduced a bill to legalize abortions but it was killed in committee.

Kelleher sponsored a convention delegate proposal, which the Bill of Rights Committee rejected, that would have outlawed abortions but allowed euthanasia when the patients were being kept alive by extraordinary means.

Lobby vs. Lobby

HELENA—One so-called "Citizens Lobby" has gone for the jugular vein of another at Constitutional Convention hall. Roy Crosby, lobbyist for Citizens for Constitutional Government, Tuesday distributed copies of pamphlet condemning Common Cause as a conspiratorial organization bent on destroying the American way of life.

There are some 500 members of the Montana Chapter of Common Cause, represented at the convention by Mr. and Mrs. Francis Mitchell of Helena. CC founder John Gardner, former head of the Department of Health, Education, and Welfare, is scheduled to speak in Helena Thursday.

Crosby's pamphlet charges CC is a coalition of the "super-rich" and the lower classes, the object being to "bankrupt or destroy the middle classes."

"Once this is complete," the pamphlet concludes, "The super rich will withdraw their support and both the middle classes and the lower classes will be under the complete rule of the super rich."

"The financing problem has always been the first roadblock in establishment of municipal electric systems. Since constitutional changes are the first and most vital step, the only chance of success in this endeavor lies on the floor of the present convention," she wrote.

The alderwoman urged delegates to accept the minority report by some members of the convention's Committee on Public Health, Welfare, Labor and Industry. Support for this position, she said, "will be a gigantic step in breaking the restrictive, regressive, and provincial philosophy imposed by private and special interest groups upon the legislature, our court and our public officials."

Statutory law proposals pose problem at Con-Con

By DAVID T. EARLEY
Gazette Staff Writer

Weeding statutory law out of constitutional proposals is proving to be one of the more difficult tasks before the 100 convention delegates.

Yellowstone delegates Jean Bowman and Chet Blaylock faced the public Monday morning at the weekly Con-Con interview sponsored by the Chamber of Commerce. They discussed proposals under consideration and assessed the general difficulty encountered in rewriting the state's basic law.

"THE HARDEST thing we have to do up there is not introduce statutory law into the state's new constitution," said Mrs. Bowman.

She referred, for example, to the debate over water rights, a particular matter which could be handled periodically by the legislature.

Pressure from farming and ranching interests has forced inclusion of the provision because, as Blaylock explained, water is "vital" to Montana because it is vital to agriculture, a major industry in the state.

In some areas the delegates have had to give in, said Mrs. Bowman, not because the proposals are "constitutional" in nature but because they are so

important they cannot be ignored.

BLAYLOCK cited "right to work" and "right to collective bargaining" issues as illustrative of the constitutional-legislative dilemma. Noting that he is a union man himself, Blaylock said he is "strongly opposed" to inclusion of a "right to work" provision in the new constitution, although an effort has been made to include it in the Bill of Rights debate to start Tuesday.

"But I am equally opposed to inclusion of a 'right to collective bargaining' provision. I believe either question can and should be handled by the legislature."

OTHER Con-Con progress described by the two Yellowstone delegates includes:

-A virtually firm decision to retain the state's "long ballot" for state and county elective officers. Including the question as an alternative on the Con-Con ballot in June is impractical, said Mrs. Bowman, since it would involve either a subjective judgment by the convention as to which offices should be considered - or forcing the people to consider an over-long ballot.

And debate on the matter, said Blaylock, has revealed opinion to be too divided concerning which elective offices should be

retained. "You make up all kinds of reasons," said the Laurel teacher. "I argue against inclusion of some, but for keeping the state superintendent of public instruction. I feel that my arguments are good . . . others think theirs are just as good, for some other elective officer."

-THE GOVERNOR'S "pocket" veto has been eliminated. That is, the state official will no longer be able to kill a legislative measure by ignoring it. He must, said Mrs. Bowman, tell the legislature his reasons and it can then vote to override the veto.

-City-county consolidation will be made easier by the new constitution although it will remain a matter of local option.

-The new constitution as shaping up will remove the current three-issue restriction on amending the document, although amendment proposals will continue to be forwarded to the electorate either by the legislature or petitioners.

-THE STATE Board of Equalization is eliminated in favor of a tax commissioner. Neither delegate was sure whether this will eliminate the state's problem of unequal "equalization" of property values from county to county.

- "Right to know" and "right to privacy" have been compro-

mised as well as delegates could contrive, said Blaylock. The Con-Con wishes to assure that governmental files are open to the public via the newspapers. But personal information in the files of the Industrial Accident Board or the Board of Health, for example, must be protected, he said.

IT'S A fundamental conflict, said Blaylock. "We have to have some restriction on the right to know."

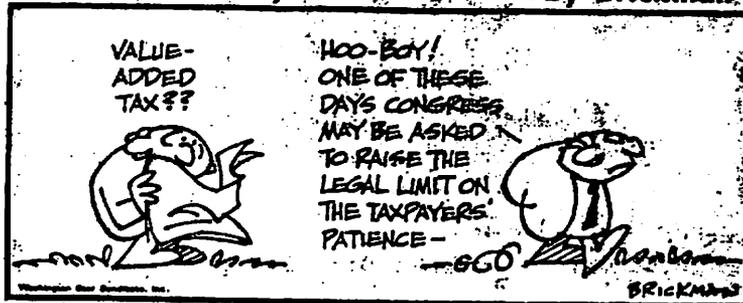
Particular types of electronic devices are not specified in the "right to privacy" section, said Mrs. Bowman. If they were, it explained, the courts might be forced to ignore the use of other devices not mentioned.

BOTH DELEGATES disagreed with sentiments expressed last week by fellow delegates Robert Kelleher and Donald Seankip, who said they feel the Con-Con is being "railroaded" by special interest groups, and that it is accomplishing no more than could be done with three amendments to the ballot during a November election.

"Thirty-five or 40 amendments would be closer," said Blaylock. Disappointment is generated, he said, because some people expect a new constitution to solve all the state's problems, "and it can't."

the small society

by Brickman



'Rejected' Legislator Tees Off on Con Con's 'Disrespect'

By FRANK ADAMS -

Helena Capital Bureau

HELENA — Saying he's "tired of being a Con Con doormat," Rep. De Knudsen, D-Glasgow, has fired off a letter to Constitutional Convention President Leo Graybill bitterly complaining of a lack of respect by convention delegates for legislators and public witnesses.

His letter is in response to one from Graybill wondering why he hadn't participated more in the convention. Graybill's letter apparently went out to a number of legislators.

"I have made two visits to the hall, occupied by the divine and righteous few," Knudsen's letter begins. "I have not had the feeling I was welcome. In fact, in my second visit I dressed in levis so as not to identify as one of those tainted few who not only refused to protect the public but have actually perpetrated a fraud upon the people of Montana."

His reference is to numerous disparaging remarks made by delegates about legislators he says he has clipped from the public prints over the past six weeks.

"I felt that with the obvious

attitude of mistrust of legislators," writes Knudsen, "any testimony I could offer would be of no avail. This attitude has upset me considerably."

"As we all know, numerous legislators have worked sincerely and diligently over the years in attempting to provide the citizens of Montana with a better place to live."

"At this time we have Con Con delegates who have condemned, belittled, and questioned the integrity of all legislators with outright arrogance on issues they could not have more than a title, if any, knowledge, back-

ground, or experience."

"Most of the self-proclaimed Con Con experts were elected for the first time last November and have spent but a few weeks in office. I ask you, how can they be so well-versed in all areas of government while many legislators have spent hundreds and perhaps thousands of hours researching these same areas and have discovered how much information is still unknown."

"I believe it is time some legislators came forward and responded to this arrogant attack upon our integrity. I am tired of

being a Con Con doormat and I'm not alone. It is my belief legislators have not responded to these irresponsible charges out of courtesy. Perhaps these Con Con delegates realize most of these same legislators have been the voters' choice for many elections."

Knudsen attributes lack of participation in the convention partly to its attitude toward legislators, but also to "the lack of respect for the individual that has been displayed by many delegates."

"The badgering and baiting of witnesses, in my opinion," he

says, "is unscrupulous, unethical, and has been quite flagrant during certain committee hearings."

"I ask, how can delegates speak of respect for and integrity of the individual during these hearings and show obvious disrespect for a witness by baiting him with questions? This promotes public participation?"

Knudsen, in Helena Monday for a Legislative Council subcommittee meeting, indicated that he had the Bill of Rights Committee in mind as one of those badgering and baiting witnesses.

"The committee members

were not looking for information," he said. "As quick as they discovered the witness was not testifying along their lines or belief, then they would either try to convert him or bait him with questions. And hell, this is what cut down on the participation. I really believe that."

"For example, asking a 17-year-old boy whether he believes that if his brother died he should impregnate his widow — now what type of question is that to ask a 17-year-old boy who has volunteered to come forward and testify? And these are the

things that stay in people's minds."

Knudsen's example was a Bill of Rights Committee hearing on the death penalty. The witness was for it, citing the Biblical law. One delegate then, asked about the witness' belief in the other Biblical law and got a negative answer.

"I certainly would have liked to come and testify on many things," said Knudsen, "but I felt it would have been a waste of time. I think they were all predetermined on their attitudes before they opened their hearings."

How voting went on road funds

Gazette State Bureau

HELENA — A move to retain the present earmarking provision, regarding highway money at least as an alternative of the ballot, enjoyed more support among Republicans and nonurban Constitutional Convention delegates than Democrats and urban delegates.

Delegate Betty Babcock's motion to preserve the present earmarking as an alternative of the convention's revenue and finance committee proposal failed, 30-60, Saturday. Dele-

gates later approved the committee proposal, which would allow the legislature to override the anti-diversionary amendment with a three-fifths vote.

Democrats voted 42-10 against Mrs. Babcock's amendment while Republicans supported it, 19-14. Independents voted 4-1 against it.

Delegates from the state's seven largest urban areas, which hold half the convention's 100 seats, voted 24-10 against Mrs. Babcock. Nonurban delegates provided the other 20 votes for the motion.

Here is the vote on the Babcock amendment:

Democrats for (10): Aasheim, Arnov, Barnard, Bugbee, Cain, Davis, Delaney, Rod Hanson, Romney and Swanberg

Democrats against (42): Arness, Arts, Bates, Blaylock, Blend, Campbell, Cate, Champoux, Conover, Cross, Discoll, Eck, Furlong, Graybill, Harbaugh, Harlow, Harrington, Heiker, James, Joyce, Kelleher, Lorello, Mansfield, McCarvel, McDonough, McKeon, Melvin, Monroe, Rehal, Reichert, Roeder, Rollins, Scanlin, Schiltz, Siderius, Skart, Sparks, Speer, Van Buskirk, Vermillion, Wagner and Warden.

Republicans for (19): John Anderson, Babcock, Burthard, Choate, Erdmann, Etchart, Garlington, Hahedank, Johnson, Kamboot, Leuthold, Murray, Noble, Nutting, Pemberton, Simon, Struder, Ward and Wilson.

Republicans against (14): Berg, Berthelson, Dehood, Drum, Gysler, Jacobsen, Loendorf, Martin, McNeil, Payne, Robinson, Ryeg, Toote and Woodmansey.

Independents for (1): Bob Hanson.

Independents against (4): Brown, Foster, Harper and Mahoney.

Excused (5): Arbogast, Belcher, Eskildsen and Holand (Democrats) and Felt (Republican).

Absent or not voting (5): Oscar Anderson (Independent), Ask and Bowman (Republicans) and Brazier and Sullivan (Democrats).

Con Con Delegates OK Bans on Discrimination

HELENA (AP) — A section banning various types of discrimination was approved Tuesday at the Constitutional Convention.

Delegates passed a section banning discrimination on the basis of one's exercise of "his civil or political rights on account of race, color, sex, culture, social origin or condition or political or religious ideas of any person, firm, corporation or institution or by the state, its agencies or subdivisions."

Otto T. Habedank, R-Sidney, failed in his attempt to restrict the ban only to the state and its subdivisions.

"We can be opening a lot of challenges to other people on things we have considered dear," the Sidney attorney said.

He said he was a member of the Sons of Norway and feared enacting the antidiscrimination clause might allow those who are not of Norwegian descent to join.

Chairman Wade J. Dahood, R-Anaconda, of the Bill of Rights Committee told Habedank that his fears were unwarranted.

Dahood said the committee did not intend the section to interfere with the membership of such clubs.

Habedank's motion was turned down 76-13.

Other fundamental rights and a new preamble also were approved Tuesday.

Delegates passed a section guaranteeing Montanans with the right of self-government. Also approved was one declaring that all political power "is vested in and derived from the people . . ."

A section listing certain inalienable rights Montanans have also was approved.

William A. Burkhardt, R-Helena, succeeding in including the right to "a clean and healthful environment" in the list. He took the language from a previous section approved by delegates when they considered the Natural Resources and Agriculture Committee recommendations.

A shorter freedom of religion section, borrowing the language of the U.S. Constitution, was passed.

Also approved were the freedom of assembly and the freedom of speech and press, which was broadened to include freedom of expression.

A new preamble, drafted after much committee consideration, also met delegates' approval.

It says: "We the people of Montana grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution."

Citizens' Action Approved

HELENA (AP) — After extended debate, Constitutional Convention delegates adopted a section Tuesday insuring citizens the right to participate in their government.

They approved a section that says the public has the right to expect governmental agencies to provide "reasonable" opportunities for citizen participation in government operations prior to the final decision. The legislature is directed to provide the necessary laws to implement the section.

Several attempted amendments failed, including one by Thomas F. Joyce, D-Butte, who moved to delete the section. He called the section "unworkable."

Delegates turned down his motion 54-37.

"We elect people to make decisions," Joyce said. "This section would do more harm than good."

Wade J. Dahood, R-Anaconda, said he believed the section would "make sure these bureaus are going to be more responsive to citizens."

He said it was intended so that agencies would hold public hearings to allow citizens to offer their views before a final decision is made.

Virginia H. Blend, D-Great Falls, backed the Bill of Rights Committee proposal, saying:

"I am very aware of the antagonism of government to citizen participation. This could bring about an involvement of people in government."

Lobbyists help decision-making

Dear Sir: A considerable number of Con-Con delegates have succumbed to the myth of equating lobbyists with evil doers. One, Jerome Date (D-Yellowstone) has immorally concluded that if a lobbyist is for a proposal it's reason enough for him to vote against it.

The word "lobbyist" has fallen into disrepute. Perhaps it should be dropped in favor of something more acceptable such as "consultant". Lobbyists are simply Montanans who represent a particular viewpoint on a given issue. Some are compensated, many are not. They represent such diverse groups as the Montana Council of Churches, labor unions,

business and professions, farm and ranch organizations, education, conservation, senior citizens and youth groups. They possess information and knowledge that benefits the decision-making process in government. Such information deserves to be considered with other viewpoints in developing sound judgments.

Con-Con delegates and legislators are constantly in pursuit of facts and public opinion. To accept lobbyists carte blanche is a mistake, but to ignore them entirely is an even greater mistake if we are to have intelligent and pragmatic conclusions at the decision-making level. As citizens of Montana, we are all in effect lobbyists for better government. To be a responsible lobbyist is no less honorable than the privilege of holding elected office. — STAN STEPHENS, State Senator, Bayre

'Right-to-Know' Proposal Ill-Conceived, Says Prof

HELENA (AP) — A University of Montana journalism professor says a proposed constitutional "right-to-know" section is an "ill-conceived provision" which might lessen rather than enhance the public's right to know.

Robert C. McGiffert, in a letter distributed to Constitutional Convention delegates, said it would be better to have no provision at all than the proposal of the Bill of Rights Committee.

The proposal, which was scheduled to be debated today, provides that the public should be able to examine government documents and deliberations except when "the demand of individual privacy exceeds the merits of public disclosure."

McGiffert said the last phrase would be "an invitation to public officials to deny the citizen, and the press, access to records and meetings."

He said a county assessor or treasurer could block a citizen's efforts to inspect some of the most critical of county documents and inequity and corruption could flourish undetected.

McGiffert, who teaches a course in law of the press, suggested this alternate wording: "The right of every person to inspect documents and attend meetings of all public agencies shall not be infringed."

He said the proposal would allow the legislature to protect the confidentiality of specific matters, like the names of welfare recipients or juvenile delinquents.

The Montana Press Association is circulating the letter to delegates and said it is backing the proposed right-to-know provision.

How They Voted

HELENA — Constitutional Convention delegates voted Tuesday and changed most of the maximum and minimum sizes they had agreed on several weeks ago for the alternate proposals on a bicameral and unicameral legislature. The change came when delegates were considering a style-amending report.

The key vote, passed by a 63-35 margin, was on whether to allow the maximum size of the bicameral House of Representatives to be a minimum size of 41 and a House with a minimum size of 31, compared with the earlier maximums of 59 and 31.

Delegates also changed several other provisions. Delegates first tried to make the bicameral House of Representatives the smaller of the two chambers. They then adopted a formula "once we decide something we should stick to it for 10 years." The convention passed changing its name to "the Montana Legislature" to include the smaller size for the bicameral option (11): Anschutz, Ariz. Bradley, Buggins, Cain, Campbell, Cain, Eick, Furrer, Graybill, Harbush, Harlow, Harrington, Helker, James, Lavelle, Massey, McClain, Murray, Rabel, Ralston, Scoville, Schiltz, Stuber, Swartz, Swartz, Swanson, Van Swinkle, Wagner, Warden.

Republicans favoring (22): Dahood, Berry, Bowman, Burkhardt, Cline, DeLoach, Drum, Edwards, Enghart, Fell, Garrison, Gwyler, Halverson, Johnson, Johnson, Lavelle, Leach, Lewis, McCall, McCall, Noble, Pennington, Ryan, Simon, Stuber, Toole, Ward, Wilson, Woodman.

Independents favoring (3): Brown, Hader, Mahony.

Democrats not favoring the smaller size for the bicameral option (11): Arneson, Aronow, Barrard, Bates, Blaylock, Blend, Connor, Cross, Davis, Delany, Rod Hanson, Joyce, McCaffrey, McDonough, Mueser, Ralston, Rector, Romney, Spear, Vernehl.

Republicans not favoring (7): John Anderson, Berthelson, Kamrad, Martin, Payne, Robinson.

Independents not favoring (1): Omar Anderson, Foster, Bob Hansen, Johnson, Leach, Lewis, McCall, McCall, Noble, Pennington, Ryan, Simon, Stuber, Toole, Ward, Wilson, Woodman.

HELENA — More than a third of the convention voted Tuesday to limit the proposed "right-to-know" section to government operations.

Delegates, led by a move by Thomas Joyce, D-Butte, to restrict the proposal, which had been recommended by all members of the Bill of Rights Committee, and said the public shall have the right to expect governmental agencies to allow every feasible opportunity for citizen participation in the operation of the government prior to the final decision.

After rejecting Joyce's bill attempt, the convention scheduled a night session to consider if the proposal should be amended or passed.

Democrats voting against the right of participation in government proposal (15): Arneson, Aronow, Barrard, Bates, Blaylock, Blend, Connor, Cross, Davis, Delany, Rod Hanson, Joyce, McCaffrey, McDonough, Mueser, Ralston, Rector, Romney, Spear, Vernehl.

Republicans voting (20): John Anderson, Berthelson, Kamrad, Johnson, Leach, Lewis, McCall, McCall, Noble, Pennington, Ryan, Simon, Stuber, Toole, Ward, Wilson, Woodman.

Independents voting (3): Brown, Hader, Mahony.

Democrats voting for the right to participate in government proposal (17): Anschutz, Ariz. Bradley, Buggins, Cain, Campbell, Cain, Eick, Furrer, Graybill, Harbush, Harlow, Harrington, Helker, James, Lavelle, Massey, McClain, Murray, Rabel, Ralston, Scoville, Schiltz, Stuber, Swartz, Swartz, Swanson, Van Swinkle, Wagner, Warden.

Republicans for (21): Anschutz, Ariz. Bradley, Buggins, Cain, Campbell, Cain, Eick, Furrer, Graybill, Harbush, Harlow, Harrington, Helker, James, Lavelle, Massey, McClain, Murray, Rabel, Ralston, Scoville, Schiltz, Stuber, Swartz, Swartz, Swanson, Van Swinkle, Wagner, Warden.

Independents for (3): Brown, Hader, Mahony.

The judicial article: A step forward

The judicial article adopted by the Constitutional Convention has been criticized by some as not embodying sufficient reform. The charge has been made that the Convention backed away from its "mandate" to make sweeping changes and adopted a wishy-washy document.

Our feeling is that the public shouldn't judge the judicial article too harshly. In fact, a close look indicates that it's not a bad measure at all. It does, admittedly, fall somewhat short of the ideal envisioned by the reformists. On the other hand, it goes a long way toward improving two areas of the judiciary which have cried out for improvement for a long time: 1. The manner of selecting district judges, and, 2. The quality of the lower courts. Under the proposed article, district judgeship vacancies would be filled by appointment of the governor, who would pick his judge from a list of names supplied by an independent nominating commission. Unlike the existing situation, the appointment would have to be confirmed by the state senate.

The biggest improvement would guarantee the public a chance to vote periodically on all district judges. It's the rule in Montana now for judges to be routinely re-elected without opposition, a situation that deprives the average voter of any opportunity to register displeasure with a judge at election time.

The new article would permit contested primaries should another lawyer wish to challenge the incumbent. But if no opponent materializes, citizens would be allowed to vote at the general election on whether to retain the incumbent or not. If this "vote of confidence" went against the judge, he would step down and a new one would be appointed. No one expects this to lead to a wholesale rejection of judges. It is expected that it might lead to more responsive judges in some cases, and that it would satisfy that portion of the electorate that currently feels judges are too insulated from the public.

The proposed article retains justice of the peace courts despite efforts by the reformists to do away with them. The reformists wanted to replace lower court judges with magistrates, who would be appointed by district judges and who would act as district judges while presiding over matters that are now dealt with by JPs.

There is much to be said for a magistrate system. It would undoubtedly offer more highly trained judges than some of those who now run the lower courts. But it would also consolidate more power in the hands of district judges and totally exclude laymen from the judicial branch of government.

The article adopted by the Convention would eliminate the sometimes-abused fee system as a method of paying small-town JPs, and would empower the legislature to set the salary, training, duties and qualifications of JPs. Given this power, there is little reason why the legislature can't bring about marked improvements in justice of the peace courts while still allowing laymen, if they wish, to participate in the lower courts.

The new article offers other changes, chiefly in the Supreme Court, and would establish a judicial commission to investigate complaints made against judges.

Judges should be removed from politics as much as possible without being made immune to the feelings of the people. The judicial branch of government, after all, is constitutionally ordained and the average citizen should retain some say in how it is run. The Convention appears to have recognized this.

The proposed judicial article would, in our opinion, lead to an improved court system and would give the average citizen a somewhat larger voice in that system. It's a good proposal, if not perfect, and should not be regarded as a disappointment.

Right-to-Know Section Passed

HELENA (AP) —Over the opposition of the Montana Press Association, Constitutional Convention delegates passed a right-to-know provision Tuesday recommended by the Bill of Rights Committee.

The section provides for the right to examine government documents and to observe the deliberations of government public agencies. The clincher, however, for the Montana Press Association was the provision that prohibits the right to know when "the demand of individual privacy clearly exceeds the merits of public disclosure."

Newspaperman Fred Martin, R-Livingston, tried to delete the entire section. His motion failed 76-14.

Some newspaper editors fear the section could allow public officials to conceal documents and to close meetings by saying the right to individual privacy was more important.

A motion by Jerome J. Cate, D-Billings, to leave the exceptions of open meetings and accessible documents for the legislature to determine failed by a 50-30 tally.

Leading defender for the committee proposal, which passed as proposed, was Wade J. Dahood, R-Anaconda, chairman of the Bill of Rights Committee.

"These gentlemen of the Fourth Estate seem to think they have no responsibility," he said, adding that the section was intended primarily for the public, not the press.

He accused the MPA, which represents most of the state's daily and weekly newspapers, of having "someone in an ivory tower" look at the proposal and

decide it was not desirable. He apparently was referring to Prof. Robert C. McGiffert of the University of Montana journalism school.

In a letter distributed to delegates, McGiffert, who teaches a class in journalism law, called the proposed section "ill-advised."

Dahood said some balance between open meetings and records and the right to privacy was needed. He cited "the sacred relationships that are so important"—the doctor-patient, lawyer-client and priest-penitent relationships.

"This campaign that has been leveled against it is not a just campaign," Dahood said.

Jerome Loendorf, R-Helena, noted that, under the committee proposal, enforcing the provision would be difficult to enforce. He said an agency could refuse to allow a citizen to attend a meeting, and by the time any action was taken, the meeting would be over.

Dahood said citizens needed to have faith in their representatives in government.

"You are assuming these people are not going to act responsibly," he said.

Martin, who said he had been trying to secure the right to know for 50 years, cited an editorial in Tuesday's Missoulian entitled, "The Right to Conceal" as listing examples of how the committee proposal would create problems.

Cate said the MPA fears were "well-founded."

"Any government agency could refuse," he said, "in effect, we wouldn't have the right to know and it would jeopardize present statutes."

He wanted the legislature to

Myths about lobbyists

As a reader's letter on this page indicates, the myth persists that lobbyists are automatically evil. It isn't so.

Most lobbyists are political partisans who seek to persuade legislators to vote for this bill or against that bill. The responsible lobbyist's methods, however, are honest and usually involve presentations of facts, figures and arguments and not threats or bribery.

Granted, a few lobbyists are not particularly admirable in their tactics, but then neither are all legislators. And everyone has heard the stories of "hospitality rooms" where the lobbyist buys the booze, and lobbyist-sponsored poker games where wavering legislators "win" large sums of money. These activities now are apparently on the decline and wo-

haven't heard of any legislators (or Con-Con delegates) recently who have questioned the honesty of most lobbyists.

The periodic proposals to outlaw lobbyists, besides being unfair, are also unwise. There may be a need to more carefully regulate lobbying, but "outlawing" it would have the opposite effect. Without registered, regulated lobbyists, the legislature or the Constitutional Convention would be flooded with "private citizens" whose causes

would just happen to be identical with those of the state's special interests. This kind of thing would be extremely difficult to keep under control.

Businessmen, unionists, conservationists and private citizens all

have a right — probably a constitutional right — to present their case to elected representatives. As long as those representing "vested interest" organizations are identified, registered and declare their expenditures, we can't see why they should be outlawed.

If Montana's government is unduly influenced by lobbyists, one of the biggest reasons could be that the legislative committees don't have adequate research staffs. Lacking objective, well-funded researchers of their own, the legislators often find it necessary to turn to the next most knowledgeable people, and they are often lobbyists.

We don't agree that the word lobbyist should be dropped in favor of "consultant," as the letter below suggests. That would be a little too euphemistic. Lobbyists aren't consultants. They are usually champions of partisan causes which may or may not be good for the state as a whole. They have a right to present their viewpoints, however, and most of them deserve more respect than they are generally believed to have.

Courts May Carry Big Stick in Future Constitutional Clashes

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — A new argument has been advanced in the continuing controversy over what belongs in the constitution and what should be left to the legislature. It is that elevating a

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concept or right to the level of the constitution could have the adverse effect of turning it over to the custody of an unfriendly court.

The point was made by Helena lawyer Geoffrey Brazier in the recent environmental debates in the convention, notably on the public trust doctrine, citizen suits, and reclamation.

For example, in debate over a proposal to require that land be reclaimed to a use "as good as possible," Brazier suggested that a mining company might make a sloppy gesture toward reclamation and call it "as good as possible."

The company might be upheld in the district court and then the State Supreme Court, warned Brazier, and then the environmentalists would find they had painted themselves into a corner. They couldn't go to the legislature for help because it's in the constitution. They couldn't go to the U.S. Supreme Court because it's a state matter. And they couldn't get a reversal until the philosophy of the court had changed, something Brazier fears might take some doing under the new judicial proposals should a judicial appointments commission become dominated by special interests.

In short, their only salvation would be to undertake constitutional revision.

On the other hand, Brazier told the convention, if the legislature writes environmental provisions and the court gives them unpopular interpretations, the legislature can more easily make the needed statutory changes to regain control.

Brazier turned to a prominent environmentalist to uphold his line of thinking — none other than University of Michigan law professor Joseph Sax, the man the New York Times says is "devoting himself most actively to increasing the flood of environmental lawsuits."

Sax is an outspoken advocate of both the public trust and citizen suit concepts, but apparently not on the constitutional level — somewhat at variance with the wishes of many environmentalists in Montana.

Calling it the "Gospel of St. Sax," Brazier quoted at length from Sax' book, "Defending the Environment — Strategy for Citizen Action."

"There is an important, and insufficiently understood, distinction between a declaration of the right to a decent environment appearing in a statute and one appearing in the

constitution," says Sax. "A right with constitutional status does indeed create the opportunity for its enforcement in the courts, but it also — and herein lies the danger — gives courts ultimate authority. That is, an environmental right declared by the courts as a matter of constitutional law cannot be overruled by the legislature. By contrast, a court enforcing a statutory right (even though it may have the same wording as a constitutional provision) can always be overruled by subsequent legislation."

"This distinction has great implications, particularly in the light of American legal history. It is worth recalling here that in the pre-New Deal era a reactionary U.S. Supreme Court invalidated a good deal of important and needed legislation, thus provoking a grave constitutional crisis that abated only when one member of the court finally changed his position — it was this event that produced the bon mot: 'A switch in time saved Nine.'"

"We ought not to re-create the potential for such crises, remote as they may seem today. A court — even with the best motive — should not be authorized to function as an environmental czar against the clear wishes to the public and its elected representatives."

"Courts tend to view themselves as having some implicit constitutional powers that can be used to overrule legislative conduct utterly at odds with the public interest. So long as such authority is treated as very limited, to be used sparingly, it is acceptable; but we should not promote general environmental rule-making by the courts under a constitutional imprimatur."

"It is not necessary to take such risks. Today both state and federal legislatures have the authority they need to protect the environment; except in rare instances, legislatures need no

additional constitutional authority to enact environmental protection laws. A statutory declaration of rights can open environmental matters fully to judicial attention but still leave ultimate decision-making power in the hands of the elected representatives of the people."

At the same time it should be recognized that one of the reasons Montana environmentalists are pushing for constitutional rights is that they have been frustrated by the legislature. Standing for citizen environmental suits against any party, for example, was

defeated by the last legislature after a good bit of controversy.

The environmentalists are, as political scientist Rick Applegate puts it, "searching for alternates at the constitutional level."

Applegate, research analyst for the Bill of Rights Committee and author of a voluminous

treatise on rights, acknowledges Sax as a respected environmentalist spokesman. But he doesn't think Sax has been pained as a patron saint of the convention as inferred by Brazier. "He doesn't have all the answers," says Applegate. "He's just another spokesman."

Applegate agrees that there is

a problem of tying things up in the courts, but sees "no problem at all" with the kind of citizen suit provision sought by environmentalists which would be "subject to reasonable limitation and regulation as the legislature may provide."

He says he thinks that when Sax says judicial lawmaking

authority is acceptable when used sparingly, "what he means is that they don't get overactive. . . don't go too far with judicial activism. I think anybody who takes a serious look at the courts knows how valuable a certain measure of judicial activism is."

But whether Sax' thinking is

valid or not, Applegate isn't convinced it was advanced in good faith on the convention floor. "There's something quite different that was going on in there," he says. "They don't want to see standing, or environmental rights, or the public trust in the constitution, in the statutes, or anywhere."

'Highway Users' Ponder Anti-Diversion Strategy

Tribune Capitol Bureau
HELENA — With the attitude

that they've lost a battle, but not the war, members of the Montana Highway Users Federation met Monday to regroup their forces in an effort to save the so-called "anti-diversion amendment."

The amendment, approved overwhelmingly by the people in 1966, requires gasoline and other vehicle taxes to be used essentially for highway construction and maintenance. A proposal tentatively approved by the Constitutional Convention last Saturday would extend use of the earmarked funds for highway safety and drivers education. But the part of the proposal that has the federation upset the most would allow diversion of highway funds to any other purpose by a three-fifths vote of the legislature.

If the proposal gets through the convention and is ratified by the people, "we're in trouble," said former legislator Jack Rehberg. "Because I think the next legislature is going to divert. We've stolen as much as we can from education and I think we will now start using the gas tax to balance the budget."

Rehberg, lobbyist for the Montana Petroleum Assn., termed the proposal "half a loaf, since when the delegates came I'm sure they intended to remove anti-diversion entirely." But he made it clear he considers it a bad half a loaf.

There was no dissent from the 40 persons present in adoption of a resolution opposing any diversion attempts and asking that

the voters be given an opportunity to choose between an "updated" anti-diversion section and the present amendment. Such an alternative arrangement was rejected by a vote of 80-30 Saturday, but opportunities for reconsideration remain.

A record of the 80-30 vote was distributed, with auto dealers lobbyist John Cadby saying, "you'd be surprised at those who voted against — two of whom are automobile dealers."

Former legislator George Schutte recombed the struggle that started 20 years ago to get the anti-diversion amendment. He said a common argument against it then as now is that "they won't spend all this money when the Interstate System is finished." And he said his answer is the same now as then: "When we're finished, we'll be farther behind (with other roads) than ever."

He said the political science theory that all tax revenues should go into one kitty for distribution by the legislature doesn't work out well in practice. In the last few days of the session, he said, "we'd be using a general sales tax on gas and new cars to run the general government."

In reference to the argument that the Highway Department needs some strings on it, Rep. Bob Dye, R-Bozeman, federation chairman, said that "by no means does the legislature just hand them the money and tell them to get out. It makes them prove for every increase in funding."

aren't crooks

BY DUANE W. BOWLER
Editor, The Gazette

"I never read about ConCon, they're all a bunch of crooks up there anyway."

Those words were spoken a week ago by an unidentified woman sitting nearby at a public affair.

It was her obviously disgruntled response to the somewhat enthusiastic, friendly conversation of a companion who had been reading an article in this newspaper about events at the Montana Constitutional Convention underway now in Helena.

The desire to turn and tell her she didn't know what in blue blazes she was talking about was, perhaps, fortunately, suppressed. She might have been equipped with a hat pin and at least was carrying a well-weighted purse if not a rolling pin.

BUT LADY, you're dead wrong. They're not all a bunch of crooks up there. Not even many of them, if any.

The delegates to ConCon are flesh and blood just like the rest of us. They have hopes, desires, ambitions, something that is spurring them to do what they think is right.

That, my dear lady, is the key to it... what they think is right.

THAT ALSO IS WHERE the rub comes. All of us don't think the same things are right. If they, and their predecessors who wrote the present Montana Constitution way back when, had all thought "right" was the same thing there wouldn't be any need for a ConCon now.

"Right" is an elusive thing. What may be "right" at one time is not at another. What is "right" in your mind may be an "oh, good heavens, no" in your neighbor's outlook.

Certainly what "they" think is "right" may be based on extremely selfish motives in your viewpoint. But that's yours, not their's.

EVERYBODY HENT too pleased with the way things are going at ConCon. That includes this writer. It also includes almost each and every delegate to this once-in-a-century event.

A constitution is something everybody has to live with. It's either that or leave the country, which leaves no alternative for most of us who basically like it here.

Remember there are people making up and

down the ConCon highways trying to influence how the delegates vote.

A number of the same old faces that you see each session of the Montana Legislature are there. They are self-interest groups. But in the broad outlook who isn't?

The ConCon delegates know who they are. The self-interest wares they are selling are no secret.

OH, SURE, the paid lobbyist might slip one over on an unaware delegate. But basically he'll do it with one-sided, self-interest information. He's telling what's "right" to him or the company, organization or group that hired him.

He's effective, to be sure, or we wouldn't have some of the laws we have on the books today.

But, dear lady, he is effective because you haven't done anything much but sit and chirp "They're all a bunch of crooks up there anyway."

ASK ANY LEGISLATOR or ConCon delegate who is the most effective at convincing him on an issue. It is the interested public, like you, lady. Or rather like you could be if you so decided.

Oh, its unlikely that you will be able to convince the delegate from Remote Gulch that Montana should have only 75 lawmakers because he just doesn't think that is "right." Then again, he might. You'll never know for sure until you try.

This writer was watching ConCon the day the delegates voted to keep all the elected officials.

And guess who else was there—everybody the elected officials could get to come and buttonhole the delegates. The buttonholers, not paid lobbyists either, were telling the delegates what they thought was "right."

THIS WAS THE PUBLIC, the folks from back home. This was the democratic process in action. These were the people who cared enough about what was going on to do something about it.

They weren't crooks or asking the delegates to be crooks. They were putting what they thought was "right."

If the rest of us are top apathetic or disinterested to get involved, that's our own fault, not that of those who do.

Changes are few in taxation article

HELENA (AP) — Unlike other committee proposals, the Revenue and Finance Committee recommendations emerged after Constitutional Convention debate with few changes.

Highlights of the article, debated Friday and Saturday, are a less restrictive highway antidiversion section, groundwork for centralized property tax administration and the removal of a ceiling on state indebtedness.

Delegates supported the committee, which favored loosening the highway section. If three-fifths of the state legislators approve, the earmarked highway funds can be appropriated for other purposes, unlike under the present section.

Inequities in property tax administration led delegates to el-

low the legislature to come up with a new system, if it chooses.

The present constitution locks in the State Board of Equalization and boards of county commissioners as boards for the counties to adjust property tax rates. Some delegates cited instances of inequities within counties and between similar property in one county and another.

Rural delegates, led by Leslie "Joe" Eskildsen, D-Malta, fought the move, which they said would centralize the power in one man appointed by the governor. However, the proposal does not specify that the legislature has to adopt any particular system. It could retain the present system, committee members said.

Legislators also must provide for a statewide appeal board where taxpayers could take up grievances over appraisals, assessments and equalization.

Moreover, similar boards must be set up at the county or local level of government.

The \$100,000 ceiling on state indebtedness also was removed.

At present, any debt over \$100,000 had to be approved by the electorate. The new section leaves the matter up to the legislature and locks no limit into the constitution. Debts must be approved by two-thirds of the legislators or a majority of the electorate.

Committee members had recommended three-fifths but did not object to raising the figure to two-thirds. An attempt by Charles H. Mahoney, I-Clancy, to make three-fourths of the legislators approved failed.

A nudge toward judicial reform

BY ROBERT E. BURMAN
Associate State Bureau

HELENA — Montana's judiciary would be nudged, but hardly nudged, toward reform under the new-looking judicial article approved by the constitutional Convention last week.

The proposed article combines a few reforms in a bright new package which essentially rewrites the existing constitution, but the existing structure of a supreme court, district courts and justice of the peace courts remains unchanged.

News Analysis

Heading the reforms are provisions revamping the selection of judges, reforming the justice courts and creating a new judicial standards commission.

The article as adopted also increases the length of judge's terms, allows for a large supreme court, increases court rule-making power and deletes constitutional reference to certain court positions.

But reformers' hopes for changes like a two-tier court system, no mention of JP courts, centralized court administration campaign financing, and appointed merit system judges were not realized.

THE CONVENTION'S output is essentially a compromise between the Judiciary Committee majority report, which basically offered the existing article,

and the committee minority report, which re-wrote the existing article almost entirely and tried to put through several sweeping changes in the judiciary.

Here are the major provisions of the article:

SELECTION the convention compromised between elections and a merit selection-merit retention plan with the result that the voters should get better judges and more of a say than they get now. (Under the present system, judges are elected in theory, but in practice they usually are appointed by the governor first and often run for election without opposition.)

Under the convention's proposal, mid-term vacancies would still be filled by appointment, but the governor's appointee would have to come from a list of names supplied by an independent nominating commission. And the appointee would have to be confirmed by the state senate, another switch. The process is a form of merit selection.

All judges would run in contested primary elections for each new term, giving the voters a choice between candidates.

But a major change would also give voters a voice in case the election is not contested. A modified "merit retention" plan would allow voters in uncontested judicial elections to either retain or reject the incumbent judge. If they voted him out, a

new man would be appointed.

While the likelihood of ousting an incumbent is probably slight, the new power of the voters could make judges more responsive.

JP COURTS. Although keeping the JP courts in the constitution is considered a defeat for the reformers, the new provision does attempt to improve JP courts.

Most important, a provision requiring monthly salaries would end one of the major abuses of the JP courts—the fee system. The provision also would require only one JP per county instead of two per township and require "dignified surroundings" for JP courts.

The legislature would establish the pay, qualifications, training and jurisdiction of justices of the peace.

The proposal retains enough flexibility to allow the legislature to mold JP courts into a new type of lower court, like small claims court. But some lower court systems (like appointed magistrates) or a two-level court system of district and supreme courts would be difficult to accomplish under the article.

However, the legislature could in effect abolish JP courts, like some states have done, by severely limiting their jurisdiction.

JUDICIAL COMMISSION. This new body of two judges, two citizens and a lawyer would

investigate complaints made against judges and make recommendations to the supreme court, the disciplining authority.

The intent of the commission is to deal with problems like alcoholism and senility which now are virtually impossible to deal with effectively. The reformers hope that a mere warning from the commission could make judges shape up.

SUPREME COURT. The state's highest court would be granted some increase in rule-making power but not the centralized administration power sought by the minority. To make them more attractive, supreme court terms would be increased from six to eight years, and district court terms would be increased from four to six years. The legislature could increase the supreme court from five to seven members.

OTHER CHANGES. The constitutional article also would delete reference to the clerk of the supreme court, county clerks of court and county attorneys. The offices still would exist under law, however, and the county positions may be retained in the local government article.

Judges would not have to resign to run for other judicial offices.

The constitution would set no minimum age limits for district or supreme court judges but would require at least five years

legal experience.

The judiciary committee's research analyst, Sandra Muckelston, says the article makes improvements in the existing structure but fails to consider whether the structure might be outdated in future years.

"It's not very innovative," she said of the article and concluded that while it will allow court reform, it will not push it in many cases.

The proposed judiciary article now awaits some stylistic changes and final adoption before going to the voters.

Need Bait?

... try flowers!

A Freedom Abridged

In approving the "Right to Know" provision, Montana's Constitutional Convention may have seriously abridged one of the basic rights of a free people — the Right to Know.

It sounds beautiful — so beautiful that it seems hard to argue against. Read it:

Section 9. RIGHT TO KNOW. No person shall be deprived of the right to examine documents or to observe the actions and deliberations of all public officials or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure."

The intent of the Bill of Rights Committee in drafting the section apparently was good. At least it seemed so at the outset, although remarks of committee chairman Wade Dahood during the floor debate raise some doubt about his intentions, at least.

But even good intentions sometimes have bad results. And this is a case where there is an extreme danger that the result will be completely opposite to the intent.

Read the exception again: "... except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure."

This affords elected officials and bureaucrats at every level of state and local government the opportunity to deny public access to deliberations and records simply by saying their individual privacy outweighs the merits of public disclosure.

It could make necessary a long and costly court case each time a public official or public agency decides it has something to hide — whether it is ineptness, bumbling or outright corruption.

So it isn't a right to know. It's a right to secrecy. Furthermore, it could turn into a lawyers' relief act if officials and bureaucrats force the public and press to go to court to gain access to public deliberations and public records.

There is the serious likelihood that this proposed constitution provision, if it is retained, will overturn present Montana laws on access to public meetings and public documents.

With executive reorganization taking much of the policy-making decisions away from boards that conducted their business in public and placing that authority in the hands of administrators,

more and more decisions involving the public welfare and public funds are being made in private offices rather than open boardrooms. So it becomes increasingly important that the public have access to public offices and their records.

Yet, the right-to-know provision, as approved by the convention, is an invitation to bureaucratic arrogance and bureaucratic secrecy. It removes the government one more step — possibly a giant step — from the people.

Referring to the Montana Press Association's opposition to the provision, Chairman Dahood, who aspires to be governor, launched into an attack on the press and its responsibilities and the need for "balance" between open meetings and the right to privacy.

Contrary to what Dahood and other delegates may choose to have you believe, the press does not wish to peer into private boudoirs. But it does want the right to pry into the affairs of government in the well founded belief that an informed public is vital to the success of a democracy.

In seeking to confuse the issue, there are those who would hoodwink the public into believing that freedom of the press is a special privilege of the press — a benefit of a special interest known as the news media.

Thoughtful Americans recognize that freedom of the press, as declared in the First Amendment of the U.S. Constitution, is as much a part of their personal liberty as the freedoms of speech, religion and peaceable assembly guaranteed to them in that same amendment. They resent and resist abridgement of a free press as much as they would those other vital liberties.

It is not too late for the Constitutional Convention to remove this dangerous restriction on their right to know what goes on in their government.

It is incongruous that the same convention that has been so scrupulous about keeping all its deliberations open and which has commanded that legislative committees conduct their business openly would, intentionally or not, invite the executive bureaucracy to operate in secrecy.

It is not too late for the Constitutional Convention to remove their dangerous restriction on the right of the people to know what goes on in all branches and levels of their government.

Graybill: Voters Will Get Leaflets

There are many meaningful changes in Montana's proposed new constitution, and also many good things in the present constitution which will be retained, President Leo Graybill of the convention told the Helena Rotary Club Wednesday.

"Look at it carefully and I am sure you will like it," he added.

A panel of seven members of the convention spoke to the club, each describing some phase of the work of drafting the new document. Arnold Jacobson, Whitefish, was moderator.

Graybill paid tribute to the Montana press for informing the people of the issues which have been discussed.

"The newspapers are doing a good job telling the people," he said.

He said that plans are to provide each voter with a leaflet which will contain not only a copy of the new constitution, but also comments and explanations of the various articles.

Probably there will be several separate issues given the voters for their decision, but the matter which will be on the ballot is yet to be decided by the convention, he said.

The decision to vote on the document in June was made because there might be too much distraction in the November election when a president and a governor will be elected, he added.

Jacobson said that the proposed local government article provides that each city will vote on its form of government four years after the constitution is adopted and each ten years thereafter because there are several alternate plans available and citizens should have a chance to adopt more efficient forms of governing themselves.

Fred Martin, Livingston, said that the convention is making progress and he thinks that the final document will be something the people will buy.

Mason Melvin, Bozeman, said that the judicial article provides

for a supreme court, district courts, one justice court in each county, plus such other courts as the legislature may create.

Jim Garlington, Missoula, said the committee which was assigned the executive department had had much of its work done in advance by the reorganization act adopted by the voters two years ago.

Sterling Rygg, Kalispell, chairman of the Revenue and Finance Committee, said that many changes have been made in that field, among them a provision that not all property need be taxed which may result in exemption of household furniture, abolition of the Board of Equalization which has been misunderstood by some local officials, and adoption of a statewide taxation plan.

Donald Foster, Lewistown, said that the Bill of Rights retains all the rights of Montana citizens which are in the present constitution, plus some others.

Convention Hears Gardner Tonight

John W. Gardner, chairman of Common Cause and former secretary of Health, Education and Welfare, will address the Constitutional Convention at 8 tonight on the subject of access and accountability in government.

Head of HEW from mid-1965 until March, 1968, Gardner also has been associated with the National Urban Coalition and the Carnegie Corporation prior to founding Common Cause.

Common Cause has been described as an independent citizens' lobbying group pushing for governmental reform at all levels.

Gardner, 59, holds degrees from Stanford University and the University of California. He is a Marine Corps veteran of World War II and taught psychology at the University of California, Connecticut College for Women and Mount Holyoke.

He is the author of four books including "Excellence," "Self-Renewal," "No Easy Victories," and "The Recovery of Confidence."

In 1964, Gardner was awarded the Presidential Medal of Freedom, the highest civil honor in the United States.

Gardner was scheduled to be honored at a reception between 6 and 7:30 p.m. today in The Colonial ballroom. Friday, he will meet with the steering committee of Montana Common Cause.

Montana Common Cause, with a membership of 500, has two lobbyists at the Constitutional Convention — Mr. and Mrs. Francis Mitchell. State co-chairman of the Montana Common Cause are Bryant and Robin Hatch. Paula Herzmark, Denver, regional coordinator of Common Cause, said Gardner's address will include examples of the kind of abuses that exist in government when it is allowed to become a "secret society."

Editorials

'Disturb'

Graybill

By CHARLES S. JOHNSON
Associated Press Writer

Critics of the right-to-know provision passed by the Constitutional Convention have not tried to understand what delegates have done, President Leo Graybill Jr. said Saturday.

At a lunchtime news conference, the Great Falls Democrat said he was "disturbed" by the flurry of critical newspaper editorials opposing the section.

"I think the convention has really adopted a strong article," Graybill said.

The section, approved Tuesday gives citizens access to governmental documents and deliberations except in cases in which the right to individual privacy clearly exceeds the right to know. Newspaper editorials have charged that bureaucrats will use the privacy exception to block public access.

Graybill, an attorney himself, said:

"Any lawyer, including a press lawyer, is going to know the right-to-know provision is going to have exceptions in it if we write them in or not."

Even if delegates adopted an unlimited right-to-know section, the Montana Supreme Court would write six or seven exceptions right away, he said.

The president said having a right-to-know provision without the privacy exception could pose problems for citizens.

"Are the editors saying their personal income tax returns are open to public scrutiny?" he asked. "If so, let them publish them. They don't have to wait for a right-to-know section."

Such necessary confidential records as income tax returns, names of persons with venereal diseases and names of the real parents of adopted children could be open to public inspection if the privacy restriction were not included.

Including the word "clearly" in the section, though, is a "tipper in the favor of right to know," he said.

"These fellows have not thought it through," Graybill said of the editorial writers. "The lawyers on the floor are not very worried."

Graybill also said he did not think the Montana Highway

Users Federation had closely examined the delegates' action in revising the highway addition amendment.

The legislature will gain a safeguard over the highway funds. Unlike under the present amendment, three-fifths of the lawmakers can vote to appropriate the earmarked highway funds for other purposes.

"To hear the lobbyists, you would think they had taken something away from the people," Graybill said. He added that highway funds still would be diverted, but the legislature would be able to exercise some control over them.

Graybill said again he expected powerful opposition to the new document, which goes before the Montana electorate June 8.

He said some of the groups had lots of money but not necessarily a lot of votes.

"There are those who are against it without even seeing it," the president said. Others, such as the newspaper and highway groups, have not looked closely at the provisions they do not like.

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Montanalyzing

Constitution Salesmen

Con Con 'Politicians' May Be Unwelcome

By J. D. HOLMES
AP Capitol Writer

HELENA (AP) — Delegates who declare their candidacies for other elective office following adjournment of the Constitutional Convention may find themselves unwelcome as salesmen.

Some of the people charged with the all-important job of selling the public on the new constitution are concerned that office-seeking delegates might do more harm than good.

Their only control, however, would be to bar such delegates from participation in any public information panel financed with public funds.

IT LOOKS NOW like Delegate Wade J. Dahood is on the threshold of turning the Republican governor primary into a three-way race.

The thinking of Dahood, and those pressuring him to run, includes a belief that party regulars are not comfortable with either Big Ed Smith or Frank Dunkle.

They argue that Smith, as a legislator, broke Republican party ranks to vote against the sales tax. This may help win votes, they acknowledge, but not party loyalty.

The same Dahood backers also believe that Dunkle, the former state fish and game director, must count his supporters mostly from environmentalists. Such a one-issue group, they contend, would pack more wallop in November than June.

KEEPING AN EYE on the lieutenant governorship, as a possible candidate, is Thomas J. Hanrahan, Glendive lawyer.

The former president of the Montana County Attorneys Association is no stranger to statewide campaigning.

In 1968, while a Helena resident, Hanrahan tried for Democratic nomination as attorney general. He finished second to Gene B. Daly, who lost that fall to Robert L. Woodahl.

THE RESIGNATION of Sonny Hanson as a highway commissioner, in order to be free to run for lieutenant governor, will be

in the governor's office shortly. This means a replacement may be named in time for the March 23-24 meeting.

By law, Hanson's successor must be either a Republican or independent and a resident of Dist. 5.

Counties in the district are Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Rosebud, Treasure, Custer, Powder River, Carter and Fallon.

Hanson is a Billings Republican.

TEN YEARS AGO, Gordon R. Bennett tried for a seat on the Montana Supreme Court. He lost to Stanley M. Doyle by 8,680 votes.

But the other day Bennett finally made it.

As a district judge, he was called to sit on the state's high bench for the chief justice.

The arguments dealt with an adoption case from Valley County, where the Helena judge once practiced law.

DOLORES COLBURG can be expected to announce her can-

didacy for a second term as superintendent of public instruction soon after adjournment of the Constitutional Convention.

As a guess, try March 22.

ADD POLITICAL RUMORS: State Rep. Bill Mather, onetime House majority leader, has been considering a bid for the GOP governorship nod. But chances are better that the Billings lawyer will wind up going for the State Senate.

JEANNETTE RANKIN, the first woman elected to Congress, told a companion the other day she might be interested in another try for the House.

At her age of 91, said Con Con Delegate Bob Campbell, Miss Rankin may have spoken with tongue in cheek.

State Sen. Harry Mitchell, while talking with the woman who voted against both World Wars I and II, mentioned that in 1916 she beat his grandfather for Congress.

Miss Rankin, again possibly with tongue in cheek, insisted it must have been the senator's father she defeated.

A right to conceal

Those who have their eyes raised to high ideals sometimes do not see the pit at their feet.

Such a pit has been opened by Montana's Constitutional Convention delegates who Tuesday voted a "right to conceal" into the proposed state constitution.

The pit will offer public officials a legal concealment behind

A Gazette editorial

which to hide embarrassment or embarrassment.

The section, number 9 of the Bill of Rights article, purports to defend the public's right to know what its state officials are doing. The concealment potential is hidden in a following clause which prohibits the public's right to know when "the demand of individual privacy clearly exceeds the merits of public disclosure."

So broad is the wording it could mean that anytime you wished to inspect a public document, you would face having to go into court to prove your right to see that document.

No single case, or "landmark" decision, would determine where an official's right to conceal would end. Each case would have to be judged individually.

The "demand of individual privacy" of county commissioners could result in the closing of a meeting with citizens to other

members of the public as happened at a meeting on food stamps in Billings. It could seal, under the "demand of individual privacy" documents such as mileage records in the clerk of the court's and commissioners' offices which indicate circumvention of state-imposed salary limits.

Patrick Henry said, "The liberties of a people never were, nor ever will be secure when the transactions of their rulers may be concealed from them."

We have seen officials at all levels do their best to hide information and documents that could make them blush — or send them to jail.

It is rare that The Gazette places an editorial on pages. But we feel that the public's right to know is vitally important to our democracy is to retain its strength.

The delegates can still suspend their rules and bring the clause back for the type of amendment Yellowstone County Democrat Jerome Cate attempted. That amendment would leave statutory law up to the Legislature and let it determine what general categories of information should be closed.

But as the article now stands, it could not be surprising if the public found it could not, in good conscience, vote for a constitution which provides public officials with the temptation and the streamlined apparatus to foot the state.

lessons for some

By DENNIS E. CURRAN
Gazette State Bureau

HELENA — Some of the most knowledgeable observers of the Constitutional Convention won't have a vote on the final product.

Montana schoolchildren have been studying the convention in classes all winter, and now they are turning out by the busload to watch the convention in action.

Often they are the only ones in the galleries as the convention debates the issues.

About 3,400 persons, mostly elementary or high school students, have been on formal convention tours in the last month, according to Elizabeth Harrison, the convention's public information director. And she expects the number to double by the end of next week.

"IT'S JUST BEEN building up day-by-day, but the peak is still ahead," she said Thursday.

The convention tour includes a guided walk through the Capitol, a bit of Montana history, a slide show explaining the convention, a meeting with hometown delegates and finally a trip to the gallery for a view of the making of the constitution.

Informal question and answer sessions with hometown delegates often are the highlight of the tour, Miss Harrison said.

The slide show includes scenes from the 1889 Constitutional Convention as well as pictures of the current convention. Delegates Betty Babcock of Helena taped the narration.

TOURS ARE LED by student interns, but about 15 wives of delegates are helping out, and this week a half dozen former pages have returned during spring vacation to help, too.

The biggest rush is for the 10:30 a.m. and 1:30 p.m. tours, which often have to be staggered because of the size of the crowds, Miss Harrison said. Tours last at least one hour and often longer, depending on the age and interest of the group.

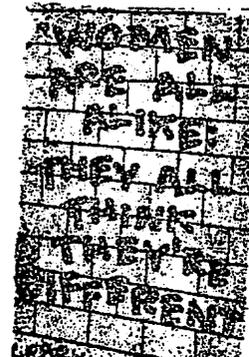
Many tours are prearranged, but sometimes groups drop in unexpectedly, and a hurried call is sent out to round up a stray student intern.

WEDNESDAY HAS been the biggest day, with seven scheduled and five unscheduled tours.

The Public Information Office will conduct the tours for the rest of this week and all of next week. But after that, the student interns will be going back to college, and the Public Information Office will be phased out.

Montanans of all age groups have taken advantage of the tours, but most of the visitors have been the young — the people who presumably will benefit the most from a new constitution even if most of them won't be old enough to vote for it.

Thursday the convention had its youngest tour group and a new form of thank you. Four-year-olds from Helena Head Start visited the convention and when they left, according to Miss Harrison, "they kissed the tour guides."



Treasurer Status Vote in Con-Con

Missoula State Press
HELENA — Constitutional Convention delegates reversed an earlier position and voted 50-33 to remove the state treasurer as a constitutional officer.

The treasurer would still be provided for under state law, however.

Democrats voted for the removal 38-13 while Republicans split 15 for and 18 against. Independents split 3-3. Delegates from seven urban areas voted 34-11 to remove the treasurer.

Here is the vote for removal of the treasurer:

Democrats for (38): Aashwin, Arbanas, Baylock, Blend, Brazier, Beghee, Cain, Cate, Champoux, Conover, Davis, Delaney, Eck, Furlong, Graybill, Reid, Hanson, Hartbaugh, Harlow, James, Joyce, Kelleher, McDonough, Melvin, Monroe, Reichert, Roeder, Rollins, Romney, Scanlin, Schiltz, Sideras, Skari, Sparks, Spear, Sullivan, Van Buekkirk, Wagner and Warden.

Democrats against (13): Aronow, Arts, Barnard, Belcher, Cross, Driscoll, Harrington, Lovell, Mansfield, McCarvel, McKean, Rebel and Vermillion.

Democrats excused, absent or not voting (7): Arnes, Bates, Campbell, Eskildsen, Halling, Hoffman and Swenberg.

Republicans for (15): Berthelson, Bowman,

Burkhardt, Choate, Dahood, Fell, Garlington, Gysler, Habedank, Loendorf, Murray, Payne, Robinson, Rygg and Toole.

Republicans against (13): John Anderson, Ask, Babcock, Berg, Drum, Erdmann, Etchart, Jacobsen, Johnson, Kamhoot, Lemhold, Martin, McNeil, Noble, Nutting, Simon, Wilson and Woodmansey.

Republicans absent (3): Pemberton, Studer and Ward.

Independents for (3): Brown, Foster and Harper.

Independents against (2): Oscar Anderson and Bob Hansen.

Independent absent (1): Mahoney.

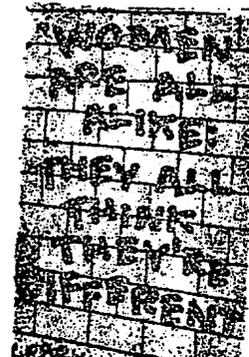
Miss Rankin To Address Convention

Tribune Capital Bureau
HELENA — Former Montana Congresswoman Jeanette Rankin will address the Constitutional Convention next week.

She arrived in Helena this week to attend a reception for John Gardner, former U.S. Secretary of Health, Education and Welfare, and presently national chairman of Common Cause.

At 91, Miss Rankin's prime interests center around world disarmament.

Her address to the convention will be part of its distinguished speakers' series.



Indian Culture Receives Con Con Assurances

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Montana Constitutional Convention delegates approved a section Friday committing the state to preserve the cultural integrity of its first residents, the American Indians, in its educational goals.

Groups representing some of the state's 35,000 reservation and landless Indians had asked various committees for some consideration without much success until the action Friday, which passed 83-1.

The section, offered as an amendment to part of the education article, says:

"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."

It was submitted by Dorothy Eck, D-Bozeman, and amended to include educational goals by Gene Harbaugh, D-Poplar.

"What we have been doing is pushing them back and forth

between these committees in an attempt to get rid of them and they know it," said Chairman Richard J. Champoux, D-Kallis, of the Education Committee.

"The first day I came to this assembly, I looked around and wondered why there were no Indians here as delegates," he said. "Later, as I left the chamber I saw four Indians standing outside the door and I thought how ironic. There they are—typically standing outside the door while the white man makes all the decisions for them inside."

Champoux said it was impossible not to consider Montana Indians as a special group.

Other delegates echoed their support.

The only delegate to speak against the motion on the floor was Archie O. Wilson, R-Hyham.

"I have lived with Indians all my life," the 62-year-old rancher said. "They have been exploited but have been provided with equal educational opportunity for years."

He added:

"These people want equal educational opportunity and to be recognized as equals and not be set aside as being different."

Indians must learn the white man's ways, he said.

"If they pursue equal educational facilities, they certainly are just as free to be a constitutional convention delegate, a governor, a senator or a representative or hold any office."

Wilson later clarified his remarks and said he wanted to keep the educational system as it is and not have separate schools for whites and Indians.

Although he spoke against the amendment, Wilson voted for it. The lone opponent was Lloyd Bernard, D-Saco, who did not speak on the proposal.

After the vote, Earl J. Barlow, Indian education supervisor for the superintendent of public instruction, praised the delegates.

Barlow, an Indian who is being pushed by some Indian groups to run for governor, said:

"This is the dawn of a new era of understanding of our people and our culture which is vital to our existence."

Delegates Joke With Sick Friend

Tribune Capital Bureau
HELENA — Constitutional Convention delegates Friday expressed sympathy for a "sick" friend.

The fancy new voting machine in convention hall was ill briefly and the votes of several delegates would not register.

At one point the electronic marvel began to groan in humanlike fashion.

"Let's have Father Arbanas (delegate Harold Arbanas, a priest from Great Falls) give it last rites," one delegate suggested.

"Have Berthelson shoot it," another said.

Delegate E. M. Berthelson of Conrad has been spearheading a move to constitutionally outlaw the registration of guns.

Final Sections on 'Rights' Follow Present Document

HELENA (AP) — Completing the bill of rights article Thursday, Constitutional Convention delegates approved a series of sections similar to provisions in the present constitution.

Sections banning ex post facto laws, double jeopardy, and self-incrimination were among those approved.

One change approved requires a unanimous verdict by juries in misdemeanor charges as well as felonies.

Mike McKeon, D-Anaconda, offered a new section that says veterans may be given special consideration by the legislature if it deems it desirable. The motion passed 50-39.

Robert L. Kelleher, D-Billings, submitted three proposed sections, all of which were rejected.

One would have said that addiction to alcohol and drugs is not a crime but a sickness.

Kelleher said he was an alcoholic until about 15 months ago. "Alcoholism was a disease for me, Bob Kelleher," the delegate said.

While delegates were sympathetic to the proposal, many did not feel it belonged in a con-

stitution. The motion failed 74-15.

Another Kelleher motion would have allowed criminals to retain their political and civil rights, except for choice of residence, the right to vote and hold public office. It would have forbidden prisoners to be placed in solitary confinement.

This motion failed 66-18.

His last attempt would have said that private sexual acts between consenting adults did not constitute a crime.

The section would have legalized homosexuality, he said, calling it a combination of physical and mental diseases.

But Kelleher said the section also would legalize prostitution. Delegates defeated the motion 69-15.

In other action, they amended a section already passed on the right of privacy.

At the request of Thomas M. Aks, R-Roundup, a section was restored saying that the right to privacy could not be infringed upon without a compelling state interest.

Ask said the section was too restrictive without the qualifying phrase.

Potential danger

It's difficult to believe that many Constitutional Convention delegates were aware of the potential danger in a clause they approved in the Bill of Rights article.

That clause, made an exception of the "right to know" provision, would allow any government official to refuse access to public records on the basis that in his opinion the demand of individual privacy was dominant.

"Under this doctrine, inequity and corruption could flourish undetected with constitutional sanction," Prof. Robert C. McGiffert of the School of

Journalism at the University of Montana, pointed out to delegates.

The clause will not protect privacy as much as it will give bureaucrats the right to hide public records from the press and the public. Officials who would want to conceal their errors, faulty judgment and even theft from the public would take delight in using the "privacy" clause to deny the press the right to inspect public records and documents.

The clause contains great danger. It should be eliminated before the constitution is presented to the voters.

'Use money where needed'

Special interests are, predictably, down at Helena during the Constitutional Convention. But some of them are working too hard, intimidating our delegates to keep their special interests on top. In fact, our delegates need to hear from all of us in order to keep those special interests from triumphing over the common interest.

One strong case in point: The Revenue and Finance Committee rightly wished to delete, or at least to trim down, earmarked funds from the Constitution. Earmarked funds certainly belong under legislative control rather than being frozen into the Constitution.

But the Montana Highway Users Federation and other special interest groups (pocketbook in mind) are determined to keep the same earmarked fund provision in the new constitution. They certainly don't represent all highway users: for example, I use the highways and pay plenty of gas taxes, but I do NOT wish the highway lobby to continue in its present powerful position indefinitely. I would like to know that some of the money I pay for

gas taxes could be spent for other purposes when there are more urgent needs.

Certainly there are plenty of Montanans who would like to see public transportation built up again, who realize that there is a limit to how much of our fertile land we should cement over, that there is a limit to how many automobiles should pollute the air, and that there is a limit to how much of the world's irreplaceable resources can be so used.

In short, in the years ahead, we will be unwilling and unable to continue in the wasteful way we now enjoy. When that day arrives, we should not have all our gasoline tax revenues and motor vehicle fees earmarked in the Constitution for building highways. If we do, it will seem as anachronistic as if we had earmarked all that money for dinosaur trails.

I urge all citizens who want a constitution to meet our future needs to write now to their delegates, telling them they don't want highway funds earmarked in the Constitution.

MARY (MRS. A. M.) EL-NEGOMY,
Bozeman

Says Anaconda Delegate Thurs. March 9

Con Con Reform Lags

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — Mike McKeon D-Anaconda, says he's concerned that not enough reform is coming out of the Constitutional Convention, but at the same time he emphasizes that he's not for reform just for the sake of reform.

An example is that while he fought (unsuccessfully) for poll booth registration and a people's advocate, he voted for continued election of judges and state elected officials.

"Naturally there are problems with electing judges," he says. "A person is elected judge and unless an extremely well known qualified candidate with a lot of money runs against him he's probably going to stay in office. But there's at least the opportunity to get rid of him."

And in view of the stronger executive branch brought about by executive reorganization, McKeon doesn't feel that shortening the ballot would further strengthen it. "This goes to the essence of my philosophy that I want to see as many public officials elected as possible," he says.

His proposal to allow voter registration right up through election day sparked the convention's first debate. It not only seemed to set a pattern of passing something one day and killing it the next, but, says McKeon, "I think it divided people more along philosophical or ideological grounds than it did along political grounds. And I've noticed ever since we had that vote the people seem to be following a pattern in correlation of where they went on that poll booth thing. I think it split the liberals from the conservatives."

McKeon says he felt very strongly about his proposal, "just because of the shocking figures that show so many people don't vote simply because they are not registered. And I thought something like this would be helpful to the state and both political parties."

McKeon has also been quite concerned with the convention's environmental issues, partly because he comes from a smelter town with more than its share of environmental problems. But he has pretty much resigned himself to the thought that as far as the convention goes, "for the most part, the battles have been

tough and, unfortunately, lost." The 25-year-old lawyer had practiced with his well-known father, State Sen. Luke McKeon, since admittance to the bar last June.

With his father's long political career in mind, McKeon was asked if he considered his role as convention delegate the beginning of a political career of his own. "I don't know if I really have any political aspirations or not," he replied. "I wanted to run for the convention for the experience and come over and try to do some good. But also as young attorney I have to go back and learn how to practice law before I can become very serious about politics."

On the specific point of the next legislature, McKeon says he just can't say at this time whether he might be interested, adding with a chuckle, "This is the wrong time to say."

McKeon was asked if there is really such a thing as a Butte-Anaconda bloc at the convention. "I think that's misinterpreted," he replied. "As you notice, on many issues we're splitting."

"One thing people have to understand about Butte and Anaconda is that the area over the course of years has been such that I think people grow up thinking alike because it is very close-knit."

"When I came over here I really didn't know most of the people from Butte, but I found that on many issues we thought alike, perhaps just because of our heritage. I don't know that you could call it a bloc, although I think that like most groups you like to stay together to have strength in the convention and other politics."

How do the people at home view the convention? "Generally I think the people of Anaconda feel pretty good about it. They don't seem to be as disappointed in what's going on as the people seem to be in some areas of the state. Naturally people in Anaconda are concerned about labor issues and I think if we had a right-to-work provision or something of this nature then people would be very upset."

"The people of Anaconda are sitting back and waiting, but they haven't expressed a great deal of disapproval on any one specific area that I can see."

Are they looking for a loosening of the restrictions on gambling? "I think this is a myth

(that Anacondans are preoccupied with gambling). I think people all over the state are interested in seeing a loosening up of the present constitutional restrictions. But I don't think the people of Anaconda want slot machines back in the bars. I don't think they want any great degree of gambling. I think they want perhaps what everyone else in the state wants — a reasonable gambling law."

McKeon is well satisfied with how the convention treated the report of the Revenue and Finance Committee, of which is a member. "Our report was less amended, less chopped up, than any other report," he notes.

"I think it's probably the most reformatory type of document this convention is going to see. I think we really reformed the property tax laws in the state and leave open so many things in the property tax area that weren't possible before. I think now we can provide property tax relief for the home owner... for the senior citizen... and perhaps find more equitable ways of funding our schools."

Education super board proposed

By DENNIS E. CURRAN
Standard State Bureau

HELENA — Education in Montana would be guided by a "super board" with two separate units under a proposal by the Constitutional Convention Education Committee.

The new structure is just part of a proposed new constitutional article which sets down the basic educational goals of the state and tries to provide both protection and flexibility for the future.

The committee proposal, which probably will be debated Thursday and Friday, would change the present structure of having an 11-member board oversee both elementary and secondary education and higher education.

Instead, the committee proposes what is basically a two-board system — a board of public education for elementary and secondary schools and a board of regents for the university system.

EACH BOARD WOULD have seven members appointed by the governor and confirmed by the senate to serve six-year overlapping terms. The governor and the state

superintendent of public instruction would be ex officio, non-voting members of each board.

But the separate boards would be linked in a super board called the state board of education. The full board would meet periodically as the separate boards could discuss "matters of mutual concern."

The state superintendent would continue to be an elected official, and the board of regents would be granted "corporate status" and would have increased control over the internal affairs of the university system.

The committee proposal has generated opposition from several education groups, most notably the Montana School Boards Association, and the corporate status concept is under attack from the state department of administration. But the committee defends both concepts on the basis that education has changed so much since 1889 and will change even more in the future.

Two boards, the committee argues, would allow each to specialize in the differing problems associated with their areas. Corporate status is deemed necessary to protect

higher education from interference from other agencies of government.

Beyond the question of structure, the committee also offers some other new constitutional approaches to education:

—Educational goals. The state goal would be to develop the "full educational potential of each person," and each person would be guaranteed "equality of educational opportunity."

—Financing. With one eye on court cases in other states, the committee drafted a section which allows future changes in funding public education. Besides providing for equal educational opportunity, the proposal calls for "high quality free public elementary and secondary schools" and directs the legislature to insure "full funding" of the public schools and make sure the funding is equitable. The legislature would be encouraged to provide funds for public libraries and other educational programs.

—PUBLIC SCHOOL FUND. The proposal restates the 1889 constitution's goal of establishing and protecting school lands in a public school fund. Interest and income

revenue from the fund would continue to be distributed in the same manner as under the existing provision — 65 percent to the schools and 5 percent back into the fund — but the method of distribution to the schools would be left to the legislature.

—Non-discrimination. The existing non-discrimination clause would be expanded to cover all institutions.

—School elections. The proposal continues the concept of local control over education and directs the legislature to provide for election of school trustees. But the old restriction requiring separate school elections would be deleted.

—Public Lands. The committee has an abbreviated restatement of the present section on public lands and provides for continuation of the four-member board of land commissioners.

—Unified Investment. The committee basically believes investment should be left to the legislature, but a minority wants to insure security of investments.

—Aid to nonpublic schools. The majority wants to retain the present strict ban, but a minority favors some relaxation.

C. M. Russell Month

HELENA — Delegate Margaret Warden of Great Falls has presented the other Constitutional Convention delegates with a scroll proclaiming "C. M. Russell Month."

The scroll was prepared by the Great Falls Advertising Club.

Mrs. Warden, speaking from the rostrum in Convention Hall, said "It is fitting and proper that you receive this scroll beneath one of the finest paintings C. M. Russell ever did."

This was a reference to the large Russell mural "Lewis and Clark at Ross's Hole," across a wall of the House of Representatives.

The scroll, which was brought to Helena by the Great Falls Sheriff's Posse, is signed by Mayor John McLaughlin and Gov. Forrest Anderson.

The proclamation says that the Charles M. Russell auction of western art conducted each March in his gallery and original studio in Great Falls is becoming the leading auction of its kind in the United States.

Parochial School Aid Issue

Continued from page 1

equivocal support for a strong public school system education is a function of the state, and change in the present provision might endanger passage of the entire Constitution and that public aid to sectarian schools poses a potential threat to religion.

The Education Committee's minority proposal expresses agreement with a provision in the majority proposal which says equality of educational opportunity should be a primary goal. But, the minority says, "This goal amounts to a hollow promise unless some provision is made in our Constitution which will protect the rights of that sector of our society which is engaged in nonpublic education."

In 1964-65, the minority report says, there were 64 nonpublic schools and now there are 42

"In an age when the state exercises vast economic powers and when inflationary pressures are rising, the hopes for the survival of any nonpublic educational institutions become increasingly dim," the report says.

Cited is an example of the increased cost to taxpayers resulting from the closing of nonpublic schools in Helena with enrollments of 394 high school students, 160 junior high students and 336 elementary pupils. The additional costs in Helena from the displacement of students from nonpublic to public schools has been estimated at approximately \$1.7 million over the past three-year period, the report says.

"In a time when the nation's courts are insisting on education as a fundamental and basic right, and that equality of educational opportunity be measured by a corresponding

equality of financial expenditure, it is incongruous to retain a constitutional statement that might deprive a significant segment of our citizens of any aid available which might help to equalize their educational opportunity," the report says.

The minority calls Article 11, Section 8 one of the most restrictive, if not the most restrictive, such constitutional provision in the nation. The ban against indirect aid to private schools, the minority says, precluded even the kind of student benefit aid which has been accepted by the U.S. Supreme Court.

Education Committee Chairman, Richard Champoux, a professor at Flathead Valley Community College, predicts "there will be a lot of flak" on the issue of changing the wording of Article 11, Section 8, when debate on the education issue begins.

Two UM Demo Students Eye National Committee

Tribune Capitol Bureau

HELENA — State Committeeman Ed Smith, Helena, the youngest member of the Montana Democratic executive board, and Tom Fitzpatrick, president of the University of Montana Democrats, have announced their candidacy for the Democratic national convention and endorsed Missoula Sen. Edmund S. Muskie for the Democratic presidential nomination.

"Montana's delegation to Miami must represent a cross section of ages and views. It has a clear mandate through the new party rules to contain a substantial number of women and young people," they said in a joint statement.

Smith and Fitzpatrick said that "Sen. Muskie best exemplifies the type of candidate the Democratic party needs to regain the White House in 1972."

Muskie, they said, led the fight for the 26th amendment to the U.S. Constitution which gave 18-year-olds the right to vote and has championed the cause of civil liberties in many areas. They said that Muskie has always taken a stand on all issues.

The two are students at the University of Montana. Smith serves as the Montana co-chairman for the voter registration committee. He is a member of the party's minorities committee and is the labor-backed Frontlash Organization director for Missoula County. Fitzpatrick is a member of the labor advisory committee for the party and is past president of the Deer Lodge County Young Democrats.

"Why not a simple constitutional amendment declaring the courts unconstitutional?"



Right to Privacy Gains Convention Assurances

HELENA (AP) — Constitutional Convention delegates approved sections providing for the right of privacy and prohibiting unlawful searches and seizures Tuesday.

They adopted a privacy section that says: "The right of individual privacy is essential to the well-being of a free society."

Left out was the second part of the sentence that said the right to privacy could not be interfered with "without the showing of a compelling state interest."

George Harper, I-Helena, succeeded in removing the last portion of the sentence. He said including the section in would leave the right to privacy up to whatever a state agency wanted.

Bill of Rights Committee members acceded to his amendment.

The other section, banning illegal searches did not mention wire tapping as an earlier draft did. At a hearing several weeks

ago, some witnesses said that the committee recommendation, which prohibited unlawful wiretapping, had the effect of authorizing wiretapping in the state for the first time.

Mae Nan Robinson, R-Missoula, attempted to insert some language saying that the privacy of communications remain inviolable.

"I feel very strongly about this state not ever engaging in wiretapping," she said.

David L. Holland, D-Butte, said her amendment posed some problems since the telephone company taps phones to trace obscene calls and prison officials check mail.

He said he supported her general concept but the word "communications" was too broad.

She later withdrew the amendment.

The rest of the section forbidding illegal searches and seizures is similar to the present constitutional section.

State Girds for Constitution's Printing

TRIBUNE CAPITOL BUREAU HELENA — Bid invitations have been sent out to commercial printers for production of 370,000 copies of the proposed new constitution — enough for all the registered voters in the state and 11,000 for other distribution.

The Constitutional Convention's rules committee has decided to put it out in a three color, 24-page tabloid (14x11) format. A union label is required.

The state purchasing department estimates that the job will cost between \$35,000 and \$40,000, although purchasing chief Mike Weggenman says it's hard to predict printing bids.

has \$24,000 set aside for the project from previous estimates based on a less elaborate layout. Chief Deputy Secretary Gall Dewalt says it may be that the office can come up with a little more out of the election budget and the convention itself reportedly may be able to contribute \$5,000 or so.

The constitutions, including sample ballot and explanatory notes, are to be delivered to each county clerk for mailing to the voters at county expense. Weggenman estimates the cost of mailing at 12 cents per copy, a total of some \$43,000, including \$4,180 for Cascade County.

Weggenman's office suggested a smaller optional size, 32 pages

on 12x6 paper at an estimated cost of \$25,000 and costing the counties only 8 cents postage per copy. That's a difference of \$10,000 to \$15,000 in the estimate production cost and some \$14,000 in county postage bills.

But Marshall Murray, R-Kalispell, chairman of the rules committee, told the Tribune the committee felt that the extra better job the larger size would do. It would be more readable, he said, because of slightly larger type and more white space.

Production schedule calls for delivery to the counties by April 25. The ratification election has been set for June 6, the date of the state primary election.

The secretary of state's office

A smaller legislature

Montana Constitutional Convention delegates deserve great credit for agreeing Tuesday to trim the size of the legislature. It took unanimous agreement for the 100 delegates to suspend convention rules and reverse a position taken earlier.

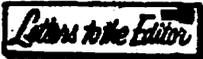
The delegates voted to limit the size of a bicameral legislature at 40 to 50 members for the Senate and 80 to 100 in the House. A unicameral body would be held to from 90 to 105 members. The choice between the unicameral and bicameral systems will be made by voters at the June 8 election. The bicameral-unicameral issue will be voted upon as an alternate issue—apart from the basic constitutional proposal.

In earlier action, the delegates had placed the size of a Senate at 50 to 53 members and a House at 100 to 106 members, and a unicameral body of 100 to 105 members.

Although the reduced size is a move in the right direction, it is regrettable that a more significant cut was not made. A smaller legislature would be more in line with the national trend. Montana has had a much larger lawmaking body than needed in a state with 700,000 population. Montana, which ranks 41st in population in the nation, had the 20th largest legislature with 159 members in the 1971 session.

Other states are finding that smaller lawmaking groups are an asset. California, with 20 million population, has 100 legislators. Oregon has 90, Colorado 100 and Arizona 90.

The delegates rate a salute for slicing the legislature's size. It's also encouraging to note the large number of delegates who are convinced that the unicameral system has many advantages that a bicameral body lacks.



Lobbyists Aren't Bad

Editor, Independent Record:
A considerable number of Constitutional Convention delegates have succumbed to the myth of equating lobbyists with evil doers. One, Jerome Cain (D. Yellowstone), has intimatedly concluded that if a lobbyist is for a proposal it's reason enough for him to vote against it.

The word "lobbyist" has fallen into disrepute. Perhaps it should be dropped in favor of something more acceptable such as "consultant."

Lobbyists are simply Montanans who represent a particular viewpoint on a given issue. Some are compensated; many are not. They represent such diverse groups as the Montana Council of Churches, labor unions, business and the professions, farm and ranch organizations, education, conservation, senior citizens and youth groups. They possess information and knowledge that benefit the decision making process in government. Such information deserves to be considered with other viewpoints in developing sound judgments.

Constitutional Convention delegate and legislators are constantly in pursuit of facts and public opinion. To accept lobbyists carte blanche is a mistake, but to ignore them entirely is an even greater mistake if we are to have intelligent and pragmatic conclusions at the decision making level.

As citizens of Montana, we are all in effect lobbyists for better government. To be a responsible lobbyist is no less honorable than the privilege of holding elective office.

Stan Stephens
State Senator
Havre, Mont.

Convention Stands Pat On Age Limit

HELENA (AP) — A last-ditch attempt to remove minimum age barriers for candidates for high state offices failed at the Constitutional Convention Wednesday.

Delegate Bob Campbell, D-Missoula, failed in his attempt to suspend rules to reconsider earlier convention action setting a minimum age limit of 25 for these candidates. The vote was 35-40.

Delegates previously had imposed a 25-year age limit on those running for governor, lieutenant governor, attorney general, superintendent of public instruction, treasurer, auditor and secretary of state. In so doing, they reversed an earlier decision to allow anyone 18 and older to seek the higher posts.

The present constitution has a 30-year age minimum for some offices, including the governorship, and a 25-year minimum on others.

With former suffragette and Congresswoman Jeannette Rankin sitting beside him, Campbell said fears expressed over allowing 18-year-olds to seek the positions were similar to those expressed at the 1889

convention over allowing women to vote.

He said Miss Rankin, the first woman ever elected to Congress, supported him. The 91-year-old Miss Rankin, who now lives in Georgia, was not able to speak on the subject because of convention rules. She plans to address delegates next week.

Move to Ban Registration Of Guns Fails

HELENA (AP) — In an emotional showdown in Convention Hall Wednesday, delegates shot down an amendment that would have barred gun registration in a new constitution.

The amendment, offered by E. M. Berthelson, R-Conrad, failed 52-43, but delegates approved a section guaranteeing citizens' right to keep and bear arms.

A number of sportsmen organizations strongly backed the anti-registration proposal, and some delegates accused them of threatening the convention. The rifle groups had mustered a mail campaign, intimidating delegates with letters.

Berthelson cited Communist takeovers in Czechoslovakia, Hungary and Cuba as ample reason for outlawing gun registration.

Shel Blaylock, D-Laurel, disagreed. "You keep your freedom by participating in the democratic political process," said the vice chairman of the Bill of Rights Committee. "You can't fight tanks with shotguns."

The Bill of Rights Committee had rejected an earlier attempt by Berthelson to include the anti-registration clause.

Marian S. Erdmann, R-Great Falls, said she had received many letters favoring the Berthelson amendment and thought its inclusion might be a wise political move. Agreeing was Marshall Murray, R-Kalispell, who said adding the amendment would attract supporters of the new constitution.

Carl M. Davis, D-Dillon, backed the amendment for the same reason as Murray.

"Basically these guns people are 'agrimers,'" Davis said. "But they sure are going to be trapped if we include this in the constitution." They'll have to vote for it."

George Rollins, D-Billings, found this reasoning faulty.

"To paraphrase the Alka Seltzer ad, I can't believe I'm hearing this," the college professor said. "If they do wreck this constitution, they will have exactly the same thing they do in the present constitution. What have they gained?"

State Treasurer Loses Constitutional Mention

HELENA (AP) — The office of state treasurer, described by one delegate as "an historical relic," was deleted from the proposed constitution today.

Constitutional Convention delegates failed in similar attempts to remove the lieutenant governor, attorney general and secretary of state from the proposed article.

Earlier, delegates had voted for the so-called long ballot, but many changed their minds to day and shortened the ballot by one office.

A successful move to suspend the rules and reopen the executive article took place when word changes recommended by the Style and Drafting Committee.

Richard B. Roeder, D-Bozeman, was successful in suspending the rules on a 58-28 vote. He is a member of the Executive Committee that had recommended deleting the treasurer and auditor from the constitution.

"Your money is going to be safe," he said. "The fact of the matter is that the office is an historical relic."

Geoffrey L. Brazier, D-Helena, said delegates ought to delete at least one of the seven state office holders from the constitution.

Harold Arbanas, D-Great Falls disagreed.

"It's rather obvious to a lot of people that a simple ministerial office can not be handled by a state-wide vote," he said.

Another delegate, Margaret S. Warden, D-Great Falls, said deleting constitutional mention of the treasurer did not necessarily mean abolishing the office, which is also provided for in statutes.

The motion to delete passed 56-33. The treasurer presently is hamstrung by the constitution, which prevents him from seeking re-election after one term.

National primary suggested

WASHINGTON (UPI)—Senate Democratic Leader Mike Mansfield said Tuesday he would propose shortly a constitutional amendment calling for a nationwide presidential primary.

He denounced state primaries as "useless and worthless."

"I want to do away with conventions, too," Mansfield told reporters. "They are unrepresentative, useless and subject too much to outside pressures and the influence of special interests."

Of state primaries, he said, "I'd like to see them all done away with. But if we're going to have them, let's have them all on the same day and make it applicable to all states in the union."

Recalling that he first proposed a national primary in 1960, Mansfield said: "State primaries are a waste of time, a waste of money and a waste of energy. Here, we (Democrats) are broke, some \$9.5 million in the hole, and all this (primary campaign) money is going—I don't know, somewhere."

Con-con . . .

(Continued From Page 1)
tana," he said. "We never dreamed the Supreme Court would rule in this manner."

Dahood said the proposal was not legislative since it "was just giving back a workingman a basic constitutional right."

Also approved was a section giving 18-year-olds the rights of adulthood. The principal sponsor of the proposal, Bob Campbell, D-Missoula, said earlier in the convention this would allow 18-year-olds to sign contracts, marry, drink alcoholic beverages and enjoy other rights of adulthood. The 1971 legislature lowered the majority age from 21 to 19.

Another section guarantees the rights of minors, except where precluded by laws.

If the constitution is approved, the state and its subdivisions no longer will enjoy sovereign immunity.

Citizens will gain the right to file suits against the state and the subdivisions for injuries or property damage after June 1, 1973.

Dahood said presently a citizen would have no legal recourse if a drunk city employe ran a red light and ran into someone.

Also passed were sections on the right to suffrage, due process of law, habeas corpus and initiation of proceedings.

Former FBI Agent J. Mason Melvin, D-Bozeman, succeeded in changing the composition of a grand jury.

Not all offices in state open to 18-year-olds

HELENA (AP) — Eighteen-year-olds may run for any public office in Montana for which no minimum age is required, the state's chief legal officer said Tuesday.

Delegate's wife protests

As a Constitutional Convention delegate wife I wish to protest the reporting of this convention by your Helena based reporters.

For instance, Sunday's issue, Feb. 20 carried the story of the award of a Red Cross Certificate of Merit to a Corvallis girl. At no point in this report was there a mention of the fact that Delegate Mrs. Lawrence Pemberton, (last year's Montana Newswoman of the Year) was the one who came from the floor to introduce the young lady and that Mrs. Pemberton has long been a member of the Red Cross in Montana, and a national representative. She made quite a speech of introduction and the only mention went to our president, Leo Gravel.

On top of that (and other slanted news) your reporter Daniel J. Foley reported in Feb. 27 that we are at a status quo; but he was wrong!

He just plain neglected to say that the legislative days (five day work week) were reduced from 90 days to 60 days. This amounts to three months of the legislative days vs. the old Constitution of approximately 44 legislative days.

The committee had recommended that a grand jury be made up of seven persons. Five would have to agree to bring an indictment against an individual.

Melvin raised the size to 11 persons and stipulated that eight must concur to find an indictment.

Labels Con Con a 'farce'

It is unfortunate that more people are not coming here to observe this farce mislabeled a Constitutional Convention.

They would be repelled, as many of us are, by this exercise in anarchy really being staged and managed by those instantly experts in everything — the "Plague of Women Voters."

Let us hope that the voters will properly express themselves on June 6 and reject the efforts of this group, together with their friends, the "do gooders" and amateurs.

Not only should the proposed constitution be rejected; so should be all convention members who are using their present position as a springboard to political office.

NICK ALEXANDER, Helena

no minimum age is required, the state's chief legal officer said Tuesday.

Delegate's wife protests

If it had been left at 90 legislative days that would have approximated four months. This would actually set up a very professional legislature. The people of Montana do not want this. This legislature would meet annually, not bi-annually.

So, we resent your reporting, and have a right to do so.

If the news media continues in this manner, I suggest that you are asking for trouble.

The people of this country do not respect this type of reporting and will some day do something to restrict it.

I believe in freedom of speech all the way, but I expect objective, not slanted reporting from you as we American citizens demand it.

Mrs. Torrey B. Johnson Busby

Atty. Gen. Robert L. Woodahl's official opinion was issued for Secretary of State Frank Murray, who asked if the 26th Amendment to the U.S. Constitution made 18-year-olds eligible for election to public office in Montana.

The 26th Amendment lowered the age for voting in all elections to 18. By contrast, the Montana Constitution makes 19 the age of adulthood.

Woodahl pointed out that by constitutional provision or statute, "some public offices require as a qualification for holding office that the candidate have attained a certain minimum age."

In those cases, he said, "the person running for office must meet the specific age requirement."

Such Montana minimum age

limitations include: 30 for governor, lieutenant governor, attorney general or superintendent of public instruction; 25 for secretary of state, state auditor or state treasurer; 24 for state senator or 21 for state representative.

"If no age is specified as a qualification for holding a particular office, then anyone meeting the age requirement for voting may hold the office if qualifications other than age are met," Woodahl ruled.

Recently, Montana's Constitutional Convention voted to allow 18-year-olds to run for any public office but later reversed itself and fixed a number of minimum age requirements.

That reversal currently is scheduled for reconsideration.

Delegates alter size of houses

HELENA (AP) — Suspending their rules, Montana Constitutional Convention delegates changed the size of the bicameral legislature Tuesday.

They adopted amendments to set limits of from 40-50 members in the Senate and 80-100 members in the House.

Earlier, delegates had adopted a proposed bicameral legislature consisting of a Senate of 50-63 members and a House of 100-106 members.

Magnus Aasbheim, D-Antelope, made the motion, saying bicameral proponents felt the size was too large.

Some had said that the large size might force cost-conscious citizens to vote for the unicameral proposal, which would consist of one house of 100-106 members because it would cut the total size by about a third.

Earlier in the debates, delegates had rejected Aasbheim's Legislative Committee recommendations that the size of the two house legislature be 60-60 in the House and 30-40 in the Senate.

But Tuesday, some rural delegates stood up and backed the reduction in size.

E.S. Gysler, R-Fort Benton, supported Mark Etchart, R-Glasgow, who proposed lowering the size.

Delegates were expected to lower the proposed unicameral size in later debate, and could reconsider their action on the bicameral.

Under the reapportionment plan approved by the last legislature, 100 representatives and 50 senators will be elected this fall.

Bumper Sticker Gives Con Con Laugh Break

HELENA, Mont. (AP) — At the height of a Montana Constitutional Convention debate on gun registration, a Missoula delegate flashed a bumper sticker that had all chuckling.

Bob Campbell showed other delegates one that took off after a popular antiregistration sticker and said:

"When sex is outlawed, only outlaws will have sex."

Vehicles of some Montana rifle and pistol enthusiasts display stickers that say: "When guns are outlawed, only outlaws will have guns."

Common Cause Chief to Speak At Con Con

HELENA — John W. Gardner, former secretary of Health, Education and Welfare and presently national chairman of Common Cause, will address the Constitutional Convention at 8 tonight.

Gardner served as secretary of HEW from 1965 to 1968 and has been Common Cause chief since 1970.

A reception in his honor will be at the Colonial Motor Inn in Helena from 6 to 7:30 tonight.

He served on education task forces for President Kennedy and President Johnson and was editor of President Kennedy's book, "To Turn the Tide." Gardner is the author of two books and holds other distinctions in both the fields of business and civic affairs.

Parochial school reports opposed

Gazette State Bureau

HELENA — The constitutional convention could be plunged into controversy over two conflicting education committee reports on public aid to nonpublic education.

The committee's majority report recommends no change to the present strict Montana section which flatly bars direct and indirect aid to private and church schools.

But a committee minority report seeks to relax the provision to allow federal aid now allowed under the court interpretations of the more lenient federal constitution.

If testimony presented during committee hearings is any guide, the parochial aid issue could prompt one of the more emotional debates of the convention.

to private schools could weaken the public schools, it said.

The committee's majority also stressed that public aid to religious schools conceivably could lead to governmental meddling with religion.

The majority also noted that church-state issue "stirs deeply held emotional feelings" and could "endanger passage of the entire constitution."

The minority report also

would ban direct aid to sectarian schools but allow indirect aid and allow the state to distribute federal funds intended for nonpublic education.

THE MINORITY argued that equal educational opportunity for all would be a "hollow promise" if the state's approximately 14,400 students in nonpublic schools and colleges are frozen out of potential aid.

Let laymen do writing

Non-progress reports of the Con-Con Convention are nearly daily now; with most accusations pointing the finger directly at the lawyer delegates "who merely possess superior parliamentary skill," and the "proposed document appears to be of lawyers, by the lawyers and for the lawyers, rather than of, by and for the people." The most convincing indictment was by a fellow lawyer who "charges that many of the lawyer-delegates are using the convention to make sure that provisions which have created much litigation in the past stay in the constitution now."

If we somehow, probably only through a modern vigilance committee, would draw up a new constitution with lawyers prohibited from being Con-Con delegates and/or being conferred with by said delegates, then it would be written in layman's language that the ordi-

nary citizens could understand and be governed by without having to hire an attorney to handle a suit on each provision all the way to the Supreme Court to determine what it means. Needless to say, one of the first provisions of the new Constitution should be that lawyers be ineligible to be members of the legislature; this would give the legislative members the opportunity to write new laws in the laymen's language as well so their constituents would understand the law when and as it was written without court fights as to what the intent was. As it is now, when the lawyers get done drafting a new law not even they know what it means, this contention being borne out by necessity of it having to be fought through the courts to make such determinations.

Adam Smith
Sidney

Montana's present prohibition is one of the most restrictive in the nation, according to the minority report.

Under recent federal court interpretations, aid which goes directly to students, like hot lunch programs and scholarships, can be allowed.

Both sides played the money game in their arguments.

The majority report noted that nonpublic schools now get more than \$120,000 under federal programs and nonpublic colleges get more than \$1 million in federal aid.

The minority report contends that nonpublic schools reduce the state's educational burden by more than \$7 million each year.

According to the committee report, about two-thirds of the approximately 75 nonpublic schools in the state are operated by the Roman Catholic Church. The bulk of the nonpublic students attend Catholic schools, according to the report.

Education committee members Gene Barbaugh, John Toole and Dan Harrington signed the minority report.

Proposal supported

MISSOULA (AP) — Public Instruction Supt. Dolores Colburg has endorsed a proposed constitutional article she said provides for guaranteed financial support for public schools and a degree of independence for education's governing authority.

The proposed article for Montana's constitution, she said, contains provisions which would give the legislature flexibility in designing financial systems to meet current and future needs.

Speaking at a meeting of the American Association of Uni-

versity Women in Missoula, she said Montana has committed itself to education by constitutionally providing for the establishment and maintenance of a system of free public schools.

"This premise must be continued in the new constitution," Mrs. Colburg said. "Any weakening of that commitment would be a repudiation of Montana history, a renunciation of the state's basic philosophy."

The Billings Gazette

Thursday, March 9, 1972
Morning Edition

18

Reduction plan upsets JPs

If Constitutional Convention delegates have their way about judicial reform Yellowstone County's Justice of the Peace ranks will be slashed from four to one.

Such a proposal has produced a strong reaction from Billings Township Justices Winn E. Dowlin Jr. and Robert J. Williams.

THE REACTION was sparked by a recent Judiciary Committee report presented to the convention that all Montana counties have just one Justice of the Peace instead of two as currently allowed.

While Yellowstone county, under state statute, is allowed two JPs for its five townships of Custer, Worden, Broadview, Laurel and Billings, only the last two cities actually maintain Justice Courts.

JPs for Billings are Dowlin, 53, and Williams, 59, and for Laurel, Walter A. Menello, 54, and Marvin L. Carter, 33.

Dowlin and Williams work full time and have a staff of two full-time and one part-time secretaries and two constables; while Menello and his secretary work parttime. Carter handles a few cases only when Menello is not available.

BUT CONSOLIDATION of the four justices into one JP would be "impossible," say the women of Billings Township JP court.

There were 4,712 cases filed in Billings from mid 1970 to mid 1971. This includes, civil, criminal, highway, fish and game actions and search warrant applications.

But each case requires more than a single action: there are appearances before the JPs, summons to be issued, return notices of search warrants, and a multitude of related legal shuffling done on each case. This multiplies Dowlin's and Wil-

"AS AN EXAMPLE," said chief secretary Laura Dougherty in Billings, "we just completed a four-day jury trial before one of the JPs. What would happen to all of the other cases during that time if there wasn't a second judge?"

Menello said Wednesday that he handles about 850 to 875 criminal, highway, and Montana Railroad Commission cases each year and about 250 civil actions.

The JPs in Billings say one man simply couldn't handle the combined case load of the three active JPs.

Williams' legal activities to more than 10,000 individual actions a year, court officials say.

Like their approach

I would like to comment on what I consider your unfair reporting of the Montana Constitutional Convention.

The general tenor of your articles has been a criticism of the convention's action for what you describe as its "status quo" attitude.

In the Saturday Gazette, you cite the disillusionment of several of the co-convention researchers in support of your general derogation of the convention. You describe these disappointed researchers as "young and well-educated."

As a relatively young (34) lawyer, may I say that I am grateful that we have some "old fashioned" delegates in Helena who are leaning toward a conservative approach.

The purpose of the convention is to redraft a constitution acceptable to the people of the State of Montana. This means all Montanans, and not merely a handful of young liberals. The convention has gone a

long way toward granting concessions to the young, the convicted felons, the poor and other minority groups.

The fact that the convention has stopped short of a socialistic welfare state seems to displease your journalists considerably. Fortunately, you do not speak for all Montanans, and I would venture to say your opinion is not even shared by a majority of Montana voters.

Having studied the committee proposals and the convention action rather carefully, I dare say that the reaction of the average Montana voter would be one of shock at the liberal bent of the convention, rather than one of concern for the conservative attitudes displayed in the convention's drafts and proposals.

I, for one, am happy that the delegates in Helena are redrafting the constitution, and not the Gazette's staff!

Jacque W. Best
Sidney

Including One to Circumvent 'Shocking' Court Ruling

Nine Bill of Rights Proposals Clear Con Con

HELENA (AP) — The Constitutional Convention passed nine sections of the proposed bill of rights Wednesday, including one designed to circumvent a 1971 Montana Supreme Court ruling in which Delegate Wade J. Dahood was the losing attorney.

Dahood is chairman of the Convention's Bill of Rights Committee.

Included in a section on administration of justice was a sentence guaranteeing workers redress against negligent third parties under the Workmen's Compensation Laws.

The Montana Supreme Court ruled in *Ascraft vs. Montana Power Co.* in 1971 that the utility was not liable for injuries

suffered by Charles Ascraft when Ascraft fell from a wobbling power line. Montana Power had hired the contracting firm that employed Ascraft.

Ascraft's lawyer was Dahood. Dahood justified including the specific section in the constitution, saying the Convention was "the court of last resort." A bill to correct the Workmen's Compensation Laws passed the Senate in 1971, he said, but the Montana Power Co. lobbyists had the bill killed in the House.

"The section does nothing more than place the injured workman back in the status he enjoyed before 1971," Dahood said.

He said the legal community was "shocked" by the Supreme Court decision.

"I don't think any strong legal mind could justify what happened," he said.

Ascraft is permanently disabled, he said, from a 35-foot fall.

"We already passed a section on the right to a clean and healthful environment," he said. "This section would guarantee a safe environment."

Dahood said under the Supreme Court ruling, companies can contract out dangerous work to small firms without having to worry about safety or endangering their own employees.

Dahood said the proposal was not legislative since it "was just giving back a workman a basic constitutional right."

Also approved was a section giving 18-year-olds the rights of adulthood. The principal sponsor of the proposal, Bob Campbell, D-Missoula, said earlier in the convention this would allow 18-year-olds to sign contracts, marry, drink alcoholic beverages and enjoy other rights of adulthood. The 1971 legislature lowered the majority age from 21 to 18.

Another section guarantees the rights of minors, except where precluded by laws.

If the constitution is approved, the state and its subdivisions no longer will enjoy sovereign immunity.

Citizens will gain the right to file suits against the state and the subdivisions for injuries or property damage after June 1, 1973.

Dahood said presently a citizen would have no legal recourse if a drunk city employee ran a red light and ran into someone.

Also passed were sections on the right to suffrage, due process of law, habeas corpus and initiation of proceedings.

Former FBI Agent J. Marvin Melvin, D-Bozeman, succeeded in changing the composition of a grand jury.

The committee had recommended that a grand jury be made up of seven persons. Five would have to agree to bring an indictment against an individual.

Melvin raised the size to 11 persons and stipulated that eight must concur to find an indictment.

State Voters Will Decide On Death Penalty Abolition

HELENA (AP) — Montanans can decide whether the death penalty, not used since 1943, should be abolished or retained when they vote on a proposed constitution June 6.

By a 59-35 margin Thursday, Constitutional Convention members decided to let voters resolve the thorny issue that provoked an extensive floor debate.

Delegates almost succeeded in banning capital punishment in the proposed constitution but failed on a 49-43 vote.

The California Supreme Court recently ruled that the death penalty was unconstitutional.

In Montana, no criminal has been hanged since Phillip Coleman was executed in Missoula Sept. 10, 1943, for the murder of a 30-year-old woman.

Delegate Harold Arbanas, a Catholic priest, led the fight to abolish the death penalty.

"I'd like to see Montana take

the lead on something," Arbanas, a Great Falls Democrat, said. He called the issue one involving "the sacredness of life."

Joseph H. McCarvel, D-Anaconda, asked Arbanas whether he was referring to the life of a slain victim or the murderer.

Arbanas said the issue boiled down to a difference in philosophies.

"It amounts to whether you think a criminal is a bad person or a person who made a mistake," the priest said.

He was supported by two ministers, Gene Harbaugh, D-Poplar, and George Harper, I-Helena.

Harbaugh, a Presbyterian minister, said the Bill of Rights Committee was inconsistent since part of a section said punishment for crime "shall be founded on the principles of prevention and reformation."

The committee recommended

deleting the present constitutional reference to capital punishment but wanted to leave the matter to the legislature to decide. Montana's 1889 constitution contains language that says that the principles "shall not affect the power of the legislative assembly to provide for punishing offenses by death."

Mike McKeon, D-Anaconda, said statistics in the 36 states with the death penalty and 14 that have abolished capital punishment showed that it did not deter crime.

The capital punishment referendum will be the second issue to go before citizens when they vote on the proposed constitution in June. Delegates already decided to offer voters a choice between a choice between a unicameral and bicameral legislature.

Con-con stands firm

HELENA (AP) — Constitutional Convention delegates decided Thursday they would rather fight than switch and reaffirmed earlier action rejecting a provision banning registration of firearms.

After an emotional and lengthy debate Wednesday, the delegates voted 52-43 against making an amendment to the right to bear arms section that would have outlawed the registration and licensing of firearms.

They reaffirmed this action Thursday, in the face of pressure from sportsmen's groups, by a 52-39 vote.

Margaret S. Warden, D-Great Falls, made the unsuccessful motion to reconsider.

Supporters said the proposed constitution could be in jeopardy if the anti-registration clause were not included.

"There are 15,000 to 20,000 people who are pretty emotional about this," warned Arnold Jacobsen, R-Whitefish.

Delegate Don Scanlin, D-Billings, said gun enthusiasts mistakenly were identifying gun registration with confiscation.

Miles Romney, D-Hamilton, opposed the attempt, saying:

"There is not one scintilla of evidence there is any intention of requiring registration of firearms in the majority report."

He called the registration issue "a red herring."

Committee members said the right to keep and bear arms section, identical to the one in the existing constitution, was stronger than the federal provision and as strong as any state provision.

William A. Burkhardt, R-Helena, said including the amendment was "a cheap way to gain a lot of votes."

The small society

by Brickman



Opinion + Comment

Reform Needs Listed In Con Con Address

Misplaced blame

It was bound to happen. The Constitutional Convention has been meeting for nearly two months now and it has failed to spark much public enthusiasm.

The comments we've been hearing seem to indicate that the man-in-the-street regards the emerging document with a ho-hum attitude. Despite saturation news coverage, there just doesn't seem to be much discussion about Con-Con. Letters to this newspaper, at least, seldom concern the Convention. If the few letters about Con Con to this paper do "tilt" one way or the other, the tilt would seem to be slightly against what is going on in Helena.

These sentiments, it would seem, have not escaped notice at the Convention.

So the Big Excuse seems to be taking shape: If anything goes wrong, blame it on the press. Wade Dahood, chairman of the Bill of Rights Committee, fired the first shots the other day by announcing that the press has "accented the negative" and hasn't accurately reflected the work of the Convention.

There's an old truism among those in the news business that a winning politician who is endorsed by a newspaper never considers the paper's support to be a factor in his victory. Should a candidate lose an election after being opposed by a newspaper, however, the press will get the blame. This is understandable because politicians, like most other human beings, find it easier to lay blame elsewhere than on their own shortcomings.

Dahood's comments, though, came as a surprise. Granted, there was some press criticism of Convention President Leo Graybill early in the Convention, and later a few news stories described the disappointment felt by a handful of delegates and research analysts at the way some of their proposals were treated. But if ever a public event has been covered more thoroughly, more painstakingly, or in more patience-testing detail, we'd like to know about it.

The handful of stories which "accented the negative" have been buried in a continuing avalanche of straight news coverage out of Helena. Occasional adverse editorial comment has been outweighed by pieces supporting the delegates. In the week

before Dahood made his gripe known, at least three major state newspapers printed editorials supporting the Convention. A highly favorable piece appeared in this paper the same day Dahood made the headlines.

The press has reported time and again that the Convention has been making progress in updating our constitution. But on the other hand, it has chosen not to ignore the fact that many Montanans are suspicious of the new document, or regard it as little better than what we have now. Like it or not, there appears to be a growing conservative attitude in this and other states when it comes to adopting new governmental measures. School issues of one sort and another are being defeated, mainly on the money issue. Sweeping new political programs are getting a closer look from people who prefer to live with existing inadequacies than to take a chance on something new and possibly worse.

The state's press, like the state's citizens, will be taking different stands on the revised constitution before it goes to a public vote in June. Hopefully, we can offer a few opinions and suggestions on the matter. We doubt, however, that what the press says will determine the outcome of the vote. The press just hasn't got that kind of influence. We know, because we've been criticizing various corrupt and abusive political practices for the longest time, and improvements have been mighty slow in coming.

If the new Constitution is ratified, we're sure that certain delegates will regard it as an understandable vote of confidence in their own fine abilities and sterling product.

If it's rejected, the same delegates will pin the blame on the press.

We hope everyone will keep in mind that the ultimate decision is made, and all the votes are cast, by ordinary Montana citizens who have long had a reputation of thinking for themselves.

How They Voted

Tribune Capitol Bureau
HELENA—The constitutional convention has failed to kill a proposal opposed by the Montana Press Association.

By a 76-14 vote, delegates voted against a proposal by delegate Fred Martin, R-Livingston, a newspaperman, to delete the "right-to-know" provision — recommended by the convention's Bill of Rights Committee.

The section provides for the right to examine the deliberations of government public agencies. However, the Press Association opposed the language that prohibited the right to know when "the demand of individual privacy clearly exceeds the merits of public disclosure." Some editors said the section could allow public officials to conceal documents and

to close meetings by saying the right to individual privacy was more important than the public's right to know.

Democrats supporting Martin's motion (6): Roeder, Driscoll, Holland, Joyce, Wagner, Roeder.

Republicans supporting Martin's motion (8): Etchart, Garlington, Habedank, Pemberton, Martin, Rygg, Simon, Ward.

HELENA (AP) — Americans participate in their government must reform their governmental institutions to make them work or their society may not survive, John Gardner, chairman of Common Cause, told Constitutional Convention delegates Thursday.

"All the evidence indicates that we have failed the system," said Gardner, former secretary of the Department of Health, Education and Welfare. "We cannot survive long in a free society unless citizens feel that they themselves are in touch with their government," Gardner, who heads the Independent Citizens Lobbying group, said.

However, he said Americans were beginning a period of lively citizen interest in state and local governments.

Gardner, a former psychology professor, said four things were needed to help citizens reform governments—access, responsiveness, accountability and effectiveness.

Access is the key to reform, he said.

Citizens must have access to information about the decision-making processes and be able to participate in their government.

"All human institutions have tended to be insiders' games," the former head of HEW said, citing churches, corporations, governmental institutions and labor unions.

"It's time to open the doors and windows and give this country back to the people," he said, drawing applause.

Secrecy exists at all levels from Congress and executive agencies on down, Gardner said. He advocated open meeting laws in all states.

Voting laws passed in 1965 and 1970 have helped citizens

buying influence, he said. "It isn't just that money talks, but that it talks louder and longer and drowns out others," he said.

Politicians today are not bribed directly as in the past, Gardner said. Instead influence is bought through campaign contributions, business deals and other "very civilized, low-keyed and polite methods."

He called for strict campaign spending legislation and laws requiring officials to disclose conflicts of interest.

CAPITAL PUNISHMENT

HELENA — The Constitutional Convention Thursday reject-

ed a proposal by Harold Arbanas, D-Great Falls, to place a prohibition against capital punishment in the proposed new constitution. Some of those voting against the proposal, though, said they did so because they favored a second proposal to put the question of death penalty on the ballot as a side issue for the people to decide. That proposal passed, 58-35.

Here's how the 2-8 vote went on the proposed constitutional ban on capital punishment:

Democrats for (33): Arbanas, Artz, Barnard, Blaylock, Bugbee, Cant, Carmichael, Carr, Champagne, Cross, Driscoll, Graybill, Rod Hanson, Harbaugh, Harlow, Harrington, Walker, Holtzand, Kellner, Loreis, McDonough, McKee, Morros, Ballou, Romney, Scantlin, Schiltz, Siderus, Starl, Speer, Swenberg, Van Buren, Vermillion.

Republicans for (8): Berg, Burkhardt, Leutbold, Loendorf, Payne, Robinson, Rygg, Simon.

Independents for (1): Harper.

Democrats against (17): Arness, Arnow, Balcher, Conover, Davis, DeFaney, Eck, Eskinsson, James, Mansfield, McCaskey, Mervin, Reed, Sparks, Sullivan, Winger, Werten.

Republicans against (26): John Anderson, Ask, Babcock, Bartholomew, Bowman, Chase, Dahood, Grum, Erdmann, Etchart, Garlington, Gysler, Habedank, Jacobson, Johnson, Kamholz, Martin, McNeill, Murray, Noble, Pemberton, Soder, Toole, Ward, Wilson, Wicommoney.

Independents against (5): Oscar Anderson, Brown, Fowler, Bob Hanson, Mahoney.

Absent or not voting (10): Aasheim (D), Bates (D), Blend (D), Brazier (D), Fee (R), Furlong (D), Joyce (D), Nutting (R), Reichert (D), Roeder (D).

Registration won't be banned

Gazette State Bureau

HELENA — Constitutional Convention delegates resisted a letter-writing campaign by the gun lobby and voted Wednesday 52-43 against a proposal to outlaw state gun registration and licensing laws.

Delegates eventually voted overwhelmingly for the present right to keep and bear arms section after delegate Earl Berthelson's anti-registration amendment was defeated.

The issue was somewhat moot, however, because a state ban on registration laws would in no way overturn present or future federal gun registration laws. Several delegates acknowledged that fact but sided with Berthelson in hopes of attracting votes for the constitution.

Democrats voted heavily against the registration amendment, splitting 17-39, while Republicans favored it 24-9. Independents split 2-4 against it.

Delegates from seven large urban areas split 20-29 on the issue while women delegates split 7-10 and farmers split 8-7.

Here are the votes.

Democrats for (17): Aronow, Artz, Belcher, Blend, Cain, Campbell, Champoux, Conover, Davis, Delaney, Heliker,

Holland, Lorello, Rebal, Skari, Swanberg and Van Buskirk.

Democrats against (39): Aasheim, Arbanas, Arnese, Barnard, Blaylock, Brazier, Bugbee, Cate, Cross, Driscoll, Eck, Furlong, Graybill, Rod Hanson, Harbaugh, Harlow, Harrington, James, Joyce, Kelleher, Mansfield, McCarvel, McDonough, McKeon, Melvin, Monroe, Reichert, Roeder, Rollins, Romney, Scanlin, Schiltz, Siderius, Sparks, Speer, Sullivan, Vermillion, Wagner and Warden.

Democrats excused or not voting (3): Bates and Eskildsen.

Republicans for (24): John Anderson, Aak, Babcock, Berthelson, Choate, Drum, Erdmann, Garlington, Gysler, Habedank, Jacobsen, Johnson, Kamboot, McNeil, Murray, Noble, Pemberton, Robinson, Rygg, Studer, Toole, Ward, Wilson and Woodmansey.

Republicans against (9): Berg, Burkhardt, Dahood, Etchart, Felt, Loendorf, Martin, Payne and Simon.

Republicans absent or not voting: (3): Bowman, Leuthold and Nutting.

Independents for (2): Bob Hanson and Mahoney

Independents against (4): Oscar Anderson, Brown, Foster and Harper.

Attempt to ban abortions fails

HELENA, Mont. (AP) — An attempt to outlaw abortions in a new constitution failed Tuesday at the Montana Constitutional Convention.

Robert L. Kelleher tried to amend a section of the proposed bill of rights to ban abortions.

His motion was rejected 71-15.

In a section on inalienable rights, Kelleher, a Billings Democrat, tried to insert the word "conceived" in place of "born" in a section saying:

"All persons are born free and have certain inalienable rights ..."

"What's the use of having the rights of the living if I don't have the right to be born?" Kelleher asked. "The fetus is the most unprotected human being."

Wade J. Dahood, R-Ana-

conda, said the issue was legislative and thus did not belong in the constitution. Dahood is chairman of the Bill of Rights Committee.

In the 1971 legislature, Rep. Dorothy Bradley, D-Bozeman, introduced a bill to legalize abortions but it was killed in committee.

Kelleher sponsored a convention delegate proposal, which the Bill of Rights Committee rejected, that would have outlawed abortions but allowed euthanasia when the patients were being kept alive by extraordinary means.

Can't telephone Con-Con Mondays

Dear Sir: In answer to any citizen who has difficulty in contacting the Constitutional Convention by phone on Mondays, let the people be reminded that the Convention is in session Tuesday through Saturday only. An attempt was made to offer telephone service on Mondays, but arrangements could not be made.—D. A. SCANLIN, Delegate, Billings

Protect water, expert urges

By DAVID T. EARLEY
Gazette Staff Writer

Protection is needed for the water used by Montanans, as well as the 42-million acre-feet that flow out of state every year.

"Right now we are in big trouble," says an authority on the subject of water rights and uses, "and I hope the Constitutional Convention can pull us out of it."

Charles C. Bowman, head of agricultural engineering at Montana State University, addressed the Montana Geological Society Wednesday afternoon and explained why he has pressed the convention for a stronger, more-detailed section on water rights.

MONTANA NOW lacks a constitutional statement that the state owns and asserts jurisdiction over its water, a comprehensive water plan and a centralized accounting system for water reservations, Bowman said.

Without these, he continued, the state is powerless to contest such "uses" as the federal government appropriating Montana water for transmission to other states, as happened after creation of Big Horn Lake.

"The federal government will recognize a state right if it is in its constitution," Bowman said. He described a Colorado case settled by the U.S. Supreme Court, as a result of which a federal agency found that it had to file for water rights the same as any other water user.

ANOTHER PROBLEM, Bowman said, is that much of Montana's water originates in federally-controlled high country in the south and west.

"Without a recognition of state rights based on a comprehensive water plan and an accounting system, the state cannot defend its right to this water."

Other problems facing the state in administering water rights include fractionation and fear, said Bowman.

Water rights "change hands" with land sales, he explained, and as larger tracts have been broken up by subdivision the water rights have been divided, or fractionated. "Presently there's just no way you can gather them together again."

Then, there's fear. Legislation to protect Montana water and its use is difficult, he said, because users fear their rights will be eliminated. The result is: no protection and poor administration.

Convention Discriminate In Discrimination Action

A section banning various types of discrimination was approved Tuesday at the Constitutional Convention.

Delegates passed a section banning discrimination on the basis of one's exercise of "his civil or political rights on account of race, color, sex, culture, social origin or condition or political or religious ideas of any person, firm, corporation or institution or by the state, its agencies or subdivisions."

Otto T. Habedank, R-Sidney, failed in his attempt to restrict the ban only to the state and its subdivisions.

"We can be opening a lot of challenges to other people on things we have considered dear," the Sidney attorney said.

Heritage Infringement

He said he was a member of the Sons of Norway and feared enacting the antidiscrimination clause might allow those who are not of Norwegian descent to join.

Chairman Wade J. Dahood, R-Anaconda, of the Bill of Rights Committee told Habedank that his fears were unwarranted.

Dahood said the committee did not intend the section to interfere with the membership of such clubs.

Habedank's motion was turned down 76-13.

Other fundamental rights and a new preamble also were approved Tuesday.

Delegates passed a section guaranteeing Montanans with the right of self-government. Also approved was one declaring that all political power "is vested in and derived from the people ..."

A section listing certain inalienable rights Montanans have also was approved.

William A. Burkhardt, R-Helena, succeeding in including the right to "a clean and healthful environment" in the list. He took the language from a previous section approved by delegates when he considered the Natural Resources and Agriculture Committee recommendations.

A shorter freedom of religion section, borrowing the language of the U.S. Constitution, was passed.

Also approved were the freedom of assembly and the freedom of speech and press, which

was broadened to include freedom of expression.

A new preamble, drafted after much committee consideration, also met delegates' approval.

It says: "We the people of Montana grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution"

With Prof's Con Con Panel

Special Projects Gird For Last Ditch Effort

By JOHN KUGLIN
Tribune Capital Bureau

HELENA — One of the Constitutional Convention's most studious committees — Education and Public Lands—is headed by Richard J. Champoux, a history professor at Flathead Valley Community College. During the past two weeks, Champoux has been fielding attacks against the education article which has been drafted by his 11-member committee.



Champoux

"What you're seeing now is the last ditch effort by the special interest groups to get their pet projects in to the Constitution. These are the disgruntled cries of the special interests. A good example of this is the Montana School Boards Association," he said.

The 41-year-old educator, who terms the MSBA "ultraconservative," believes the group was

ineffective in swaying the committee because its interest seemed to be essentially limited to a single issue, appointment of the superintendent of public instructions, "so they can manipulate her. Politics, that's what the whole deal here is."

In addition to his disputes with the MSBA, Champoux in recent weeks has issued statements expressing his differences with a candidate for the office of public instruction superintendent, Great Falls School Board trustees and the state controller's office.

Asked how effective lobbyists have been during the convention Champoux replied that they have been ineffective in manipulating delegates because of the convention's open meetings policy. "They had to get up in an open meeting and state their case. Many of them couldn't do it or wouldn't do it in public," he said.

When lobbyists would grab him in the convention hallways, Champoux said, "I would tell them, 'send me a letter,' or 'we'll have a committee hearing and you testify.'"

In Champoux's opinion, the worst single decision affecting the work of the convention was the opinion issued by Atty. Gen. Robert Woodahl which will allow most of the 100 delegates to run for another public office after the convention completes its work.

"Saying that these delegates can run has changed the complexion of the convention in some instances," he said. For

instance, he said, some delegates are more interested in not offending the "Butte vote" rather than attacking the problems of constitutional revision.

Champoux said that until recently many of the attempts by "instant experts" to rework committee proposals seemed motivated by personal political motives.

Champoux believes that debate on the education article, which began Thursday, will center in three broad areas: The completion of a state board of education, the federal funds to private schools issue and equal educational opportunity.

Here's the issues as the committee chairman sees them:

1. Separate boards of education. The education for the general school system and a "board of regents" for the university system. Some groups favor retaining one board for all state education, but Champoux believes separate boards "will be a move toward protection of academic freedom and to stop creeping bureaucratism from stifling the fine university system that we have."

The committee's proposal, which would leave control of fiscal and administrative affairs for the U system with the board of regents, came under fire last week from the state controller's office. The controller said this would give the U system "complete autonomy" in fiscal and administrative matters. But employees of the U system, in Champoux's opinion, should not be required to spend more time "pooling around with the bureaucrats" in Helena.

Champoux said that school boards should be interested to know that the proposed new education article would delete the present reference to "general control" exercised by the board of education over state education and replace this with "general supervision."

2. Federal funds to private schools. Three members of the education committee have submitted a minority report recommending that the present constitutional prohibition against public aid to private schools contain a provision that this will not affect federal funds. "These schools in Montana are being given hundreds of thousands of dollars in state aid each year from the federal government. This will be a big issue," Champoux said. Champoux said that at one point the committee was receiving 70 to 80 letters a day on the general issue of public aid to private education "but we stopped counting after a while. There were so many."

3. Educational goals and duties of the state. This education committee proposal, which re-present language restricting public education to between the ages of 6 and 21, says: "It shall be the goal of the people of Montana to provide for the establishment of a system of education which will develop the full educational potential of each person. Equality of educational opportunity shall be guaranteed to each person in the state."

Champoux said, "this doesn't say the state must educate everyone from the cradle to the grave, but it does say that this opportunity must be there. We want quality education everywhere in the state and the people have a right to demand this."

The Kalispell Democrat, who lives north of the Flathead Indian Reservation, was disturbed that there was no provision for "Indian cultural integrity" included in either the education or bill of rights articles.

"I am going to try to move the conscience of the people in the convention and tell them that we owe these (Indian) people something. This isn't a handout. It's to help give them back their pride. Isn't it strange that we established a black studies program at the University of Montana before we established an Indian studies program?"

Though the committee had practically no interest in opening state-owned lands to recreation, and does not recommend this, Champoux said that large stacks of mail are beginning to arrive in favor of greater recreational opportunities on school trust land.

Asked if the constitution being drafted by the delegates seems to be a liberal or a conservative document, Champoux replied, "It seems more in the middle."

Champoux believes that recent newspaper articles may have "prodded us to be more reform-minded" and I think in the end we're going to come out with a distinctly better constitution."

It's the public's right to know

Constitutional Convention delegates established an ominous loophole that presents a serious threat to the public's right to know when they voted upon the "right-to-know" section of the Bill of Rights article.

The delegates, by a stunning 76 to 14 vote, rejected a motion to delete a section that prohibits the public's right to know when "the demand of individual privacy clearly exceeds the merits of public disclosure."

The Montana Press Association opposed that section because it has learned how difficult it is for the press to examine public records on several levels of government in Montana. The association revealed last September that there have been an alarming number of cases where the press has been denied the right to look at public documents. Newspapers have been denied by arrogant officials the right to see copies of city ordinances and even marriage li-

censes. The press was refused the right to see records at one county courthouse even though a district judge notified county officials the records, with the exception of juveniles and adoption matters, were open to the public.

A fundamental fact apparently was overlooked by delegates when they voted to create the "privacy" loophole in the right-to-know section of the Bill of Rights. The critical point glossed over is not the right of the press to report what public officials are doing but the right of the public to be informed.

When the press seeks to examine public records, it represents the public. It's the responsibility of the press to be a constant watchdog of government in a democracy such as ours. If the press is not permitted to examine public records without being hindered by possibilities of abuses the privacy loophole opens, who will protect the interests of the public?

The legislature is for making laws. The constitution should be for direction and instructions of behavior in governing and making laws. Rules and regulations for each agency of state government by which it must conduct itself in the performance of its duties.

What good is a law without penalty? It's easier to change laws made by the legislature than by constitutional amendment. Too many appendages will eventually make any rule of law worthless because it creates loopholes. They're arguing about legislative sessions. Simple. Meet every year. One year for non-revenue bills for 25 days only. Next year revenue bills for 35 days. The little amount more it would cost is minimized by the benefits to be derived by removing some of the chaos and confusion created by a thousand different ideas presented in every session now. — F. WALLACE, 129 S. Oklahoma

Con-Con acting like legislature

Dear Sir: It appears that Con-Con has attained the aura of the legislature. People of all factions are there to make rules and not laws. I believe the constitution should be a set of rules, documented so man may govern himself with dignity. It should have lasting qualities that give it foresight and be truly altruistic.

It should be a document of reference with absolute rules and its phraseology and punctuation clear and concise with no variance or favors. Something we should be able to accept and be proud to govern ourselves by. Pure and simple, absolute rules.

Parochial School Aid Issue Coming to Head

By JOHN KUGLIN
Tribune Capital Bureau

HELENA —The issue of public aid to parochial schools is expected to be opened for full floor debate by the Constitutional Convention when delegates this week consider a proposal aimed at allowing federal funds to continue to flow to nonpublic schools in Montana.

At issue when delegates consider the report of the Education Committee is a minority proposal signed by three members of the committee.

The committee's majority report recommends retaining intact the present Article 11, Section 8 of Montana's 1889 Constitution that says "neither the Legislative Assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or monies whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college,

university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever."

The minority report, proposed by delegates Gene Harbaugh, D-Poplar; John Toole, R-Missoula, and Dan Harrington, D-Butte, would add to the end of this section the words: "This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to nonpublic education." Another change would remove the prohibition against in-

direct support of private schools.

Four brief exhibits attached to the Education Committee's report contain statistical information for Montana on federal grants to nonpublic schools, non-public school enrollment and the savings to taxpayers from parochial school systems.

The first exhibit, of funds granted to Montana nonpublic educational institutions for fiscal year 1970, though not complete, shows that nonpublic elementary and secondary schools received \$120,693 under such federal programs as the Elementary and Secondary Education Act, while public institutions received \$5,833,513 under the same programs.

But while nonpublic elementary and secondary schools received only 2 per cent of these funds, nonpublic institutions of higher education in Montana received 13.7 per cent of the federal construction grants. Public institutions received \$6.3 million under the Higher Education Facilities Act.

The second exhibit lists various programs participated in by the three private colleges in Montana. In 1970, for instance, College of Great Falls received \$25,797 under the work-study program, National Defense Act, student loans and educational opportunity grants.

The third exhibit shows that total nonpublic school enrollment in Montana was 19,979 in 1971-72, down from 19,978 in 1964-65.

The fourth exhibit shows the savings to taxpayers from parochial schools totaled \$6,218,622 in 1969-70. The greatest saving was in Great Falls where the seven private schools with an enrollment of 2,057 saved the taxpayers \$1.3 million, the exhibit shows.

Comments attached to the Education Committee's majority report said that Article 11, Section 8 was retained intact because it was thought that "any alteration in wording might jeopardize the precarious historical balance which has been struck between opposing doctrines and countervailing principles."

It was also believed that the present provision provides un-

derstanding.

Convention Ready to Debate Education

BY DENNIS E. CURRAN
IR State Bureau

Education in Montana would be guided by a "super board" with two separate units under a proposal by the Constitutional Convention Education Committee.

The new structure is just part of a proposed new constitutional article which sets down the basic educational goals of the state and tries to provide both protection and flexibility for the future.

The committee proposal, which probably will be debated Thursday and Friday, would change the present structure of having an 11-member board oversee both elementary and

secondary education and higher education.

Instead, the committee proposes what is basically a two-board system — a board of public education for elementary and secondary schools and a board of regents for the university system.

Each board would have seven members appointed by the governor and confirmed by the Senate to serve six-year overlapping terms. The governor and the state superintendent of public instruction would be ex officio, non-voting members of each board.

But the separate boards would be linked in a super board called the State Board of Education. The full board would

exercise control over the internal affairs of the university system.

The committee proposal has generated opposition from several education groups, most notably the Montana School Boards Association, and the corporate status concept is under attack from the State Department of Administration.

But the committee defends both concepts on the basis that education has changed so much since 1889 and will change even more in the future.

Two boards, the committee argues, would allow each to specialize in the differing problems associated with their areas. Corporate status is deemed necessary to protect higher education from interference from other agencies of government.

Beyond the question of structure, the committee also offers some other new constitutional approaches to education:

— EDUCATIONAL GOALS. The state goal would be to develop the "full educational potential of each person," and each person would be guaranteed "equality of educational opportunity."

— FINANCING. With one eye on court cases in other states, the committee drafted a section which allows future changes in funding public education. Besides providing for equal educational opportunity, the proposal calls for "high quality free public elementary and secondary

— PUBLIC SCHOOL FUND. The proposal restates the 1889 constitution's goal of establishing and protecting school lands in a public school fund. Interest and income revenue from the fund would continue to be distributed in the same manner as under the existing provision — 95 per cent to the schools and 5 per cent back into the fund — but the method of distribution to the schools would be left the legislature.

— NON-DISCRIMINATION. The existing non-discrimination clause would be expanded to cover all educational institutions.

— SCHOOL ELECTIONS. The proposal continues the concept of local control over education and directs the legislature to provide for election of school trustees. But the old restriction requiring separate school elections would be deleted.

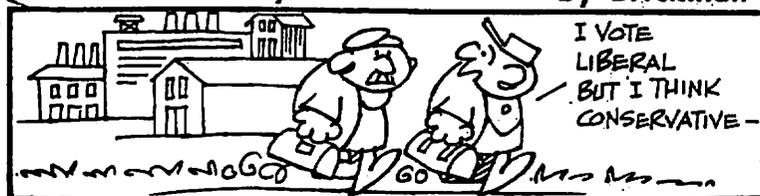
— PUBLIC LANDS. The committee has an abbreviated restatement of the present section on public lands and provides for continuation of the four-member Board of Land Commissioners.

— UNIFIED INVESTMENT. The committee basically believes investment should be left to the legislature, but a minority wants to insure security of investments.

— AID TO NONPUBLIC SCHOOLS. The majority wants to retain the present strict ban, but a minority favors some relaxation.

meet periodically so the separate boards could discuss "matters of mutual concern." The state superintendent would continue to be an elected official, and the board of regents would be granted "corporate status" and would have in-

the small society



by Brickman

I VOTE LIBERAL BUT I THINK CONSERVATIVE -

Con Con President Expects Debate to End by Saturday

HELENA (AP) — The president of the Montana Constitutional Convention remains hopeful debates will be over by next Saturday. Léo Graybill Jr., D-Great Falls, said delegates were about one day behind on the tentative debate schedule, which he

discussed at a news conference Saturday.

To try to catch up, they will meet Monday and work six days next week, which is the ninth week of the convention.

Original plans called for a nine-week convention, but \$40,000 was set aside in the

event a 10th week was necessary.

Although Graybill anticipates debates ending next Saturday, delegates may need to stay over one or two days in the 10th week to approve style and drafting committee reports.

The president said he hoped

Committee or some other committee supervising the campaign.

About \$30,000 in federal funds are expected from the Department of Housing and Urban Development, he said. No agreement has been formally signed.

"It's a matter of working out all these two-bit details," he said. Part of the problem is that

night meetings would not be necessary, since "people get so tired and exhausted."

Graybill added that the convention should have some of its \$500,000 appropriation left over for post-convention public information activities.

The information plans are incomplete, he said, but he envisions the Public Information funds probably would not be received until after the June 6 election, when Montanans will vote on the new document, so convention officials are trying to work out arrangements to borrow some of the money needed from another state agency and then repay the agency when the money is received.

'89 Convention Would Find Delegates 'Quite at Home'

Tribune Capitol Bureau HELENA—A registered lobbyist and member of the legislature has branded 51 Constitutional Convention delegates as "backward-looking."

Rep. Robert D. Watt, D-Missoula, a lobbyist for the Montana Students Presidents Association, sent The Exponent, the student newspaper at Montana State University, the voting record of delegates on an amendment by delegate Mae Nan Robinson, R-Missoula.

Watt, who did not identify the amendment, informed the Exponent that it was a "key vote on strengthening the pitifully weak section concerning the environment."

Watt segregated the vote into "those voting to protect the en-

vironment" and those voting "against a good environment proposal."

The Robinson amendment failed and Watt told The Exponent that "many of these 51 backward-looking people would have been quite at home in the 1889 convention."

Watt pointed out that many delegates are "confused and misinformed. They could change their minds."

Watt told the newspaper it should remind students that the next legislature is the really important thing and they should all register and vote because the deciding power is now in their hands if they use it intelligently in the June primary and the November general election.

Argument Offered for I-Unit Education Board

Tribune Capitol Bureau

HELENA—The Montana School Boards Association has received support from the executive secretary of the National Association of State Boards of Education in its fight for retention of single state board of education.

(The NASBE is not to be confused with the National School Boards Association, of which the Montana association is a member.)

The Education Committee of the Constitutional Convention is proposing that in place of the

present single state board, Montana go to separate boards for lower and higher education.

The committee has made good use of the fact that most states have the dual board system. But the national association's David Tronsgard of Denver largely discounts that argument as "circular" and without logic.

At the same time he acknowledges that the mistakes and successes of other states "are certainly instructive." In this regard he says that in almost every dual-board state, "legislatures are faced with powerful lobbying factions and the demand for funds beyond reasonable capacity to produce. Jurisdictional battles are common and legislatures often acquiesce to the most powerful forces rather than the most logical. Having one state board won't end the philosophical problems for legislatures but will simplify the interface."

In defense of single board, Tronsgard argues, in part, that "education should be viewed as a continuous process, necessary in our complex society from

cradle to the grave. Education at one level depends on the previous and is responsible to the next. It isn't different in kind, one level to the next, obeying differing laws of learning."

He notes that higher education is the first to claim that the unique attributes of the various levels of education require separate boards. (The universities in Montana appear to be the prime movers of the dual-board concept, although state Superintendent of Public Instruction Dolores Colburg is also an advocate.)

But Tronsgard says boards of higher education "have allowed colleges to become curricularly inappropriate, have feared accrediting societies more than their public, have maintained questionable undergraduate majors, have underachieved in career education, have propagated expensive and questionable graduate studies, have compounded the per-pupil costs of higher education several times faster than the growth in society's productivity and in short have failed to exercise prudence."

2 Education Boards OK'd Tentatively

HELENA (AP) — After an afternoon of debate Saturday, Constitutional Convention delegates rejected two plans to set up single state boards of education and tentatively approved a two-board scheme.

Focus of the debate was whether the state ought to have a single board to oversee education from the first grade to graduate levels or whether it should try to specialize by creating two boards.

The present system is a combination of the two plans. A single board sits both as the State Board of Education to handle elementary and secondary school matters and as the State Board of Regents to set university policy.

Education Committee Chairman Rick Champoux, D-Kalispell, said Montana and Idaho are the only states with this single-board setup.

Delegates approved his committee recommendations that two separate boards, composed of separate people, be created,

Common Cause Representative

'Right-to-Know' Death 'Denial'

HELENA — If Montana's newspapers succeed in killing the "right-to-know" provision adopted by the Constitutional Convention "they will do nothing more than deny citizens appropriate constitutional assurance of open government," Francis Mitchell, a representative of Common Cause organization, said Saturday.

Mitchell, apparently referring to a front-page editorial in a Billings newspaper Friday, which attacked the right-to-know provision, said that "the front-page editorial threat to oppose the entire constitution if one newspaper did not get its way must be described as overbearing and an attempt to intimidate convention delegates."

Montana Common Cause, whose central purpose is an open and accessible government, proposed the right-to-know article and strongly supports it, Mitchell said. "The right to know, as presently proposed, is just that — a constitutional guarantee that citizens may attend meetings and inspect documents. It is not a 'right to conceal' as newspaper editorial writers have mis-named it," he added.

Mitchell's citizen's lobby also backs a right to privacy provision adopted by the convention. He expressed disappointment that editors of the state's larger dailies did not show more sensitivity to the critical issue.

Mitchell said that the exception clause in the right to know provision was "carefully phrased to discourage abuses by public officials who might try to hide behind the separate constitutional guarantee of individual privacy."

Mitchell said the press was very shortsighted to campaign against a clause that protects

the right to know from capricious abuse of the right of privacy. In his opinion, the language of the exception places a greater burden of justification — not less — on any public official who attempts to close doors or drawers on the excuse of privacy.

If the right to know provision is killed, Mitchell pointed out, the press and citizens will be faced with the separate constitutional guarantee of privacy section adopted by the convention, which will prevent access to some records and discussions. Mitchell recalled that when

John Gardner, national chairman of Common Cause, visited the convention, he was asked at a press conference what proposal before the convention he would regard as the most important if he were a delegate.

Gardner, former U.S. secretary of health, education and welfare replied that the right-to-know provision was about as close to anything to what Common Cause believes in.

Mitchell recalled that when Cause also would oppose an attempt such as was made by delegate Jerome Cate, D-Billings, to amend the right-to-know section by leaving the legislature define exceptions to the right to know.

"The legislature could put in anything," he said.

School Funding Mandate Deleted

HELENA (AP) — Delegates overturned a Constitutional Convention committee recommendation Friday and deleted part of a section directing the legislature to provide full funding of the state's elementary and secondary school systems.

They spent much of the afternoon on this section, which sets forth educational goals and the duties of the state.

Russell C. McDonough, D-Glendive, said the section went into unnecessary legislative details that ought to be avoided in a constitution.

He said the legislature has the power to fully fund the school systems, and the constitutional mandate was not needed.

Richard J. Champoux, D-Kelispell, said the Education Committee had included the provi-

sion because the legislature was not fully funding the School Foundation Program.

Arnold W. Jacobsen, R-Whitefish, said delegates were putting another burden on the legislators.

"Why don't we direct the legislature to set a two per cent sales tax to fund the foundation program and give property owners some relief?" he asked.

Carl M. Davis, D-Dillon, reminded Jacobsen that Montana voters had crushed a sales tax in the referendum last year.

The sentence that was deleted said: "It shall be the duty of the legislature to provide by taxation or other means and distribute in an equitable manner to the several school districts of the state funds sufficient to insure full funding of the basic public elementary

and secondary school system."

Committee members, finally argued that the sentence was needed to insure support of the public school system.

William H. Artz, D-Great Falls, moved to delete the sentence, and his motion passed 50-38.

Fred Martin, R-Livingston, protested that much of the entire education article was designed to centralize education and take power away from local school boards.

Champoux said the committee recommendations would allow the legislature to set up a more equitable means of statewide school financing:

"We have evidence a Serrano case could be won in Montana tomorrow," he said, referring to the recent California Supreme Court decision that over-

turned that state's system of school financing.

They also approved a section saying that a goal of the state's residents was to set up an educational system "that will develop the full educational potential of each person."

Part of the section also says that all Montanans shall be guaranteed equality of educational opportunity.

Sections on the public school fund were passed with little debate.

Delegates approved 49-40 a motion by R. J. Studer Sr., R-Billings, to add the state auditor to the State Land Board. Presently, the board consists of four members—the governor, attorney general, superintendent of public instruction and secretary of state.

Studer said it did not make sense to have an even-numbered board when three of the members must approve action.

Margaret S. Warden, D-Great Falls, attempted to make the board odd-numbered earlier by deleting the secretary of state. Her attempt failed 52-25.

Jerome J. Cate, D-Billings, unsuccessfully tried to prohibit the Land Board from selling state land.

"Lands are our greatest single asset," he said.

Although delegates were sympathetic and wanted the state to hold on to the lands, many believed his amendment would be too restrictive.

Dave Drum, R-Billings, said: "It is impractical for the state land commissioners to operate without selling lands."

Delegates rejected the Cate motion 77-10.

William H. Swanberg, D-Great Falls, said the state ought to consider taking the lands out of politics. He suggested placing them under the jurisdiction of the Public Service Commission instead of the Land Board. Members of the Public Service Commission, though, also are elected partisan politicians.

He made no formal motion.

Montanans Given Choice Decision on Death Penalty

By CHARLES S. JOHNSON
Associated Press Writer

Montanans can decide whether the death penalty, not used since 1943, should be abolished or retained when they vote on a proposed constitution June 6.

By a 54-35 margin Thursday, Constitutional Convention members decided to let voters resolve the thorny issue that provoked an extensive floor debate.

Delegates almost succeeded in banning rapial punishment in the proposed constitution but failed on a 43-42 vote.

In Montana, no criminal has been hanged since Philip Coleman was executed in Missoula Sept. 10, 1943, for the murder of a 30-year-old woman.

Delegate Harold Arbanas, a

Catholic priest, led the fight to abolish the death penalty.

"I'd like to see Montana take the lead on something," Arbanas, a Great Falls Democrat, said. He called the issue one involving "the sacredness of life."

Joseph H. McCarvel, D-Anaconda, asked Arbanas whether he was referring to the life of a slain victim or the murderer.

Arbanas said the issue boiled down to a difference in philosophies.

The committee recommended deleting the present constitutional reference to capital punishment but wanted to leave the matter to the legislature to decide. Montana's 1889 constitution conforms language that says that the principles

"shall not affect the power of the legislative assembly to provide for punishing offenses by death."

Mike McKeon, D-Anaconda, said statistics in the 35 states with the death penalty and 14 that have abolished capital punishment showed that it did not deter crime.

But, said Archie O. Wilson, R-Hysham, no one can compute the number of lives saved when criminals realize they could face a hangman's noose, an electric chair or a gas chamber if they murder someone.

Former FBI Agent J. Mason Melvin, D-Bozeman, said:

"Everyone in this room believes in capital punishment, or you don't believe in the system. You give law enforcement officers badges and guns."

Committee member Dorothy Eck, D-Bozeman, said she personally opposed the death penalty but felt the presence of the emotional issue on the ballot could cloud other issues.

Before his motion was defeated, Arbanas said he believed that it was never to late to try to reform a criminal. The convention ought to seize the initiative instead of leaving it up to the legislature, he said.

Bob Campbell, D-Missoula, successfully moved that the issue go on the ballot June 6. The motion passed 52-35.

If the new constitution passes, voters thus will decide whether capital punishment is banned or left to the legislature, which has passed laws providing for the death penalty.

The capital punishment referendum will be the second side issue to go before citizens when they vote on the proposed constitution in June. Delegates already decided to offer voters a choice between a choice between a unicameral and bicameral legislature.

Executive Article Snagged

The executive article was almost ahead of its six officers at the Constitutional Convention today, but delegates reconsidered their action and approved the section.

In what was termed a spontaneous move, those delegates not liking the portion of the article listing the elected state officials, voted against the section during final consideration as a protest.

While the first vote was 48 to 45 in favor of the section Mae Ann Robinson, R-Missoula, pointed out that convention rules require an absolute majority of 51 votes to pass a section on final consideration.

The chairman of the Rules Committee, Marshall Murray, R-Kelispell, told delegates they had just taken, "a most serious action."

"Apparently we want to go back to January 17th and begin our committee work all over again on the executive article," Murray said.

President Leo Graybill Jr., D-Great Falls, added: "We have a serious problem. We have just destroyed the executive article."

Otto T. Habedenk, R-Sidney, moved to reconsider the action.

To reconsider, the person making the motion must have been on the winning side.

Some question arose over what was the prevailing side, but delegates sustained Graybill's ruling that the prevailing side was the one opposing adoption of the section.

How They Voted

Tribune Capitol Bureau

HELENA — The Constitutional Convention Friday, by a 50-38 vote, decided not to require the legislature to provide full funding for the public elementary and secondary schools.

Delegate William Artz, D-Great Falls, succeeded in his amendment to strike the follow-

ing proposal recommended by the convention's Education Committee: "It shall be the duty of the legislature to provide by taxation or other means and to distribute in an equitable manner funds sufficient to insure full funding of the public elementary and secondary school system."

The move to reconsider passed 53 to 15.

The section, which lists the governor, lieutenant governor, attorney general, superintendent of public instruction, auditor and secretary of state as elected officials, finally passed 62-36.

One of the opponents, Bob Campbell, D-Missoula, said the move was spontaneous.

"This is the section we've been criticizing the most for," he said. "We just wanted to show that we were fed up with this section."

Graybill: Right to Know Misunderstood

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA — Constitutional Convention President Leo Graybill Jr. Saturday accused newspaper editorial writers of failing to understand the controversial right-to-know section adopted by the convention.

Graybill, during a press conference, was asked by the Tribune to give his reaction to recent editorial attacks on the right-to-know section by major Montana newspapers and the Montana Press Association. The newspapers have opposed part of the section which would allow secrecy when "the demand of individual privacy clearly exceeds the merits of public disclosure."

Graybill then compared the campaign of the Press Association against the right-to-know section to lobbying by a highway users' group against amendment of the highway funds anti-diversion provision.

Graybill said that lobbyists for both groups "have not made a thorough attempt to understand what the delegates have done. They are misleading their mem-

bers without fully explaining what the delegates really did."

Graybill said editorial writers for the newspapers, in his opinion, did not listen to or have explained to them what occurred on the floor of the convention when the right-to-know section was adopted.

Graybill, at one point, chuckled and said, "Here we have a gigantic campaign against the whole fabric of the Constitution, based on what seems to me to be an inadequate understanding of the problem."

Centering specifically on the wording that allows secrecy when "the demand of individual privacy clearly exceeds the merits of public disclosure," Graybill said, "I'm not too concerned about them (newspapers) explaining it in the press. I'm concerned about them not explaining it to themselves."

In an apparent reference to an opinion distributed to delegates which was drafted for Billings Gazette Publisher Strand Hilleboe by the Gazette's attorney, Graybill said, "...I'm afraid that someone asked his lawyer

and his lawyer has given him an offhand opinion that it was a bad provision and they've shot the works on this rather inadequate analysis."

Graybill said that any lawyer, including a press lawyer, should know that the right-to-know provision would have exceptions, even if the exceptions are not mentioned in the Constitution.

The Supreme Court, Graybill claimed, would write "reasonable exceptions" to a right-to-know provision. Spelling out the exception concerning individual privacy, he said, makes it more likely that the court would limit its interpretation of exceptions to the section.

Graybill pointed out that debate on the section of the convention floor made it clear that the reference to "persons" applied to individuals and not to corporations. The provision that the demand for individual privacy "clearly" must exceed the merits of public disclosure, Graybill said, "is a tipper in favor of the right to know and against restriction on this."

Graybill then posed a question for newspaper editors: "Are they saying that their personal income tax returns should be subject to public scrutiny? If so, they can print them tomorrow. Why wait until we finish the Constitution?"

He continued, "They're (editors) saying that if a person adopts a child . . . there's a right to go in and publish in the paper who the mother of the adopted child is so that that kid has a heck of a time in later years." Graybill said the editors wanted to open all juvenile hearings to public exposure, including rape cases involving juveniles before charges are filed. And, Graybill said that editors are saying that medical reports of social diseases must become public knowledge.

"They can't mean that when they say everything is open," the president said.

Graybill commented on the tardiness of the Press Association in objecting to the right-to-know section. (Most delegates received a letter listing the as-

sociation's objections on March 4. The debate on the right-to-know section was conducted three days later.)

The Press Association appeared before the convention's Bill of Rights Committee. Graybill said. The language in the proposed section was read to the association, he said, "and nobody objected until after it got on the floor."

"That's rather late."

Graybill also explained that the right-to-know section was necessary to balance the right-to-privacy section adopted by the convention.

While Graybill was talking to reporters, several delegates were collecting support to change the right-to-know section when the convention next week considers a Style Committee report with grammatical corrections to the Bill of Rights article adopted by delegates.

But lobbyists for another group, Mr. and Mrs. Francis Mitchell of Common Cause, were busy supporting the right-to-know section and condemning the position taken by the Press Association.

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Before the Constitutional Convention

Health, Welfare, Labor, Industry Proposals Up for Debate

Tribune Capitol Bureau
HELENA — Debate is set to begin Monday or Tuesday and proposals of members of the Constitutional Convention's Public Health, Welfare, Labor and Industry Committee, including a number of controversial items. The list includes right-to-work, a state merit system, public utility regulation and consumer protection.

The consumer protection section is included in an overhauled chapter on nonmunicipal corporations. It would require the legislature to provide for "protection and education for the people against harmful and unfair" business practices. Consumer protection legislation came within one vote of passage in the last legislature.

A minority report signed by chairman George Heliker, D-Missoula, and Joseph McCarvel, D-Anaconda, calls for a single appointed public utilities commissioner in place of the present elected triumvirate. The minority modeled its proposed reform on Oregon's, and said it was also influenced by the findings of the President's Advisory Council on Executive Organization. The council recommended last year that seven key federal agencies be combined into five, four of which would be headed by single commissioners in the interests of increased quality, accountability and efficiency.

Heliker and McCarvel says they are convinced that utility customers "would be as well off

as they are now if regulation were to be abolished. We are persuaded that the existing regulatory process is but an elaborate sham-battle, a sort of Roman bread-and-circus game in which the monopolies get the bread and the consumer pays for the circus. The upshot of the whole sorry spectacle is that the corporations secure the imprimatur of the state for rates no higher than they would have set entirely on their own initiative."

They argue that the ratepayer never will get fair treatment under the present system "because it's literally impossible for the election process to attract and select more than an occasional qualified, competent and dedicated commissioner."

Another key feature of the proposal would exempt the commissioner from considering any particular theories or methods in determining rates, suggesting that the legislature and State Supreme Court are not likely to remove the Public Service Commission's present obligation to use the so-called "fair value" rule, Heliker and McCarvel say it's time for the convention to act.

In rejecting the minority proposal, the other committee members contend that the matter is primarily legislative in nature, that a single appointed commissioner is too innovative for the constitution, and that "little evidence was presented before the committee that indicates the present

system of utility regulation is not working satisfactorily."

Heliker is joined by two committee members in a separate minority proposal that would authorize municipalities to set up their own electric systems. The majority contends that the proposal would do something which the legislature has repeatedly considered and rejected, while the minority says that's precisely the reason the convention should do it.

One of the more controversial items is bound to be the right-to-work proposal offered by R. J. Studer, R-Billings, and Jack Ward, R-Hamilton. At the same time, supporters are less than optimistic about its chances of passing the convention because of political realities. That also happens to be one of the main reasons Studer wants to get it on the ballot — as a separate issue — because, he says, people will support it in a secret vote where they wouldn't openly out of fear of big labor.

As Studer and Ward say in their report: "This convention is a means for grass root expression by the people. It is the most responsive political instrument of the populace for years past and to come. If we miss the opportunity to pass this vital question to the voters, we have passed the opportunity of a lifetime. We have surpassed the opportunity to restore man's right of self-determination through employment. It is our duty to give the voters of Mon-

tana their right to vote upon this very vital question when we can so easily and economically do so at this time."

The majority acknowledges in its comments that the union security agreement which Studer's proposal seeks to outlaw "imposes some restraint on the absolute freedom of the individual." But it argues that the restriction "is in no essential respect different from the restrictions frequently imposed by majority rule in a democratic system, particularly, and of necessity, by collective labor agreements." It presents a long list of benefits accruing from union contracts, adding that the union member "may be required to contribute from his earnings to various 'fringe benefit' plans, just as he is required by law to contribute to social security. That he also may be required to contribute financially to the support of the union that negotiated all of these other conditions on his behalf does not strike us as a significant and exceptional restriction on his freedom."

Other proposals from the committee . . .

—An abbreviation of the present labor article, mentioning only a department of labor and industry and a merit system. It deletes present provisions prohibiting contracting of prison labor and employment of minors in underground mines, and prescribing eight hours as a day's work except in agriculture.

In recommending a state merit system, the majority says the legislature has refused to establish one since 1921. The minority say it's a legislative matter.

—The legislature is directed to establish and support "such institutions as the public good may require," without the present specific mention of several institutions including those for the insane, blind, deaf and mute, and soldiers.

—Aid to the indigent is made a responsibility of the legislature. The present section places the burden for the "poor fund" on the counties. The proposed section would permit the legislature to decide where the burden should rest, with the intention that there be some form of statewide equalization. Cascade County is one of the counties that would benefit most because of the attraction of the poor from other counties to its better welfare and other facilities.

—Minority proposal giving private and public employes the right of organization and collective bargaining. Proponents Heliker and McCarvel say it does nothing more than give constitutional dignity to the long-standing rights of most private employes, but does clarify the rights of public employes. They say it does not give public employes the right to strike. The majority argue that it "may in fact connotate the right to strike (especially within the public sector), and this may be undesirable in many circumstances."

Sees danger in Con Con acts

Our Constitutional Convention delegates may be influenced in their thinking by outside lobbyists. I pass on a quote from the Chicago Tribune of Dec. 2, 1971, which should make one stop and think: "Sam Wittwer, constitutional authority and leading light of the Illinois Con Con, has returned from what he described as 'Carpet Bagging in Montana,' where he addressed the opening session of that state's constitutional convention in Helena."

Saturday, March 4, was termed a "day of disaster" by a member of the Con Con, when they met on Finance and Revenue. The Tribune said "proposals were passed with a few changes." But these few changes may be dynamite where you and I are concerned, because they are taking away our rights under the Constitution and giving more powers to the governor and legislature.

Twenty-eight sections were eliminated from the present Constitution without the members' being given a chance to vote on their elimination, but new proposals were voted in. The people are not aware that they are losing their liberties, one by one, and we may end up a dictatorship!

Cities and towns want more power and authority for funding, but they may end up losing more than they gain because legislators can be pressured through special interests, and the people will end up the losers.

Another bad point is inclusion of a paragraph on earmarking of highway funds. This circumvents the funds to the legislature's whims with the provision that with approval of three-fifths of the members of each house, or by initiated measure approved by a majority of the electorate, such dedicated funds "may be appropriated for other purposes." Your guess is as good as mine as to what could happen to our gasoline money for streets, roads and such.

Limitations on state and city debts are eliminated and taxes can be increased no end. The legislature again will do the deciding. In the section on tax-exempt properties, a sentence was added that is dangerous and open to anyone's interpretation. This sentence says, "Certain classes of property may be exempted from taxation." Ambiguous? I should think so.

The "day of disaster" could be for all of us if these proposals are accepted in the Constitution.

I am alarmed because I am not a "progressive liberal," only a "conservative American" who wants the U.S. to remain a Republic and the state of Montana the best state to live in.

ANN M. ALLEN, 508 2nd Ave. S.
(Alderman, Second Ward)

Con Con in need of prayer

For the first time last week, they prayed in our church for the Con Con delegates. My opinion is that they should have been praying for them all along.

I don't know what happened. Could it have been because of the action approving a provision in the new Constitution allowing bonds to be issued in any amount by a two-thirds vote of the legislature?

I'm not sure that many of the Great Falls delegates voted for this, and I know William Swanberg tried in vain to get an amendment setting a ceiling of one million dollars on bond issues passed by the legislature without a vote of the people.

In the same session they removed the two-mill ceiling on taxes for state purposes. Can you imagine, if you need only get a two-thirds vote of the legislature to pass a bond issue, all the "wheeling and dealing" there could be?

The talk in the "smoke filled" rooms should run something like this: "Of course Great Falls needs a million-dollar bond issue—the jail you know. We'll support that if you support a few million for Missoula-Bozeman-Billings. There are the Vo-Tech schools, and Butte's

Parochial School Aid Ban Excludes Federal Monies

HELENA (AP) — The Montana Constitutional Convention settled a potentially emotional issue Saturday by voting to retain present restrictions barring state aid to private schools.

Language prohibiting such aid in the present constitution remained intact, but delegates added an additional sentence.

The sentence, included in an amendment submitted by Jerome J. Loendorf, R-Helena, was incorporated to allay fears of parochial school officials that the federal government someday might go to a massive, block-grant revenue-sharing program.

Montana Catholic Conference officials feared that if the revenue-sharing plan went into operation, Montana might be unable to distribute presently received federal funds to private schools because of the restrictive language.

As Loendorf emphasized, the parochial school officials have made it clear they are not seeking state aid, just the federal funds now received.

The sentence says: "This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to nonpublic education."

"My amendment does not change anything," Loendorf

said. "It just keeps the status quo."

Loendorf said he foresaw trouble for parochial schools if the section were not included and the federal government went to a vast revenue-sharing program.

It might take several years to amend the state constitution to allow the schools to receive the federal money, he said.

The Loendorf amendment passed 53-40.

"If the federal government makes our tax dollars available for education, I would want to go to our public schools, not 40 separate schools," C. E. McNeil, R-Polson, said.

Loendorf's amendment was a substitute for one by Gene Harbaugh, which was identical except it would have allowed indirect state aid. Since Loendorf's amendment passed, no vote was taken on the Harbaugh plan, which was an Education Committee minority report.

The Education Committee majority report had no reference to the federal aid.

Several delegates spoke in favor of the minority report to allow indirect state aid, presumably in the form of textbook loans and lunch programs.

John M. Schiltz, D-Billings, backed Harbaugh but preferred

omitting the section on aid to private schools altogether.

"It should come out of here as a badge of bigotry," Schiltz said.

Others such as Chet Blaylock, D-Laurel, said they could go for the Loendorf proposal but not the one submitted by Harbaugh.

McNeil opposed both the amendments but told delegates it was net out of anti-Catholicism. His wife is Catholic, and they are raising their children as Catholics.

"Even the Pope will admit that is pretty open-minded for a Baghdad Striner," he said. "But we must preserve the public school system. Federal money comes out of my pocket as a taxpayer—not out of the collection plate on Sunday."

The issue of state aid to church schools produced a great deal of emotional testimony at convention public hearings several weeks ago.

2 Education Boards OKd Tentatively

HELENA (AP) — After an afternoon of debate Saturday, Constitutional Convention delegates rejected two plans to set up single state boards of education and tentatively approved a two-board scheme.

Focus of the debate was whether the state ought to have a single board to oversee education from the first grade to graduate levels or whether it should try to specialize by creating two boards.

needs, and the prison—two-thirds of us can put everything over. We must get together—pass some now and the others at our next annual session."

One thing is certain. The ordinary citizen who lives in Montana and wants to stay will beat a path to the tax office year after year all the days of his life perhaps even unto "the third and fourth generation."

Were I to write a litany (and modernizing a prayer book seems to be the "in thing" these days), I'd write: "Not from the dishonest man, for we know how to deal with him, but from the naive man or woman who means well, good Lord deliver us!"

MARY S. CARROLL, 319 5th Ave. N.

The present system is a combination of the two plans. A single board sits both as the State Board of Education to handle elementary and secondary school matters and as the State Board of Regents to set university policy.

Education Committee Chairman Rick Champoux, D-Kalispell, said Montana and Idaho are the only states with this single-board setup.

Delegates approved his committee recommendations that two separate boards, composed of separate people, be created.

Or Maybe 'It's Not So Hot' Bill of Rights Is Good, but It Could Have Been Better

By FRANK ADAMS
Tribune Capitol Bureau
HELENA — Political Scientist Rick Applegate says the Bill of Rights Article tentatively approved by the Constitutional Convention is perhaps better than that of any other state. "It's a strong match with Puerto

News Analysis

Rico," he says, although it doesn't have the education and labor rights of Puerto Rico's.

Applegate is the Bill of Rights Committee's research analyst and author of a voluminous and scholarly work on rights prepared for the convention's deliberations.

But it could have been much better he says as an afterthought. "Really, when you start going over it, it's not so hot... when you think of all the good things that could have gone in, such as environmental rights.

"But it's good." In keeping with the committee's original intention, the 35-sections of the article take away no rights expressed in the present constitution, and add a number of rights.

Applegate feels that the section that will have the most impact is the one abolishing the doctrine of sovereign immunity. Under present Montana law, governmental agencies are liable only to the extent of their insurance and each agency is free to determine the extent of

its coverage. What this means, says the committee report, is that "an agency can effectively limit the actions brought against it."

The new section says the state and its subdivisions "shall have no special immunity from suit." To give agencies time to gear up their insurance coverage, the provision would not become effective until a year from June.

The article contains a new section on individual dignity, aimed at eradication of private as well as public discriminations based on race, color, sex, culture, social origin or condition, or political or religious ideas. Some concern has been expressed that the language "political or religious ideas" might be an opening for those who support the so-called "right to work" concept to avoid union membership, but such is not the intent of the committee.

The convention adopted the concise wording of the federal constitution's freedom of religion clause in place of the

said it felt "especially strong about removing the anti-Mormon biases" reflected in the prohibitions against polygamous marriage. That bias was elevated to constitutional status just one year before the Mormons abandoned polygamy as a religious practice.

The present freedom of speech and press section was adopted by the convention with the addition of the word "expression."

The object, according to the committee report, is to "provide impetus to the courts to rule on various forms of expression similar to the spoken word and the ways in which one expresses his unique personality."

A right of participation section is new, saying the public "shall have the right to expect governmental agencies to afford reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision, as provided by law." However, Applegate feels that the phrase "as provided by law" "just wrecks it."

"Instead of having the legislature subject to the right as is traditionally the case, it subjects the right to the legislature," he says.

An accompanying section extending to the public the right to examine documents and observe the deliberations of all public bodies is under heavy fire from the publishers of Montana's major papers. Their objection is to the qualifying clause, "except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure." Committee chairman Wade Dahood, R-Anaconda, has threatened to try to have the entire section removed if the press criticism continues.

A new section on privacy elevates the judicially-announced right to explicit constitutional status and requires the state to show a "compelling" interest before infringing the right.

The present right to bear arms section was retained word for word, despite some late blooming opposition from gun buffs who wanted an additional ban against licensing and registration of guns.

Under the tentatively-adopted article, adulthood would be lowered from 19 years to 18. A committee proposal that 18-year-olds be allowed to run for any public office fell by the way side after an earlier convention hassle that resulted in a minimum of 25.

For those under the age of majority, a new section extends all the fundamental rights of the article except "where specifical-

President of con-con bears up with a smile

By DENNIS E. CURRAN
Standard State Bureau

HELENA — For many people, the high red leather chair sandwiched between Charles M. Russell's painting of an Indian war party and 99 Constitutional Convention delegates would be a pretty precarious perch.

But for Leo Graybill Jr. it's the best seat in the house.

After a month of strenuous debate, convention president Graybill stills likes the job.

And most of his fellow delegates like the job he is doing.

"It's a hard job, but it's rewarding," Graybill told the Standard State Bureau last week, grinning as he recalled that there have been times since his election last November when the president's job has not been pleasant.

AS CONVENTION

enhance the protection for such persons." It's the first such rights provision of any state constitution, and would open the door for litigation of student cases among other things.

A new provision would overturn a State Supreme Court decision by permitting redress against third parties for injuries caused by them if the immediate employer is covered under the workmen's compensation law.

The present double jeopardy provision was broadened to prevent prosecutions by different jurisdictions for the same offense.

Some changes were made in the section on trial by jury, namely, permitting the defendant to waive a jury trial in felony cases as well as civil and misdemeanor cases, and requiring a unanimous verdict for misdemeanors as well as felonies.

A new provision was tentatively adopted for automatically restoring full rights to convicts when their sentences have been served. The section that was revised contains a reference to the death penalty, but the convention deleted it as being unnecessary since it merely grants the legislature the power to do something it can do anyway. A proposal to ban the death penalty was rejected by the delegates, who chose instead to place it on the ballot as a side issue.

Private property rights were expanded with the addition of a provision that property owners

be justly compensated if he prevails in an eminent domain suit. Just compensation is intended to include such items as attorney and court costs.

The article concludes with a section that was adopted without debate, stunning some observers and assuring its sponsor, Mike McKeon, D-Anaconda, support of veterans organizations if he ever wants to run for another

PRESIDENT, Graybill normally presides over the debates which take up most of the day and sometimes much of the night. He is the one who recognizes delegates to speak, keeps them on the subject and raps his gavel to quiet them down.

But his real task is to keep the convention moving while the debate is flowing and to make sure the delegates know what they are voting for and against.

"You have to follow the debate, you have to know what's happening," the president said in the interview.

When delegates find themselves trapped in a tangle of motions, substitute motions, amendments and amendments to amendments, it is Graybill who must sort out the maze.

"He has one of the quickest minds in the convention," says one delegate. "I don't know who else could do it."

GRAYBILL, A 47-YEAR-OLD Great Falls attorney, in some respects is a natural for the job. His father, Leo Graybill Sr., twice occupied the same chair — in 1949 and 1955 as speaker of the Montana House of Representatives.

Graybill is regarded as a stern administrator who keeps the convention employees jumping. But in the chair, he retains a stoical calm that seldom reflects his own views of the issues.

His voting record is generally liberal, and on the few occasions he has relinquished the chair to debate, he has impressed the liberals so much that some want him for their floor leader.

But generally he stays in the chair, and his actions there have won him the praise of Democrats and Republicans, liberals and conservatives, for his fairness.

"Leo does a good job in the chair," says delegate Charlie Mahoney, who publically clashed with Graybill last fall. "I don't agree with all his rulings, but he does a good job. He's fair, he lets people talk, and that's good."

ANOTHER DELEGATE commented: "He does a better job in the chair than he does relating to people," a reference to Graybill's hard-to-get-to-know personality.

Generally, Graybill is liberal about letting delegates say what is on their mind, even if their comments are a little off the subject, and he thinks full debate is necessary.

"When we hit an issue that's really important, then there has to be an hour of debate," he said, explaining that after the full discussion the "logjam" of conflicting motions usually breaks up quickly. "Then we get decisions really quickly, because they've heard all the issues," he said.

In the heat of debate, Graybill often has three or four delegates waving their microphones to be recognized. He tries to call on them roughly in order but also tries to balance the debate and give the sponsor of a motion a chance to defend it.

SOMETIMES, HOWEVER, Graybill does admonish delegates to limit their comments to new information or arguments. He would rather see them go on record with their vote than a long repetitious "me-too" speech. And sometimes, he gavels down delegates who are out of order or who stray from the point.

Like everyone, he has his jovial days and his testy days, and he acknowledges he feels the strain especially during long night sessions. Apparently so do the delegates.

"Whenever I work them at night, people get sick," he said.

a people of Montana declare that Montana servicemen, service-women, and veterans may be given special considerations as determined by the legislative assembly."

State's Newspapers Flail 'Ominous' Right to Know Issue

Tribune Capitol Bureau

HELENA—Four of Montana's largest daily newspapers have leveled strong editorial page attacks against "right to know" provision adopted by the Constitutional Convention.

Newspapers published the editorials are The Billings Gazette, the Missoulian and the Helena Independent Record and the Great Falls Tribune. The other large daily, the Montana Standard has not yet attacked the proposal on its editorial page but will do so next week.

The right-to-know proposal, which survived a kill attempt by an overwhelming 76 to 14 vote, says: "no person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure."

Here's what the newspaper editors said:

—The Billings Gazette. In an

editorial headline "A right to conceal," the Gazette said the proposal "will offer public officials a legal concealment behind which to hide embarrassment — or embarrassment."

The Gazette said that the "demand of individual privacy" of county commissioners could result in the closing of a meeting with citizens to other members of the public as happened at a meeting on food stamps in Billings. The provision, in the Gazette's opinion, could seal documents such as mileage records in the clerk of the court's and commissioners' circumvention of state-imposed salary limits. The Gazette said "we have seen officials at all levels do their best to hide information and documents that could make them blush—or send them to jail."

The newspaper said that delegates could still suspend their rules and bring the clause back for the type of amendment delegate Jerome Cate would leave statutory law up to the legislature and let it determine what general

categories of information should be closed.

—The Great Falls Tribune. In an editorial headline "It's the public's right to know," the Tribune said that "constitutional established an ominous loophole that presents a serious threat to the public's right to know when they voted upon the 'right-to-know' section of the Bill of Rights article."

The Tribune said that the Montana Press Association opposed the section because "it has learned how difficult it is for the press to examine public records on several levels of government in Montana."

The Tribune recalled that the press association revealed last September there have been an alarming number of cases where the press has been denied by arrogant officials the right to see copies of city ordinances and even marriage licenses. The press was refused the right to see records at one county courthouse even though a district judge notified county officials the records, with the exception of juvenile and adoption matters, were open to the public.

The Tribune said that the critical point "glossed over is not the right of the press to report what public officials are doing but the right of the public to be informed. When the press seeks to examine public records, it represents the public."

—The Missoulian. In an editorial headline "right to conceal must be killed," the Missoulian said that the section failed to define what "individual privacy" might be. "Does the right of 'individual privacy' mean that county assessor's records, county treasurer's records and certain court proceedings — all now open to the public — could be made private? Nobody knows, and it would take court tests to find out. The tests might lock the door to public records and public business which the public now can see."

The Missoulian said that "this article could close much of government to all citizens, frustrating their ability to participate in the decision-making process and giving even more power to those who like to exercise power behind the scenes."

—The Independent Record. In an editorial headline "a

freedom abridged," the paper says that "in approving the 'right to know' provision, Montana's Constitutional Convention may have seriously abridged one of the basic rights of a free people — the right to know."

The Record said that the exception dealing with the demands of individual privacy "affords elected officials and bureaucrats at every level of state and local government the opportunity to deny public access to deliberations and records simply by saying their individual privacy outweighs the merits of public disclosure."

Furthermore, the paper said, "there is the serious likelihood that this proposed constitutional provision, if it is retained, will overturn present Montana laws on access to public meetings and public documents."

The Record said that contrary to what convention Bill of rights committee chairman Wade Dahood and other delegates "may choose to have you believe, the press does not wish to peer into private boudoirs. But it does want the right to pry into the affairs of government in the well founded belief that an informed public is vital to the success of a democracy."

If Newspapers Continue Criticizing It Dropping 'Right-to-Know' Section Suggested

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — The chairman of the constitutional Convention's Bill of rights committee says the entire "right-to-know" section recently approved should be stripped from the proposed constitution if the newspapers continue their criticism of it.

The suggestion was made by Wade Dahood, R-Anaconda, in a special meeting of his committee Friday afternoon, following a flurry of strong editorials from four of the five major newspapers in the state (The fifth is expected to follow suit next week.)

The section under fire was tentatively approved last Tuesday and reads as follows: "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure."

The newspaper publishers and editors fear the exception clause would be a license for secrecy, dubbing it the "right to conceal."

Dahood was critical of the Montana Press Association or waiting until the day before debate to express its objections, particularly after a reporter for the Lee Newspapers gave the section his stamp of approval.

Dahood again expressed his feeling that the right to know has to be balanced by the right to privacy, which he characterized as "more important than any-

thing else." He added, "if this torrent of opinion continues to come from the newspapers let's ask that the rules be suspended and the section removed" (Newspaperman Fred Martun R-Livingston, tried unsuccessfully to do just that during debate Tuesday.)

Research analyst Piek Applegate, however, urged against caving in to the press—saying the right to know was being extended to the people as a whole not just to the press. "We ought to take 'em on," he said.

"But they have the power that's mightier than the sword," said Dahood. "And if they choose to use it, they have the power to destroy this document and I'm not going to stand against it. If publishers of newspapers take this arbitrary, unreasoned position, I think we

owe it to the people of Montana to take the section out."

Dahood indicated his fear of press retaliation was based on a front page editorial in Friday's Billings Gazette and a letter from Gazette Publisher Strand Hilleboe to the Yellowstone County delegation.

"As the article now stands," said the editorial, "it would not be surprising if the public found it could not, in good conscience, vote for a Constitution which provides public officials with the temptation and the streamlined apparatus to loot the state."

"Editors are worse than gun people," said Dahood. "The Lee Newspaper chain is without a doubt opposed to this and if they state in a front page article they can't conscientiously support it, then (pounding the table) we have to give heed."

The Tribune was unable to discover the exact contents of Hilleboe's letter, although Dahood said Hilleboe wrote he would not support the Constitution with the present right-to-know section. One delegate who had received the letter phoned Hilleboe to see if it would be all right to show the letter to the Tribune. When he

came back with the word that Hilleboe considered it a private letter, Dahood said, "I'm absolutely amazed and shocked that he will not give consent to release that letter since I consider it legitimate inquiry on the part of a newspaper and the committee respects that and held a special meeting to see if the matter could be resolved and all interests satisfied."

Dahood talked in his attempt to galvanize the committee into support of his thinking.

Rodney Eck D-Bozeman urged that a middle ground be sought, perhaps dropping the legislature to specific exceptions other than throwing it to the courts on a case-by-case basis.

The meeting ended with a resolution to discuss the matter with Attorney P. E. Longo, who apparently raised the issue of determining Hilleboe's that in his opinion on the provision was "dangerous to freedom of the press."

The case is now being handled in a law suit against the State Industrial Development Board in an effort to gain access to its records. Dahood was also leading attorneys representing clients to the case to see if the Tribune could get the way in which the present status of the board's records would be affected with the controversial section either in or out of the Constitution.

Con-con asks 'right to work'

By DENNIS E. CURRAN
Standard State Bureau

HELENA — A small Constitutional Convention committee with a long name has come out with what could be two of the biggest bombshells of the convention.

The committee is the public health, welfare, labor and industry committee, and the two blockbusters are minority reports on right to work and utility regulation.

The majority report of the committee deals with presumably less controversial fare of regulating corporations and providing for labor and state welfare, merit systems and institutions.

THE "RIGHT TO WORK" provision, a measure aimed at lighting compulsory membership in a labor union, was introduced by delegate R. J. Studer, R-Billings, who wants to put it on the ballot for a separate vote of the people.

Studer's proposal is: "The right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike."

The minority report argues that the right to work provision can restore human dignity and the right to self determination

and should be put to a vote of the people. The majority counters that it doesn't seem unreasonable for an employee to have to support financially the union which bargains for him and concludes that Studer's proposal is "without merit."

WAITING IN THE WINGS is another committee minority proposal, by committee chairman George Heliker, D-Missoula, and Joseph McCarvel, D-Anaconda, which states that public and private employees have the right of collective bargaining. The main difference between the majority and minority apparently is the question whether the provision would allow public employees to strike. The minority says not necessarily.

The committee's majority report on labor calls for establishment of a state department of labor and also a merit system for state employment.

A new system for regulating utilities also will come before the convention — Heliker's controversial proposal to establish a one-man public

utilities commission appointed by the governor with an impartial staff and a duty to represent the public.

HELIKER CONTENDS utility regulation reform is needed because utility customers do not get a fair shake under the present elected three-member Public Utilities Commission. He says it is a constitutional issue because it is important and enduring and has not been remedied by the legislature.

The majority concluded Heliker's plan should be left to the legislature, especially because, in the majority's view, it would be a "radical departure" from the present commission, which the majority thinks works satisfactorily.

Another minority proposal from Heliker would allow cities and counties to establish public utility corporations. The majority argued that would circumvent the legislature in setting up public utility districts.

CORPORATIONS, which now are regulated under a 20-section article in the con-

stitution, would be covered in six sections under the committee proposal.

The most important would direct the legislature to protect and educate the public against "harmful and unfair practices" by corporations.

Other provisions would deal with corporate charters, minority stockholder protection in trustee elections, long-haul, short-haul protection, prohibition of watered stock and prohibition of retrospective laws.

The section on institutions and assistance would require the legislature to provide economic assistance and social and rehabilitative services to those needing aid from society.

The provision would leave it up to the legislature to determine whether the state or counties or both should assume the burden of raising money for welfare payments. But by removing reference to counties, the door could be opened for the state to take over the welfare load.

The public health committee report is scheduled to be debated Saturday and Tuesday.

'Press hasn't tried'—Graybill

HELENA (AP) — Critics of the right-to-know provision passed by the Constitutional Convention have not tried to understand what delegates have done, President Leo Graybill Jr. said Saturday.

At a lunchtime news conference, the Great Falls Democrat said he was "disturbed" by the flurry of critical newspaper editorials opposing the section.

"I think the convention has really adopted a strong article," Graybill said.

The section, approved Tuesday gives citizens access to governmental documents and deliberations except in cases in which the right to individual privacy clearly exceeds the right to know. Newspaper editorials have charged that bureaucrats will use the privacy exception to block public access.

Graybill, an attorney himself, said

"Any lawyer, including a press lawyer, is going to know the right-to-know provision is going to have exceptions in it if we write them in or not."

Even if delegates adopted an unlimited right-to-know section, the Montana Supreme Court would write six or seven exceptions right away, he said.

The president said having a right-to-know provision without the privacy exception could pose problems for citizens.

"Are the editors saying their personal income tax returns are open to public scrutiny?" he asked. "If so, let them publish them. They don't have to wait for a right-to-know sec-

Such necessary confidential records as income tax returns, names of persons with venereal diseases and names of the real parents of adopted children could be open to public inspection if the privacy restriction were not included.

Including the word "clearly" in the section, though, is a "tipper in the favor of right to know," he said.

"These fellows have not thought it through," Graybill said of the editorial writers. "The lawyers on the floor are not very worried."

Graybill also said he did not think the Montana Highway Users Federation had closely examined the delegates' action in revising the highway anti-diversion amendment.

The legislature will gain a safeguard over the highway funds. Unlike under the present amendment, three-fifths of the lawmakers can vote to appropriate the earmarked highway funds for other purposes.

"To hear the lobbyists, you would think they had taken something away from the people," Graybill said. He added that highway funds still would be diverted, but the legislature would be able to exercise some control over them.

Graybill said again he expected powerful opposition to the new document, which goes before the Montana electorate June 6.

He said some of the groups had lots of money but not necessarily a lot of votes.

"There are those who are against it without even seeing it," the president said. Others, such as the newspaper and highway groups, have not looked closely at the provisions they do not like.

Has faith in delegates

I have such high regard for the strength of character of the delegates we sent to Helena that I feel certain they will give us a much better Constitution than the old one, because now they know Montana's needs and they are familiar with the tactics of politicians and are not apt to be swayed by them.

This great responsibility has been entrusted to their care. They have been given a great opportunity to prove their mettle and glorify their own names forever, so they can't afford to miss.

Please do not weaken our pollution law. One and all, both great and small, need to be taught to respect that law. Don't worry about the big industries; they come to our state well qualified to protect their own interests. For example, look at the destruction of big beautiful trees in Flathead County, especially in Glacier Park, where our tourists will have to view barren hills in years to come.

MARGARET B. DOBIN, 1405 5th Ave NW

Convention Readies for Last Rites

HELENA (AP) — A committee was named Monday to plan a formal signing ceremony when Constitutional Convention delegates complete their work.

President Leo Graybill Jr. of Great Falls, said a ceremony was held at the end of the last convention in 1889.

Named to coordinate the ceremony were Chairman J. C. Garlington, R-Missoula; Clark E. Simon, R-Billings; Lucile Spear, D-Missoula; Paul K. Harlow, D-Thompson Falls, and Veronica Sullivan, D-Butte.

ConCon talk

SIDNEY — Richland county residents are meeting each Tuesday and Friday afternoon in the Emergency Operations Center to talk by telephone loud speakers with their representatives at the Constitutional Convention in Helena. Convention issues and committee reports are discussed as they come to the convention floor, and residents learn of their delegates stand, and convey their own views on various issues.

How They Voted

Con Con Tendency Study

Urban Delegates Favor Reform

Tribune Capitol Bureau

HELENA—The Constitutional Convention took an historic vote Saturday and went for the basic principle of splitting the present State Board of Education into separate boards for the University System and other public education.

After defeating, by a 38-54 vote, a move by delegate Erv Gysler, R-Fort Benton, to increase the size of the present single board from 11 to 14 members, the convention delved into the job of hammering out the complexion of the two boards. Before the vote on Gysler's amendment, the convention soundly beat back, by a vote of 26-64, a move by delegate Maurice Driscoll, D-Butte, which was also for a single board with 14 members.

A vote for the Gysler amendment was a vote for the concept of a single board of education.

Democrats for a single board (21): Arbenas, Arnese, Aronow, Artz, Barnard, Bates, Belcher, Bivlock, Blend, Brader, Driscoll, Eskin, Gysler, Harlow, Harshbarger, Herrington, Hickey, James, Johnson, Kammhoof, Kellner, Loefer, Loefer, Martin, McCarvel, McDonough, McKee, Monroe, Reichart, Siderius, Suter, Van Buskirk, Wagner, Warden.

Republicans for single board (15): John Anderson, Asst. Bernhelson, Erdmann, Eichert, Gysler, Johnson, Loefer, Martin, McCarvel, Nutting, Rydg, Studer, Wilson, Woodmansey.

Independents for a single board (2): Hanson, Kistoway.

Absent or not voting (8): Babcock (R), Cain (D), Davis (D), Delaney (D), Furlong (D), Kammhoof (R), Kellner (D), Roeder (D).

The convention voted 53-49 to amend the controversial Article II, Section 8 of the present constitution that prohibits public aid to private schools.

by delegate Jerome Loefer. Adopted was an amendment R-Helena, which stated "this section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education."

Democrats favoring Loefer's amendment (34): Arbenas, Arnese, Aronow, Artz, Bivlock, Bugbee, Campbell, Cain, Cross, Dhaney, Driscoll, Eck, Graybill, Harshbarger, Harlow, Herrington, Heliker, Hilland, Joyce, Kellner, Loefer, Mansfield, McCarvel, McDonough, McKee, Monroe, Reichart, Siderius, Suter, Van Buskirk, Warden.

Republicans favoring Loefer's amendment (27): Arbenas, Arnese, Aronow, Artz, Barnard, Bates, Belcher, Brazier, Bugbee, Delaney, Eskin, Gysler, Graybill, Harlow, Harshbarger, Herrington, Hickey, James, Johnson, Kammhoof, Kellner, Loefer, Loefer, Martin, McCarvel, McDonough, McKee, Monroe, Reichart, Siderius, Suter, Van Buskirk, Wagner, Warden.

Independents for striking this section (14): Oscar Anderson, Brown, Foster, Mahoney.

Democrats against striking this section (27): Arbenas, Barnard, Bivlock, Blend, Campbell, Chamouss, Conover, Davis, Driscoll, Eck, Gysler, Harlow, Harshbarger, Herrington, Hickey, James, Johnson, Kammhoof, Kellner, Loefer, Loefer, Martin, McCarvel, McDonough, McKee, Monroe, Reichart, Siderius, Suter, Van Buskirk, Wagner, Warden.

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA — Democratic Constitutional Convention delegates from urban areas showed the greatest tendency to vote for constitutional reform, a comprehensive analysis of key votes by one of the Con Con's interns shows.

The analysis, by Kandice Hauf, a Montana State University student, was based on the 32 recorded votes which she believed had a liberal or reform side and a conservative or status quo side.

There were 11 votes on the legislative article, nine of the natural resources-agriculture articles, six on the executive article, and three each on the judicial and revenue-finance articles.

Miss Hauf told the Tribune Saturday that "I just did this for a personal project." She said that the analysis was not in connection with any of her classwork at MSU.

Thirty-nine of the delegates voted between 19 and 32 times in favor of constitutional reform. Heading the list among the top 20 most reform minded delegates was George Heliker, D-

Missoula, with a perfect score of 32, followed by Lucile Speer, D-Missoula (31), Dorothy Eck, D-Bozeman (29), Donald Foster, I-Lewistown and Arlyne Reichert, D-Great Falls (both 29), Richard Champoux, D-Kalispell, Louise Cross, D-Glendive, Lyle Monroe, D-Great Falls, Mae Nan Robinson, R-Missoula, Richard Roeder, D-Bozeman and George Rollins, D-Billings (all 28), Noel Furlong, and Henry Siderius, Kallspell Democrats (both 27).

Daphne Bugbee, D-Missoula, Leo Graybill Jr., D-Great Falls, George Harper, I-Helena, Robert Vermillion, D-Shelby (all 26) and Harold Arbanas, D-Great Falls, Russell McDonough, D-Glendive and Margaret Warden, D-Great Falls, (all 25).

The most reform-minded delegates included 17 Democrats, one Republican and two Independents. Five of these delegates were from Great Falls.

Thirteen of these delegates were from urban areas of 15,000 or more population, six were from towns of 4,000 to 15,000 and only one was from a rural area.

A sharply different picture is shown by Miss Hauf's analysis of the 20 delegates with the best voting record for maintaining the constitutional status quo.

Leading the list with 29 votes cast for the status quo were John Anderson, R-Alder and Mark Etchart, R-Glasgow, followed by Robert Noble, D-Great Falls (28); Torrey Johnson, R-Busby (27); Cedor Aronow, D-Shelby and Erv Gysler, R-Fort Benton (both 26); Betty Babcock, R-Helena, R. S. Hanson, I-Ronan, A. W. Kammhoof, R-Forsyth, Richard Nutting, R-

Silesia (all 25); Thomas Ask, R-Roundup, Jeff Brazier, D-Helena, Douglas Delaney, D-Grass Range, Marian Erdmann, R-Great Falls, Marshall Murray, R-Kalispell and Archie Wilson, R-Hysham (all 24); and Rachell Mansfield, D-Geyser, Sterling Rygg, R-Kalispell, Clark Simon, R-Billings, and Ralph Studer, R-Billings.

The most conservative minded delegates included 15 Republicans, four Democrats and one independent.

Miss Hauf's vote analysis also included a listing of delegates who were in a middle group, voting for reform 17-10 times; a tally on delegates with the greatest number of absences during votes; and how delegates voted in three districts.

Also compiled were the voting records on the 32 key issues on the basis of young delegates between the ages of 24-35 and the vote of women delegates.

Of the 15 delegates between the ages of 24-35, those in three high category of 21 to 29 votes for reform showed five Democrats, three Republicans and one Independent.

The most reform-minded young delegate was Foster, who voted on the liberal side 29 times. The most conservative voting young delegate was Robert Wagner, D-Nashua, who voted for the status quo 22 times.

Miss Speer was the most liberal of the women voters, with a score of 31 out of 32 votes for reform.

Mrs. Babcock had the best status quo voting record for a woman of 24 votes on the conservative side.

Reaction mixed on concealment

By GARY SVEE
Gazette Staff Writer

A constitutional article that gives individual privacy preference over the public's right to know met with mixed reactions Friday in Billings.

Public officials, some of whom say they have been making that decision within the present framework of Montana constitutional and statutory law, were asked to comment about Article 9 of the proposed constitution.

Some of the statements were terse.

BILLINGS mayor Willard Fraser said, "I have no quarrel with the press. I thought the whole question was settled with the Supreme Court decision on the Pentagon papers."

"I think such a clause runs contrary to that decision," Chairman of the Yellowstone County Board of Commissioners, M. E. "Mike" McClintock, said. "I have no reaction."

He refused to comment further.

BILLINGS Police Chief Gerald Dunbar said that anything pertaining to the administration of his public office is open to the public for inspection.

On the other hand, he said

investigations of individual citizens should not be divulged publicly unless the individual is breaking a law and is brought before the courts.

Many of the investigations the department conducts prove no wrong doing and I don't think the investigations should be made public," he said.

Yellowstone County Sheriff James Meeks said the article needs clarification.

"I THINK the wording of this phrase, 'the demand of individual privacy clearly exceeds the merits of public disclosures,' leaves too much discretion to public officials."

"Surely there are certain areas where individual privacy should be of paramount importance, but how far do you carry this type of privacy?"

"I frankly do not have all that much trust in government to be honest and accountable to the people."

My experience has been that it would appear only human that mistakes made by public officials are sometimes attempted to be covered up.

I don't really understand this. If the mistake is honest, people will accept it and it is one way the public has of judging an official.

"IF HE MAKES too many

mistakes, the public has the right to go to the polls to replace that person."

County Atty Harold Hanser added:

"The right of privacy has to be in context with the constitutionally protected rights of freedom of speech and the press and the public's right to maintain a legally constituted society."

"In the operation of the county attorney's office there are no black or white issues on this question."

"To my knowledge, there is no satisfactory conclusion or even guidelines reached on the balance between freedom of the press to report criminal pre-trial matters and the constitutionally protected right of every citizen to a fair and impartial trial."

"IN THE absence of good faith on the part of a public official there could be a variety of situations in which the public's right to know is jeopardized only because the official himself feels it would be best if no one knew about a particular transaction rather than basing that decision on an honest and objective evaluation of the basic rights involved."

Perhaps the most glaring example of this can be found in the military classification of documents.

As a practical matter even though there are times when it would be easier not to answer a reporter's questions, I would not consider being county attorney without a diligent press reporting my office.

"THE PROPOSED article seems to be more emotional than factual. The issue has always been who determines a balance in any given case between the right to privacy and the merits of public disclosure."

"If this section is interpreted to mean that governmental agencies can make that determination on an ad hoc basis, then I would seriously doubt that either the right of privacy or public disclosure can be adequately protected."

Parliamentary Idea Still Alive

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — Robert Kelleher, D-Billings, feels that the seeds for a parliament for Montana have been sown despite the disappointing vote it received in the Constitutional Convention. It's not that the people aren't ready for it now. Kelleher says he's had people write him from all over the state expressing their support. "In fact," he says, "there was nobody at this convention that really disagreed with me. Their only real objection was the 'yeah, but's' — 'yeah, but the people wouldn't buy it.' I am convinced that our people would have bought it. They're not dumb dumba. Under the parliamentary system, the governor would be the leader of the majority in the legislature. "A man could be elected governor and he wouldn't have to spend a quarter of a million dollars. He just has to carry his own district.

"What becomes important under the parliamentary system are issues. That's what's so sweet about it — you're for a sales tax or you're against a sales tax . . . you want more money for the state universities, you want less money for the universities . . . you want more money for roads, you want less money for roads.

"The programs mean something, whereas now all too often we vote for a governor because he has blue eyes or curly hair. And personalities should not have that much to do with electing the chief executive officer."

A parliament also eliminates "that veto," says Kelleher, "and a veto is a vicious weapon. It's the weapon of a tyrant." He says the British, whose parliament he has been studying, haven't used a veto since 1707. "There's no veto power under the parliamentary system, but in exchange the governor has a guaranteed majority. And if I had my druthers, I'd much rather have a guaranteed majority by the governor than the veto power."

Anyway, he says, "when a man becomes governor of Montana, does the Holy Ghost, like at Pentecost, descend upon him and make him wiser than the 100 members we're going to have in the unicameral legislature? These senators have examined this thing and listened to witnesses and chewed on it and regurgitated and they know practically everything there is to know about this bill. What makes the governor so all-wise?"

Kelleher is thoroughly convinced that the voters will in June choose a unicameral (one house) legislature, which he considers a "baby step in the right direction." He says the only opposition he's found to unicameralism in Billings is from incumbent legislators. "Rank and file citizens in Billings are overwhelmingly in favor of unicameral. That's the one thing I'm certain is going to go."

Although parliament — just a step or two beyond unicameralism — drew only 19 votes in the convention, Kelleher plans to keep pushing it. "Anybody who studies unicameralism seriously — their mind is drawn like a magnet to the parliamentary system. And I haven't given up hope on that and I'm going to keep fighting for it till the day I die."

Kelleher, 47, isn't easily discouraged by defeat. This is his first public office, although he ran for Congress twice, for the House of Representatives "a few times," and the State Senate once. And he says he got elected to the convention "by mistake. It was because of the sales tax. I was only elected by 48 votes."

Kelleher has also known crushing defeat in the convention on a number of issues other than parliament. He said he had hopes for a proposal declaring alcohol and drug addiction not a crime, but that he knew from the tenor of the convention that another proposal to permit private sexual acts of consenting adults wouldn't make it. "I don't believe homosexuality is a crime if a person is that way because of reasons of hormones or psychological or upbringing," he says. "I don't believe in putting people in jail for diseases."

He got only a handful of votes for striking in its entirety the present constitutional right to bear arms. But that doesn't mean he's afraid of guns. Kelleher is a lieutenant colonel in the Army Reserve, a non-resident student in the Army War College from which he hopes to graduate this summer, and a graduate of the Army command and general staff school.

"And I believe in keeping a strong reserve program because I think that's the only way we're going to keep peace. The biggest problem that bothers me is mothers that are shooting their children and wives shooting husbands, and husbands wiping out their families and then shooting them-

"If someone goes insane temporarily I don't think they should have a loaded gun around. Even in the barracks we locked up our weapons.

"At the same time I know how important it is to hunters to shoot elk and deer and ducks with their shotguns and rifles and I would in no way take these away from them. But there's got to be some way of stopping the murders with small handguns."

Kelleher says he was so disappointed with the judicial article that he was almost prepared to work against the Constitution. But now he feels that the good things outweigh the bad in the Constitution—"That's why I'm going to support it."

He was particularly disappointed with retention of election for judges rather than appointment. "Judges are not supposed to be popular," says Kelleher, a lawyer, "and all we've got now are popularity contests. If this man is going to be answerable only to his own conscience and his knowledge of the law, how can you keep running him in popularity contests every six or eight years? The only saving factor about the judicial article that I can see is that we added two years to judges' terms. I'm very unhappy with the judicial article."

Kelleher also wanted to shorten the executive ballot rather than having a lot of non-issues candidates seeking election. As it turned out, the convention deleted (reluctantly) constitutional reference to the state treasurer. "The executive article to me became almost a complete and utter failure," he says. "The minority took over, and the majority . . . I don't know what happened there. That committee just fell apart. It was very sad."

Miss Rankin Sees Sights on Enemy Montana

By ANN CONGER
IR Staff Writer

The military complex of this country is making Montana a prime target for the next war with its ABM installations in north central Montana according to the first woman ever to be elected to Congress, Jeanette Rankin of Montana, Georgia and California.

Miss Rankin, 91, who was elected to the House from Montana in 1916 and voted in Congress against both World War I and World War II is here to address the Constitutional Convention Tuesday at its request.

Charging that the military-industrial complex of the United States is running the country and its officials, she said that the people of large populated areas didn't want ABM sites in their states and so the people of Montana became "expendable."

War, she said, is the biggest problem we have and the only way to fight Communism is not with war but with a better economy — a nation of happy people who have jobs.

Military Domination

The economy should be concerned with food and education for everyone and not an aim to dominate the world. That is how to deal with Communism. "You can't get rid of an idea by killing young men," she said.

"We waste our money on the military. We spend over half of our peace time money getting ready for the next war.

"We give military aid to countries that have no need of it and say we're settling a dispute.

"Day after day after day after day, we say that we've got to be strong enough to dominate the world, and the people

kin said.

She said the military complex elects the President and "I want to see a participatory democracy with government responsible to the people and the people responsible to the government."

Preferential Voting

Miss Rankin supports a preferential vote in which voters list their choice in order and the candidate receiving the most votes is elected. She said the idea dates back to the days when she led the women's suffrage movement in Montana but it was impractical then because of the counting of the votes. It is not impractical now, she said, because of the computer.

Each voter would list a choice from several candidates from first to last, and the combined preferences of the people would determine the outcome, not an electoral college "which interprets, alters, or distorts the meaning of the vote."

Miss Rankin noted that a Constitutional amendment or federal law could limit candidates to those having a certain number or certain percentage of registered voters supporting them by petition or primaries.

"Until we get the preferential vote, we're in a box and don't have a choice," she said.

China Trip

"If we're so afraid of communism," she said, "why did Nixon go to China? What's his motive? I think the military is trying to put us off the track. If we can't win a war in Vietnam, we can't win a war with China. The military is trying to divert our attention from the next war."

Miss Rankin said limiting

real problem "because anyone with money who is intelligent can spend millions before he announces his campaign."

She served in Congress from 1915-18 and 1940-42. After that term she did not seek re-election.

Miss Rankin is a member of such organizations as the Women's International League for Peace and Freedom and the War Resisters' League and in 1968 led the Jeanette Rankin Brigade of 5,000 women to Washington to protest the Vietnam war.

And she was recently quoted in a New York newspaper article as saying that if she had her life to relive, she'd do it all again, "but this time I'd be nastier."

The former Missoula resident and graduate of the University of Montana has been working with the Georgia Legislature to allow congressional representatives to be decided at large.

In February she was in New York to receive the Susan B. Anthony Award and to be honored at the fourth annual meeting of the Jeanette Rankin Brigade.

After leaving here she will go to New York to address the National Organization for Women and will appear on the Today Show on March 20.

She maintains her voting residence in Montana, an apartment in Carmel, Calif., and her ranches in Georgia and Montana.

Sidewalk survey

Con Con makes for mixed area opinion

TEXT BY GREG ENGLISH
PHOTOS BY MIKE RADEL

The Constitutional Convention (Con Con) is now nearing its end, and if Park County residents are any indication, many people have mixed opinions on whether its outcome will be successful or not, and many have not even been following it.

An on-the-street survey in downtown Livingston revealed an assortment of comments.

A retired resident, Mr. Jay Gleason, said, "The voters must compare the present constitution with the new one — which they won't. Gleason has been following the progress of the Con Con, and thinks the delegates will finish on time. 'It's up to the people whether or not they will read it when it's put to a vote,' he said.

Gary Shadoan, manager of the Vogue Shop, "hasn't been too interested." The 31-year old Shadoan thinks, however, Con Con has been presented publicly enough to be followed extensively.

A 50-year old housewife Altha Van Aken, says "I think it is a good thing if they do a good job — but it's a pretty big job in the length of time they have to do it. It will be good to have the constitution simplified."

Reserving thoughts about the convention is a Livingston mortician, Jack Davis.

"I venture a guess it can get done, but really I'm quite doubtful as to the final product," he said, referring to the process of overhauling the 82-year old constitution.

Too many special interest groups "getting their organizations included" is the general opinion of the 39-year-old photographer, Jim Pilon.

"They have spent a lot of

time, and I think the final product will be a much wordier constitution," he said. The special interest groups are understandable, but lamentable.

The original concept, is to make the constitution simpler but Pilon says this "is contrary to what these groups are doing." Pilon has "modestly" followed the progress of the Con Con and attended meetings prior to the election of delegates from Livingston to attend the convention.

"They are wasting time and our money," said auctioneer Pete Knutson abruptly, but Pete Anderson contradicts Knutson by saying, "the old laws were obsolete — it needs a house-cleaning. They are getting something done, some good and some bad."

A senior citizen wants "the legislature to take care of it. That's what they are getting paid for." The Livingston resident, who refused to be identified, thinks there is a "lot of arguing" going on among the delegates.

Carol Haug and Jim Barelay "haven't been following" the progress of the constitutional convention, but summarize, "it's a good thing."

Rancher, Mrs. Acree, has not been following at all, except for political columns occasionally, but thinks there are "contradictions within" the delegates.

One of Livingston's meter maids, Virginia Bayne, does not know enough about the issue "to be an authority."

"If something comes into the convention that personally interests me, then perhaps I will follow the Con Con more closely," she said.

State's constitution has special purposes

Editor's Note: Constitutional Convention President Frank Wenstrom, Williston, has written a series of articles about the proposed constitution which North Dakota voters will vote to accept or reject on April 26. Following is one of Wenstrom's articles. The Morning Pioneer will publish additional articles by Wenstrom between now and the date of the election.

By FRANK WENSTROM
In analyzing the worth of the proposed revised constitution for North Dakota, it is important that citizens determine how well it measures up to the purposes for which state constitutions are written.

Because the national constitution receives such detailed attention in our schools and our thinking, we become very familiar with the idea that the federal constitution provides the necessary authority on which the agencies of the national government act. Without authorization in the national constitution, no federal action can be taken.

This concept does not apply to state constitutions, which means that a state constitution serves different purposes for a state than the federal constitution serves for the nation.

Through court decisions and tradition, the state legislatures are presumed to have all power not denied to them by the state constitution or by the supreme law (federal) of the land. This being the case, state constitutions serve to limit authority rather than grant it.

Because legislatures are limited by constitutions and may not change constitutional provisions by mere legislation, policies are often put forth in constitutions to make them unchangeable by the legislature. This is one reason we have bills of rights in state

constitutions — we don't want legislatures passing laws restricting them.

Which policies are so fundamental that we don't want future legislatures to change them and which policies should be left to alteration by future legislatures? This question was as difficult for delegates to decide as it is for citizens and scholars.

The distinction between "legislative" and "fundamental" is complex enough when argued purely on a theoretical basis. When interest groups and political aspirations become involved, it becomes even more cloudy.

One delegate jokingly simplified the whole question by alleging that "what you want to include is purely legislative and what I want to include is truly fundamental."

Even the most objective observer of the convention would have to admit that we were unable to keep all "legislative" matter out of the constitution. Some legislative matters, such as tax exemptions for certain groups, were left in simply because it would be too difficult to explain this constitutional theory to people genuinely concerned over changes.

In addition to assuring citizens that certain fundamental rights and principles are safe from legislative interference, a constitution must frame out the structure of government, allocate the basic duties to the branches of government, and provide methods for amending the constitution.

As we proceed through the changes proposed for the revised constitution in the weeks ahead, you will find that most of the legislative detail has been removed. You will also find that the other functions of a good state constitution are better served.

Con-Con official concerned about public understanding

By HUGH VAN SWEARINGEN
Associated Press Writer

Dean F. Bard, executive director of the North Dakota Constitutional Convention, expressed concern Wednesday that the public does not fully understand provisions of the proposed new Constitution dealing with the Executive Branch officials.

He said his office and individual Convention delegates have received numerous questions about the executive article, which provides for reorganizing the Executive Branch into not more than 15 principal departments.

The article contains the controversial sections providing for election of only seven Executive Branch officials — the governor, lieutenant governor, secretary of state, attorney

These are the only Executive Branch officials that the Constitution would require to be elected. The public generally does not understand that the legislature could decide how the other Executive Branch officials should be selected, Bard said.

The legislature, for example, could decide any and all department heads should be elected or that some be elected and others appointed by the governor.

Unless the legislature makes such decisions, the officials not required by the constitution to be elected would be appointed by the governor and confirmed by the Senate.

Bard pointed out that the only exception pertains to the officers who will head the Board of Public Education and the Board of Higher

Education. These two officials would be appointed by the board of members. Members of the two boards would be appointed by the governor and confirmed by the Senate.

Bard also noted that the state assembly would have authority makes it nearly impossible for the governor to decide how the Executive Branch should be reorganized and how the various department heads should be selected.

This, he said, is because the transition schedule for the proposed new Constitution provides that state officials serve out their elective terms in the terms of officials elected in this coming November will expire until the end of 1976, the legislature would have until then to provide by law for methods of selection of the various officials.

Members of the Executive Functions

Committee indicated during the committee meetings that they were dissatisfied with the division of authority in the Executive Branch, made up of countless departments, boards, bureaus, agencies and commissions.

They argued on the Convention floor that the division of authority makes it nearly impossible for the governor to see that the state's business is well administered and how the various department heads should be selected.

The executive article says the heads of the principal departments, other than those elected under terms of the Constitution or selected in a manner decided by the legislature, shall be appointed by the governor, with Senate confirmation, and shall serve at his pleasure.

The article says further that the legislature may periodically review the principal executive departments "and may by law change and prescribe the manner of selecting those chief executive officers appointed by the governor."

Citing a letter written by Atty. Gen. Helgi Johanneson about the article, Bard said the legislature could change the manner of selection even before the governor makes the initial appointments.

"Thus the final determination is left up to the people's representatives. The legislature," Bard said.

Opinion + Comment

2 Education Boards Win Nod From Con Con [Legislature to Retain Some Money Strings

Convention delegates made a mistake

Montana's citizens, regardless of station, have always had the right to say "no comment" when questioned by members of the press.

If their feelings are especially strong on the subject, they also have the right to suggest that the questioner go to hell.

No newsman would have it otherwise. The right of free speech gives a man the freedom to say as much or as little as he pleases. If "no comment" or "go to hell" is all he wants to say, that's his prerogative as a citizen.

Now, however, the Constitutional Convention has voted to extend the right of no comment to the government — at all levels. The delegates have included a so-called "right-to-know" provision in the proposed Bill of Rights. This provision, over the long term, could easily become a key tool of those who wish to take the government away from the people.

Most of the delegates who voted for this proposal did so with the best of intentions. It's a beautiful sounding provision, and for the very idealistic and those who are unaware of the methods used by some government officials and some private groups, it would be easy to vote for.

The provision says: "No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand for individual privacy clearly exceeds the merits of public disclosure."

We too, of course, agree with this statement in principle. The question that arises, however, is who will decide when the merits of privacy exceed those of disclosure? The legislature? A judge? An appointed bureaucrat? Or will it be a person or group that stands to make a little money from the proceedings at hand?

A leading backer of this provision is Anaconda delegate Wade Dahood. (Dahood late last week suggested that because of newspaper opposition, the provision be omitted. His committee will meet with newspaper representatives this week to discuss the provision.) Dahood says press objections to the measure show a lack of responsibility. He says some relationships, such as doctor-patient and lawyer-client deserve to be confidential. This is a straw man argument, designed to imply that the press seeks to destroy these relationships. It doesn't. Newsmen, who are deeply concerned about the confidential relationship between a reporter and his sources, probably

understand and support doctor-patient and lawyer-client confidentiality more than most citizens.

There are some people, however, who would use this principle of confidentiality as an excuse to conceal from public view every facet of a public proceeding, not the least of which would be how your tax dollars are being spent.

There are, at this moment, people in and out of state government who are trying to use the argument of professional "confidentiality" to thwart a newsman's efforts to obtain an accounting of expenditures by a State agency. Should the Constitutional Convention's "right-to-know" provision be adopted, this agency could immediately succeed in covering up these expenditures merely by saying that they don't merit disclosure.

Contrary to what certain self-interested parties would like the public to believe, press opposition to this section doesn't stem from a desire to publicize embarrassing personal facts about private citizens. Our concern is based on the fact that many public boards and agencies are sometimes involved with personal aspects of people's lives. If these boards can use this as a smoke-screen to prevent inspection of their financial dealings for instance, the public is in serious trouble. Compounding the seriousness of the problem is the fact that these boards are sometimes egged on in this direction by people who aren't members of government and whose primary interest in the matter is monetary gain which they would like to achieve with as little public notice as possible.

In short, the Right-to-Know provision could enable each individual agency head and bureaucrat to personally decide when the public should know about a government action, and when it should not.

Early in this Convention, Bill of Rights Committee Chairman Dahood made this fine-sounding statement: "As government functions and controls expand, it is necessary to expand the rights of the individual."

Apparently, the sentiment was not a lasting one. By voting to approve the "Right-to-Know" provision, the Convention has provided a convenient tool for future governments to shrink the individual's rights even more.

The provision offers an unfortunate temptation for the government to tell a curious public to go to hell, because "Big Brother" knows what's best.

Respectfully, we urge the delegates to change or delete this well-intentioned, but potentially dangerous measure.

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — Constitutional Convention delegates adopted an education article Monday that provides for two separate boards of education after spending much of the day trying to determine how much power to give the board that sets university policies.

Two boards—a board of public education and a board of education—were given constitutional status.

Under the plan, the two boards also will meet jointly as the state board of education to make long-range plans, coordinate the state's educational systems from grade school to college, and to discuss matters affecting both boards.

At present, the state board of education meets to handle elementary and secondary school matters and also sits as the board of regents to set policy for the Montana University System.

Separate persons would make up the two boards, if voters approve the proposed constitution June 6.

Under an amendment submitted by George Rollins, D-Billings, more power would be vested in the board of regents, to supervise higher education.

The legislature would retain controls over the budget, but it would grant a lump sum to the regents, who would divide it up between the units.

His amendment provides that regents "shall have full power responsibility and authority to supervise, coordinate, manage and control the Montana University System and shall supervise and coordinate other public educational institutions which may be assigned by law."

Rollins' proposal replaced the Education Committee section, which would have created the board of regents as "a body corporate," a legal term that would have set the board up as a legal entity.

"I am trying to achieve certain things," said Rollins, an Eastern Montana College professor. "I want to see a board of regents that has the essential powers to supervise the University System."

Two motions to limit the powers of the board of regents failed.

Carl M. Davis, D-Dillon, moved unsuccessfully that a sentence be included stating that financial control be vested in the legislature.

Richard J. Champoux, D-Kalispell, who headed the Edu-

cation Committee, objected, saying:

"When he puts this in, he just goes back to the old constitution. If someone in the legislature doesn't like a professor, you simply delete his salary. It's happened before."

Charles H. Mahoney, I-Clancy, who earlier had criticized present University System policies said the legislature should have control over the universities.

The amendment failed 52-40. A stronger one to give the legislature control over administrative and financial matters, leaving only academic affairs to the regents, was turned down 58-23.

Each board would consist of seven members appointed by the governor and confirmed by the legislature, which sets the lengths of terms. The governor, state superintendent of public instruction and commissioner of higher education, a new position, would be ex-officio members of each board but could not vote.

The position of commissioner, similar to the executive officer of the University System, was given constitutional status to insure its importance.

J. C. Garlington, R-Missoula, said the board of regents

needed this professional assistance.

"Without it," he said, "It's like trying to imagine the Dallas Cowboys operating without the services of Tom Landry."

Other delegates expressed concern over the lack of unified direction of the six units of the University System.

"We've got to get somebody to whip those six boys into one," Mahoney said.

Also added to the section on the board of regents was an amendment providing that regular audits be made to allay fears that the more independent board might slip away from state controls.

The delegates turned down an attempt by Grace Bates, D-Manhattan, allowing the legislature to set the powers and duties of one or more state boards.

In other business, the convention members approved a section offered by Otto Habedank, R-Sidney, to have the legislature provide the state's share in the School Foundation Program. Some recent state legislatures have not fully funded the program.

A motion by Jerome J. Cate, D-Billings, to allow the legislature to allow public access to public lands for recreational uses failed 63-23.

Sunday Smorgasbord

About Dahood

The poor man's Patrick Henry, Constitutional Convention delegate Wade J. Dahood, R-Anaconda, is quickly emerging as THE NAME of the convention and we find it rather ironic that the man who chastises the press in one breath, then turns around and uses it to its utmost to feather his political bed.

Dahood called for "a more responsible and just report" of the convention by the news media last Tuesday. It seems that the Anaconda attorney feels that Montana newspapers aren't accentuating the positive to the tune that suits him.

We must disagree. Dahood, and other of his cohorts apparently have very short memories. We hope this doesn't carry over into their work as Constitutional Convention delegates.

The ire of many delegates was raised by one or more news analysts taking the convention to task for writing a constitution more fitting for the 1920s than the 1970s. In other words, some reporters, through their observation and convention contacts, analyzed this as a problem.

Dahood and his cohorts read this and deduced that the press should be more responsible and positive.

Well, if Mr. Dahood would read the newspapers of this state instead of glance at them he would find that many of the reforms he feels were slighted by the press were, in fact, praised. The newsmen covering the convention have written about legislative modernization, court reform and a revised revenue and finance article. And, many of these same topics have been praised editorially by more than one newspaper in this state.

As far as we're concerned, it all boils down to someone blowing his stack at a particular reporter and then irresponsibly calling for more responsibility on the part of the news media.

Who's Responsible?

While we're on the topic of Wade Dahood, it should be pointed out that it is also ironic that the man who calls for a responsible and positive approach to convention coverage should immerse

himself in seeing that a self-serving piece of legislation is passed by a convention that is supposed to be dedicated to keeping statutory law out of the constitution.

We refer specifically to a section of the proposed bill of rights which is designed to circumvent a 1971 Montana Supreme Court ruling in which Dahood was involved.

Included in a section on administration of justice was a sentence guaranteeing workers redress against negligent third parties under the Workmen's Compensation Laws.

The Montana Supreme Court ruled in *Ashcraft vs. Montana Power Co.* in 1971 that the utility was not liable for injuries suffered by Charles Ashcraft when Ashcraft fell from a wobbling power line. Montana Power had hired the contracting firm that employed Ashcraft.

Ashcraft's lawyer was Dahood. Dahood justified including the specific section in the constitution, saying the convention was "the court of last resort." Dahood said a bill to correct the Workmen's Compensation Laws passed the Senate in 1971, but Montana Power lobbyists had the bill killed in the House.

The Constitutional Convention is not the court of last resort—the U.S. Supreme Court is. If we follow Dahood's logic on this—whether the Montana high court's decision was good or bad—it only follows that every lawyer in Montana who feels he got a shoddy deal from the Montana Supreme Court which was not rectified by the legislature has the right to have the Constitutional Convention LEGISLATE in his behalf.

No, Mr. Dahood, the press is not creating the poor image Constitutional Convention delegates are so worried about.

Need we say more?

Panda-monium

This is the Year of the Rat in Red China and in all probability it will be the Year of the Panda in the United States.

Those who make or sell stuffed animals, dolls and toys in this country are preparing for (pardon the pun) panda-monium.

The cause of it all of course, is Red China's gift of two pandas to

Those Primaries

Last week we turned up our noses at the thought of having to wade through 24 presidential primaries. We are happy to see that some experts in the field agree with us.

George Gallup, the pollster, said last Tuesday that the record of public opinion polls in primary elections is so bad that little attention should be paid to them.

Gallup also said that primary elections often draw small turnouts and last minute statements tend to be more influential in primaries because the candidates are usually less well known.

Montana's Sen. Mike Mansfield also raised his voice against presidential primaries, calling them "useless and worthless."

"They're a waste of time, a waste of money and a waste of energy," he added.

Mansfield has long advocated a proposed constitutional amendment that would require all state primaries to be held on the same day to serve as a sort of national, preliminary straw vote.

The amendment would eliminate political nominating conventions. The outcome of the national primary would designate the presidential and vice presidential candidates.

Not a bad idea.

diversion Reconsider

Three recent Con Con articles seem particularly worthy of comment

1. The proposal to allow future legislators to divert highway funds to other uses by a 3/5 vote should be carefully considered. With Montana's already lagging highway program, do we want to tempt future legislators? No one, of course, can guess what the embattled 1971 legislature would have done with these funds had they been available. I, for one, am against taking that chance.

2. The proposal for equalizing educational financing through state property taxes also needs some thought. One must understand that the present equalization program does not and cannot work, partly because legislatures have never appropriated the funds that are implicit in the concept of equalization—never enough for full equalization. that

is—and partly because of inequities in assessment in different counties. For example, some counties have not been re-evaluated for many years while others have kept reasonably abreast of current values. Thus, identical property in different counties is taxed at widely varying rates. This is unfair to those counties paying the higher rate—unfair both at tax time and when funds are distributed to the schools. Under present cir-

Mitchell: 'Press is panicky'

Gazette State Bureau

HELENA — Killing the proposed "right to know" section will only deny citizens constitutional assurance of open government, a representative of Common Cause charged Saturday.

Francis Mitchell, a lobbyist for Common Cause, a citizen's lobby which backs open government, said the attacks by newspapers on the section are "short-sighted and self-defeating" because the right to privacy will exist no matter what happens to the right to know.

The right to know section in the Bill of Rights, which gives citizens access to governmental records and deliberations except when individual privacy is more important, has caused an uproar in the convention. Most of the state's newspapers have attacked the proposed right to know section as an invitation to public officials to hide under the guise of individual privacy.

However, Mitchell said in a prepared statement that the privacy clause in the right to know section limits the right of privacy and "gives extra weight to the right to know when it is weighted with the right to privacy."

Whether the right to know is deleted or not, Mitchell said, "The press and the citizenry will be faced with a separate constitutional guarantee of privacy that will prevent access to some records and discussion."

Newspapers have asked that the right to know either be reworded or deleted entirely. It was passed by the convention Tuesday.

Mitchell said he is "astounded" by the attack on the section by the press.

He called a Friday front-page editorial in the Billings Gazette "Overbearing and an attempt to intimidate convention dele-

gates." He said it is apparent that it has been impossible to force assessors in certain counties to do what they are sworn to do.

To replace district and county levies by statewide levies would greatly increase the latter. The higher the state levies, the greater the discrepancy between fair and unfair county assessments. Thus, unless the proposed article is implemented by effective law, forcing uniform assessment procedures, it cannot work. Some counties would still be paying a disproportionate share of the state's education bill.

3 Some of us wonder if the article on conservation and pollution is adequate or just another example of corporate muscle. Of course, future legislatures will be able to enact stricter laws should they so desire. In the light of past performance does anyone really expect them to do so? Is it likely that the pressures on legislators will diminish as time passes? And will they be more adamant in denying special deals to special groups?

Emile L. Percy
2611 Sunnyview Lane

Disappointed In Convention

Editor, Independent Record:

I read your March 9 page of comment, "A Freedom Abridged," with great interest. In my opinion, this is only one of the things that is being done to our Montana State Constitution. These delegates, during their election campaign, pledged to represent the people of Montana in the writing of a new constitution. They are not doing so. Many of them have stated from the convention floor that they will vote their own convictions regardless of the wishes of the people who sent them there. Is this representation?

Everything was to have been open and above board. Have your newsmen been invited to attend the committee room meetings where the vital issues are discussed and often decided? If not, so many of them have, to my knowledge, overreached the public.

There are so many personal axes to grind and political hay to make that many of them have given little thought to the

desire of the people they were sent there to represent. I have sat in many committee hearings, where the public participated, and many hours in the gallery during delegate debate on a number of subjects.

As a citizen of Montana I am interested in all of these areas. However, as chairman of the Helena arm of the National Association to Keep and Bear Arms, I have been particularly interested in Article III, Section 12, commonly referred to as "gun control." From the very first hearing it was obvious that the Bill of Rights Committee planned to make no changes in this section. Though overwhelming public support for change has been evident, the committee has firmly held its ground. No change. The primary purpose of the convention was to update and strengthen, where possible, the 82-year-old document. Update and strengthen? Delegate proposal No. 4, introduced by Mr. Berthelson of Conrad at the very beginning of the convention, was not even considered because of its length, wording, etc. (according to the committee). No attempt was made to reward, shorten,

or in any way consider it. It didn't comply with the decision of the committee of no change.

Finally, for floor debate by the committee of the whole, Mr. Berthelson reduced his proposal to nine words: "Nor shall any person's firearms be registered or licensed," to be inserted in the present Section 13. Floor debate was long and emotional, particularly sparked by Chairman Dahood and co-chairman Blaylock of the Bill of Rights Committee, who, presumably, were there to update and strengthen the constitution. Why, for other than personal reasons, did they fight so hard against such strengthening?

Two members of the committee, Mrs. Murray and Mr. Campbell, finally did overcome the influence of the chairman and co-chairmen sufficiently to vote in favor of Mr. Berthelson's amendment. One member of the committee, Mrs. Foster, went so far as to join delegate Kelleher in his proposal to strike the entire Section 13. Does he call that representing the people who sent him there? Delegates who can be swayed to such emotional outbursts as Mr. Foster and Mr. Kelleher

displayed have no place in public trust.

It is my opinion only, for which I am assured a constitutional right. We have too long been apathetic to the workings of our so-called public servants. It's time each of us stood up to be counted. Unless there is a terrific amount of improvement shown in the final weeks of this convention I will find it very difficult to use my vote for ratification of the forthcoming document.

Orson Topham
639 S. East
Chance Gulch

Regents'

The Independent Record, Tuesday, March 14, 1972—7

Wolf Point High School should cheer the ConCon

Genette State Bureau

HELENA—When wary Constitutional Convention delegates, and especially the unicameralists, can find some solace from a recent constitutional election at Wolf Point High School.

Wolf Point seniors and their teachers voted for a number of constitutional proposals similar to ones adopted by the convention during the past month and rejected many ideas similar to those killed in Helena.

THE MOCK ELECTION on student-drafted proposals attracted 120 votes out of a possible 150.

By a 67-38 vote, the Wolf Point students approved a unicameral (one-house) legislature of 60 members. They also approved annual 90-day legislative sessions with provision for extension. (The convention has adopted annual 60-day sessions with provision for extension and leaves the unicameral-bicameral issue to the voters.)

THE STUDENTS also voted 85-50 to make the legislature nonpartisan, something which the nonpartisan convention did not try.

The students approved Bill of Rights provisions lowering the age of adulthood to 18 and prohibiting discrimination. They also authorized abortions, a right to death and a right to basic necessities as long as the recipient worked—steps the convention has not taken.

The students voted 53-43 against abolishing the death penalty.

The students also approved, as did the convention, a right to education, two boards of education and a ban on public aid to nonpublic education. However, they also passed another proposal authorizing replacing property taxes with income taxes to support both public and nonpublic education.

Power Debated

By CHARLES S. JOHNSON

Associated Press Writer

Constitution Convention delegates adopted an education article Monday that provides for two separate boards of education after spending much of the day trying to determine how much power to give the board that sets university policies.

Two boards—a board of public education and a board of regents of higher education—were given equal status.

Under the plan, the two boards also will meet jointly as the state board of education to make long-range plans, coordinate the state's educational systems from grade school to college, and to discuss matters affecting both boards.

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education meets to handle elementary and secondary school matters and also sits as the board of regents to set policy for the Montana University System.

Separate persons would make up the two boards, if voters approve the proposed constitution June 8.

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His amendment provides that regents "shall have full power, responsibility and authority to supervise, coordinate, manage and control the Montana University System and shall supervise and coordinate other public educational institutions which may be assigned by law."

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"I am trying to achieve certain things," said Rollins, an Eastern Montana College professor. "I want to see a board of regents that has the essential powers to supervise the University System."

Two motions to limit the powers of the board of regents failed.

AS DID THE convention, the students narrowly voted to use public funds to finance nonpartisan judicial elections.

In the executive area, the students, like the convention, generally rejected the idea of appointing officers and set a 25-year minimum age limit for governor. But the students also added a new section creating an "environmental board" appointed by the governor but answerable only to the legislature, which would be directed to keep the board free from corruption.

The students also voted to prohibit lowering of pollution control standards to benefit industry, grant a right to a clean environment and require lands strip mined to be reclaimed to prior or better use.

The various constitutional proposals put to a vote were drafted by a senior government class at Wolf Point High School with the aid of Jim Peterson, a student teacher from Eastern Montana College.

Con Con Sets Voter Education Plans in Motion

Tribune Capitol Bureau

HELENA — Plans are being made for educating the voter on the proposed new constitution between adjournment of the Constitutional Convention and the June 6 ratification election.

Saying the present public information staff "has not worked out as well as we had hoped," Convention President Leo Graybill, D-Great Falls, Tuesday proposed that a fresh start be made. He recommended to the Rules Committee that a new and enlarged information committee be created, and recommended the names of 19 delegates as members, including himself as chairman.

The recommendation is expected to be presented to the convention Wednesday.

Con Con 'Save' Veterans Home

HELENA (AP) — After some strong floor lobbying by delegates from northwestern Montana, the Constitutional Convention added an amendment Tuesday to insure that the state will continue to operate a veterans home.

The original section on the constitution mentions some name but Sterling Rygg, R-Kalispell, was successful in amending it to include an indirect reference to the Veterans Home in Columbia Falls.

The list of suggested members includes all the convention officers, the active heads of the present information subcommittees, "and certain other delegates to cover geographical areas and yet leave a solid working nucleus in the Helena area.

Graybill said he anticipates that many others will be called upon to carry out the educational program "and all are urged to participate fully in their local areas in the voter education process."

He added that it's his intention that the resolution setting up the committee state that any member who becomes a political candidate in the primary campaign be automatically dropped from the committee.

It appears the "voter education" will focus on three primary areas. One is the tabloid that simply tells what has been taken out of the present constitution and what has been added. It will be mailed to all registered voters 30 days before the election. Printing bids are to be opened Thursday. Estimated cost has been put at \$35,000 to \$40,000 in addition to county mailing costs. Most of the printing cost will come from the secretary of state's budget.

Another tabloid is being prepared by delegate Richard Roeder, D-Bozeman, under a

grant from Montana State University, where Roeder is a professor. Roeder's tabloid is intended as a newspaper-supplement, Graybill says half page a topical discussion of the proposed constitution.

Besides the tabloid supplement, Graybill says half page ads illustrating changes and intentions are anticipated, along with other smaller ads, including programs and an ad series for weekly newspapers.

He says television efforts will be directed toward a telethon at each major TV station where a panel of delegates can answer telephone questions on any phase of the constitution or the convention. Other paid and public service time is also anticipated for television, as well as a series of radio explanations of each constitutional article.

In addition, Citizen Corps participation is expected to help in the educational process, and delegates are to be given an information kit to aid them in their personal efforts to inform the voter.

Graybill estimates that the cost of the entire education program will be about \$50,000, which will be available if anticipated federal funds come through and if the convention adjourns sometime around March 22-24.

Rules committee members Miles Romney, D-Hamilton, and Joe Eskildsen, D-Malta, wanted assurances that the "voter education" would be of an objective nature rather than a persuasive nature, and Graybill assured them that that is the intention.

Besides Graybill, others appointed to the information committee were:

Vice President John H. Toole, R-Missoula; Dorothy Eak, D-Bozeman; Bruce M. Brown, F-Miles City; Jean Bowman, R-Billings; Margaret S. Warden, D-Great Falls; Fred Martin, R-Livingston; Robert Vermillion, D-Sheily; Katie Payne, R-Missoula; Betty Babcock, R-Helena; Marshall Murray, R-Kalispell; Catherine Pemberton, R-Broadus; John M. Schultz, D-Billings;

Thomas F. Joyce, D-Butte; William A. Burkhardt, R-Helena; George Harper, I-Helena; Jerome T. Loendorf, R-Helena; Oscar L. Anderson, I-Sidney; Gene Harbaugh, D-Poplar.

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Graybill also said in a memorandum to delegates that he believes that any member who becomes an active candidate for a political office should cease to function on the committee.

Lee Newspapers offer right-to-know proposal

HELENA, Mont. (AP) — An attorney representing the four Lee Newspapers of Montana offered an amended version of the already approved right-to-know provision at a Montana Constitutional Convention committee meeting Tuesday.

B. E. Longo, Billings attorney, presented a suggested change at a special meeting called by the Bill of Rights Committee. It would require the legislature, subject to court interpretation, to set specific exceptions to the right-to-know.

Chairman Wade J. Dahood, R-Anaconda, said his committee would consider the amendment later Tuesday.

A right-to-know section was approved by convention delegates last week. But a flurry of press criticism has led some delegates to question whether the section ought to be reworked.

Longo said the newspapers he represented objected to the way the exception clause to the approved section was worded.

"It places the burden of access on the person who wants to see the record," he said.

The section delegates approved allows public access to governmental deliberations and records except when "the demand of individual privacy clearly exceeds the merits of public disclosure."

Longo said exceptions should be spelled out, not left to the government officials to determine.

The section he offered is identical except that allows access "except in such specific cases in which the legislature, subject to court interpretation, shall have determined that the demand of individual privacy clearly exceeds the merits of public disclosure."

Dahood, an attorney, opened the hearing by saying he was not criticizing the newspapers but believed their legal position was wrong.

"No lawyer in this convention agrees with their position," he said. "If you don't state it in these words (of the approved section) the court will state it for you."

He said citizens must have some faith in office holders and government officials.

"If a bureaucrat is wrong, there are remedial recourses available," Dahood added.

Some committee members expressed the fear that Longo's proposal might invite a legislature to greatly restrict the right to know.

The Longo proposal was thrashed out at a meeting Monday night with several Lee Newspaper publishers, the research analyst for the Bill of Rights Committee, a Lee reporter and representatives of Montana Common Cause, who have advocated a right-to-know provision

Delegate says letter is false

Dear Sir: The following is an open letter to State Senator Stan Stephens of Havre:

Dear Mr. Stephens: You have published, in the major newspapers of this State, a letter in which you state that I have immaturely concluded that if a lobbyist is for a proposal, it is reason enough for me to vote against it.

This statement by you is false and does not express my true belief on the subject. As far as I am concerned, lobbyists are an important and essential part of our political process. I, myself, have been a lobbyist on several occasions. I have never made such a statement as you allege, and do not believe as you said.

I can only conclude that your statement is an attempt, on your part, to gain cheap publicity. — JEROME J. CATE, Con-Con delegate, Billings

Miss Rankin Plugs Election Reform

HELENA (AP) — Former congressman, suffragette and war opponent Jeannette Rankin returned home Tuesday to promote a new method to select a president.

Miss Rankin, 91, addressed delegates to the Montana Con-

stitutional Convention, which, significantly, has more women delegates than any previous state conventions.

Stumping for a direct preferential presidential election, Miss Rankin also tossed in plugs for Montana and women and blasted war as she did when opposing American entry in both world wars.

Under the election system she favors, the ballot would list all candidates and voters would rank them in the order they chose. If there is no first choice majority, second choices would count as first picks until a majority was attained.

"We ought to give the people a chance to decide," the former two-term Republican congresswoman said.

The system would allow citizens to vote from a wide array of candidates and thus tell their government how they felt on key issues. Moreover, the direct system would require candidates to take sides on issues.

"As it stands today, they all stand for the same thing," she said.

Miss Rankin, who now divides her time between California, Georgia and Montana, reaffirmed her opposition to war.

No enemy exists, she said, the military just created one.

"That's why we haven't gotten out of Vietnam," she said.

"They haven't decided who the next enemy is going to be."

She said she voted against war in Congress in 1917 and 1941 because she could not understand why the nation's best young men should be shot.

The ex-suffragette was pleased that 19 of the 100 delegates to the Montana convention were women.

"Women have the psychological quality so they can work for the future," she said.

What about men, asked delegate Miles Romney, D-Hamilton.

"I think the men have progressed as much as they could without the help of women," said Miss Rankin, the first woman elected to Congress.

Romney, a 71-year-old newspaper editor, was appointed to the U.S. Military Academy by Miss Rankin during her first term in Congress.

"Mr. Romney was the first man appointed to West Point by a woman," she said, chuckling.

Miss Rankin said she was "delighted" with the women's liberation movement.

"I was kind of worried at first," she said. "They kept talking about things we talked about 60 years ago."

She also praised her native state, saying:

"If Montana is different from any other state, it is because its people like to think for themselves."

She called on Montanans to lead the nation in promoting her presidential election plan.

"Montana ought to lead because it has led in so many things," she said.

Asked about running for Congress from Montana again, she said with a smile:

"I live in the Western District, and I may have to run so I have someone to vote for."

Convention Boosterism Proposed

Constitutional Convention President Leo Graybill Jr. proposed Monday that a 19-member special committee, headed by himself, coordinated a \$50,000 campaign to inform voters of the constitution's action.

Montanans will either ratify or reject the proposed constitution at a special election to be held in conjunction with the regular primary election June 6.

The voter education committee, made up of convention officers, members of its Public Information Committee and others, would supervise the public information activities.

The Rules Committee will consider Graybill's recommendations Tuesday before they go before the 100 delegates.

Besides Graybill, a Great Falls Democrat, others appointed were:

Con-con defeats road plan

HELENA (AP) — By a 65-31 margin, Constitutional Convention delegates defeated Tuesday a motion that would have placed an alternative to the highway antidiversion section on the June 6 ballot.

Delegates had voted earlier to suspend the rules to allow the matter to be reconsidered. But after some debate, the convention decided against putting an alternative on the ballot.

Earlier in the convention, delegates approved a section that allows three-fifths of the legislature to vote to appropriate earmarked highway funds for other purposes.

This position was strongly opposed by the Montana Highway Users, a group of contractors, automobile dealers and mothers interested in highway building.

Bruce M. Brown, I-Miles City, successful moved to suspend the rules today to consider placing alternatives before the public. His motion passed 54-37.

Supporters of the motion argued that by offering an alternative, a considerable group of voters could vote for the situation and against the highway section delegates approved.

If no alternative were offered, the only recourse for supporters of the present amendment would be to oppose the entire constitution.

Convention Approves State-Paid Campaigns

The state will pick up campaign tabs for general election candidates seeking seats on the Montana Supreme Court if voters ratify action taken Monday by Constitutional Convention delegates.

By a 55-32 vote, delegates reversed previous action and adopted a plan which its sponsor calls "a wave of the future." The plan is designed to limit campaign spending to an amount set and appropriated by the legislature.

The plan, rejected 49-47 on Feb. 29, is designed to quash any fears that large corporations and law firms are buying influence by contributing to judicial campaigns.

Architect of the plan is John M. Schiltz, D-Billings, who lost his bid for chief justice of the five-man court in 1970. Schiltz lost to incumbent James T. Harrison Sr. by 71,000 votes.

The 52-year-old attorney said he spent \$11,000 on the campaign but would not take any donations from lawyers. He said he did not recall what Harrison spent but added:

"I know where his money came from, which is very significant."

Several recent events apparently had changed some of the 100 delegates' minds, Schiltz said.

ITT Case

Recent allegations that the International Telegraph & Telephone Co. received favorable treatment of an antitrust suit from the Nixon administration because of a large contribution have demonstrated the need for campaign spending reforms, he said.

A recent speech in Helena by John W. Gardner, chairman of Common Cause, also sparked interest, he said. Much of Gardner's speech focused on campaign donations.

Some delegates criticized the plan as being legislative and too experimental to be included in a new constitution, which citizens will ratify or reject June 6.

Former FBI Agent J. Mason Melvin, D-Bozeman, supported Schiltz, saying:

"The further we can remove the for sale signs from the courts of justice, the better off we'll be."

George Rollins, D-Billings, also backed the plan, which would apply only to general elections.

"It might make our judges, like Caesar's wife, above suspicion," the college professor said.

Attorney J. C. Garington, R-Missoula, said the proposal would "make certain that all of the judges have politics in the forefront."

"It would be an unmitigated disaster in the giving of justice in Montana," he added.

Law Firms Contribute

President Leo Graybill Jr., D-Great Falls, backed the plan and told how some law firms contributed as much as \$1,000 to campaigns.

"That's what it takes now for a supreme court justice to get elected," the Great Falls attorney said. "Today you have a chance to help Montana take a big step..."

A. W. Kamholz, R-Forsyth, opposed the plan because of costs to taxpayers.

But Schiltz said it would cost only \$12,500 a year if the state gave the two candidates seeking eight-year terms \$10,000 apiece. No other money could be spent by the candidates or their backers.

Another attorney Wade J. Dahood, R-Anaconda, supported Schiltz.

"I wonder how many times in the last decade these cases have been decided in favor of vested interests and against the taxpayer," he said. "How much is the price to pay for real justice?"

Charles H. Mahoney, I-Clancy, jumped to his feet and charged Dahood with indicting the Montana Supreme Court.

"I trust the courts of Mon-

lana," Mahoney said. "I think they've been honest and I think they've been fair."

Dahood said he wasn't charging that the courts were corrupt.

"The supreme court justices themselves would like to do away with this," Dahood said, referring to raising funds for nonpartisan campaigns.

Schiltz concurred.

"Nobody is indicting the supreme court," he said. "We're concerned about how it looks for the supreme court to get the money from where it gets it."

Graybill, who left the president's chair to speak from the floor, said that all political campaigns might be financed by the government within delegates' lifetimes.

A surprising dispute

It is rather surprising that members of the press and members of Common Cause found ourselves on opposite sides of an issue in the Constitutional Convention.

Both are dedicated to the proposition that the people must have a voice in their government and must be informed as to what the members of that government are doing to us.

Both believe in the right of the individual to freedom from the iniquitous unfolding of our private lives by the punched cards aborted from the electronic womb of governmental computers.

It is in means that we disagree. That disagreement surfaced in the dispute over section 9 of the Bill of Rights article in the proposed new Montana constitution. That article guaranteed the public's right to know what government is doing "except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure."

We know that most of those who support this phrase do so out of high ideals concerning the freedom of the individual.

But we who must deal daily with the triumphs and mistakes of governmental procedures oppose it in the fear that it will be used as an excuse by bureaucrats who wish to hide their errors, embarrassments or even an occasional crime behind a veil of privacy, of secrecy.

Make it legal

The Constitutional Convention, fearful of a dispute that could wreck the proposed constitution on the shoals of the ballot box, has given us another choice.

We will get to vote on whether to retain the death penalty on crimes committed in Montana.

It's likely to be an issue which generates a lot of emotional smoke. But the smoke will not indicate any fire, contrary to the old saw.

The death penalty has not been

Members of the public, which we are and which you are, are now forbidden by legislative fiat to inspect personnel matters, welfare matters dealing with individuals, discussion of land purchases, most juvenile court matters, licensing, adoption proceedings and others where the right of individual privacy is clear. These are clear rules sealing certain meetings and records.

Too often have we seen government attempt to spread these laws to cover meetings and records clearly not intended, records and meetings which must be open if the public is to know what its government is doing. There are regular instances where members of the press respect the individual's privacy in records and meetings otherwise open.

Perhaps we newsmen are case-hardened. But newsmen experienced in the ways of government follow a general rule of thumb: Any meeting that can be closed, will be.

In its present form, and following that general rule, the wording of the right-to-know provision is licensing closed meetings.

It is surprising that members of the press and members of Common Cause, with the same goal in mind, should be at swords point. But perhaps it is the difference between the practical and the sublime.

used in Montana for about 30 years despite some rather spectacular crimes.

At one time a child could be hanged in England for stealing a loaf of bread. We in Montana have not hanged anyone in years for far worse crimes. We are either becoming more civilized or more squeamish.

Whichever, the ConCon delegates have given us a chance to put our principles where our practice is.

Delegates Reject Antidiversion Try

By a 65-31 margin, Constitutional Convention delegates defeated today a motion that would have placed an alternative to the highway antidiversion section on the June 6 ballot.

Delegates had voted earlier to suspend the rules to allow the matter to be reconsidered. But after some debate, the convention decided against putting an alternative on the ballot.

Earlier in the convention, delegates approved a section that allows three-fifths of the legislature to vote to appropriate earmarked highway funds for other purposes.

This position was strongly opposed by the Montana Highway Users, a group of contractors, automobile dealers and mothers interested in highway building.

Bruce M. Brown, I-Miles City, successfully moved to suspend the rules today to consider placing alternatives before the public. His motion passed 54-37.

Supporters of the motion argued that by offering an alternative, a considerable group of voters could vote for the constitution and against the highway section delegates approved.

If no alternative were offered, the only recourse for supporters of the present amendment would be to oppose the entire constitution.

Highway fund motion fails

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If no alternatives were of-

The present amendment was passed overwhelmingly in 1956 and requires that all gasoline taxes and similar fees be spent only on highway-related uses.

Critics have charged the amendment has made the Montana Highway Department unresponsive to the public and the Legislature.

How They Voted

Tribune Capitol Bureau
HELENA — The Constitutional Convention has given tentative approval to a proposal by John Schiltz, D-Billings, that the legislature appropriate money for campaigns of Supreme Court justices. It would also prohibit justice candidates from spending more than the amount authorized and appropriated by the legislature.

Schiltz was an unsuccessful candidate for the high court in 1970, and made an issue of refusing to accept campaign contributions from lawyers.

Here's how the 55-32 vote on Schiltz's amendment went:
Democrats yes (41): Arness, Aronow, Artz, Barnard, Blythe, Bugma, Cain, Cate, Champoux, Conover, Driscoll, Edin, Furlong, Graybill, Rod Hasson, Harbush, Harvor, Harrington, Heilbar, Heilbrunn, James, Kalkreuth, Loran, McCarty, McLaughlin, McLean, Melvin, Reel, Rieder, Rutledge, Romney, Schiltz, Schiltz, Siderius, Karl, Schwane, Van Buren, Vermilion, Wagner, Warden.
Republicans yes (12): Berg, Choate, DeLoach, Felt, Mahoney, Jacobson, Lombardi, McNeil, Murray, Robinson, Stone, Ward, Woodmansey.
Independents yes (2): Hester, Harper.
Democrats no (9): Anshelm, Bates, Geisler, Brazier, Delaney, Eskildsen, Joyce, Mansfield, Sussberg.
Republicans no (17): John Anderson, Ask, Babcock, Drum, Erdmann, Ertner, Garington, Gysler, Johnson, Kammer, Lufftrod, Martin, Howe, Nutting, Payne, Pemberton, Ryan, Toole, Wilson.
Independents no — (4): Oscar Anderson, Brown, Bob Hanson, Mahoney.
Absent or not voting (13): Arneson (D), Bernthson (R), Blend (D), Bowman (M), Burkhardt (R), Campbell (D), Cass (D), Davis (D), Morrow (D), Reichert (D), Sparta (D), Speer (D), Sneider (R).

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Con-Con to Debate Gambling

By DENNIS E. CURRAN
Missoulian State Bureau

HELENA — One of the most emotional issues in Montana — gambling — will wrap up weeks of sometimes hot, sometimes bland debate at the Constitutional Convention.

Delegates will consider several proposals which would relax the present strict ban against legalized gambling in Montana when the final committee report is presented Friday or Saturday.

The General Government Committee report also includes a trio of provisions aimed at giving the people more say in their state government — initiative, referendum and recall.

The present constitution, which bars gambling by prohibiting the legislature from authorizing "lotteries or gift enterprises," would be changed under three proposals pending:

— The committee's majority report would prohibit all forms of gambling and lotteries "unless authorized by the legislature or by the people through initiative or referendum."

— The committee's minority report would make no reference at all to gambling in the con-

stitution, leaving the matter up to the legislature.

— Atty. Gen. Robert Woodahl's proposal would allow certain types of nonprofit bingo and raffles.

While there is not a formal proposal yet, delegates also are expected to be urged to again ban gambling completely.

The majority of the committee believes its section would "alleviate a good deal of fear among the populace" by continuing to outlaw gambling until the legislature specifically acts to allow it.

The committee also wants the gambling issue submitted to the voters as a separate issue.

However, two committee members, Lyman Choate and Paul Harlow, want the constitution to say nothing at all for or against gambling and leave it to statutory law.

They argued that it would be "superfluous and redundant" to say something is illegal unless made legal and complained that gambling would be made a constitutional crime by the majority proposal.

The attorney general's plan, revealed for the first time Wednesday, would allow bingo and raffles conducted by charitable or nonprofit groups. However, Woodahl said it should

be regulated by the legislature so it would not get out of hand, and he again stated his opposition to full-scale legalized gambling.

enact legislation, and referendum allows them to approve or reject acts passed by the legislature. Both exist under the present constitution, but the committee has tried to make them more workable.

The General Government Committee report also provides, as does the present constitution, for separation of powers of the branches of government, continuity of government and oath of office.

Dennis
E. Curran



Delegates also will consider less emotional, but potentially more important provisions for initiative, referendum and recall.

Recall would be a new provision. If 25 per cent of the voters thought an officeholder was not living up to his promises, they could petition for a special election to remove him.

A majority of the committee felt that 25 per cent was a high enough figure to guard against harassment by a minority but low enough to be workable. However, committee Chairman Mark Etchart and delegate Bruce Brown have a minority report opposing any recall.

Initiative allows the voters to

ConCon adds Irish blarney

By DENNIS O'CURRAN
Gazette State Bureau

HELENA — Smiling Irish eyes added a lilt to the Constitutional Convention Friday, but the blarney stopped short of making St. Patrick's Day a constitutional holiday.

But for the day, all the delegates were Irish, and the state color was green.

LEPRECHAUNS with green hats and green outfits sat in convention hall; green flowers sprouted on desk tops and lapels. For some, there was a green beer or two for lunch.

The festivities started at the top of the mornin' when the delegates completed debate on the local government article. As they began a brief recess, pages carried in green flowers to many of the delegates, including many male delegates.

THEN IRISHMAN Joseph McCarvel of Anaconda began singing and led the delegates in "When Irish Eyes Are Smiling."

The flowers for the men were provided by wives of delegates, led by Mrs. J. C. Garlington of Missoula.

"We decided the men needed something," Mrs. Garlington explained, noting that the women get flowers frequently.

CONVENTION President Leo Graybill Jr., who has at times used his gavel as a shillelagh during the closing days of debate, noted that his wife gave him snapdragons.

Women delegates weren't neglected either, but few of them could match Butte's Veronica Sullivan, who sported a packet of genuine Irish shamrocks from the village of Eyeries in the west end of County Cork.

Mrs. Sullivan, whose maiden name was O'Sullivan, said the shamrocks were sent to her by a first cousin in Ireland.

NOT EVERYBODY could boast of Irish blood, of course, but that didn't seem to matter.

Socs Vratil, lobbyist for the Montana Retailers, who has Greek ancestry, was wearing an "O'Vratil" button for the day.

Delegate Erv Gysler of Fort Benton, who says he's a "100 per cent Norwegian," was wearing the green, too.

"Today, everybody's an Irishman," he agreed.

Antidiversion Stand Dangerous

Constitutional Convention delegates reconsidered their stand on the highway antidiversion amendment Tuesday but remained adamant and refused to let the voters decide on possible alternatives.

The antidiversion section approved by the convention allows three-fifths of the legislature to vote to appropriate designated highway funds for other purposes.

We have editorially opposed the amendment because we felt it is statutory. However, regardless of our feelings on whether antidiversion belongs in the constitution, we feel that the convention has made a drastic error in refusing to place one or more alternatives on the ballot regarding antidiversion.

The present amendment was approved by an overwhelming majority in 1958. It requires that all gasoline taxes and similar fees be spent only on highway-related uses.

There should be no doubt in anyone's mind that the highway lobby is extremely powerful and is determined to insure that gasoline taxes are used for only one purpose — improving the high-

ways in Montana. The "highway lobby" consists of some 58 statewide organizations.

There should also be no doubt that should these various groups marshal their forces they can kill the constitution with a snap of their fingers.

This should be enough of a danger sign to get the convention delegates to thinking.

The highway lobby also has another arguing point. It can show the people of this state the many areas in which the convention has shown mistrust of the legislature. In more than one case the convention has put statutory law into the constitution "because the legislature had a chance to solve this or that problem and failed to do so."

Now, these same distrustful people are willing to turn millions of dollars over to "that money hungry legislature" if three-fifths of its members decide they need the funds for other than highway purposes.

The consistent inconsistency of the convention places a favorable vote on a new constitution in jeopardy. The antidiversion stand is a case in point.

Con Con 'Frees' U Funds

HELENA (AP) — Constitutional Convention delegates resisted Friday an attempt to require that University System funds be subjected to regular state accounting procedures.

Proponents of the move said the units should be included as part of a uniform state accounting system.

The motion they backed failed 52-40.

Critics charged the motion was an attempt to impose internal controls on the University System and its governing body, the board of regents.

Delegates already had voted to give the board of regents more control over the University System and thus insulate the schools more than they presently are.

Starling Rygg, R-Kalispell, made the motion to provide that funds under control of the board of regents be subject to state accounting procedures.

George B. Heliker, D-Missoula, objected, saying:

"His intent is to emasculate the decision we made to give the board of regents managerial authority."

Labor Stands to Gain Under New Constitution

When the North Dakota AFL-CIO came out against the proposed new Constitution for North Dakota, few delegates were surprised. The labor spokesmen at the convention had made it plain that if they didn't get exactly what they wanted, they would be urging a "no" vote on the whole package.

What labor wanted was a complete elimination from the Constitution of any provision which protected an individual's right to employment, regardless of membership or non-membership in a labor union. Such a provision is in the old Constitution, and it is a part of the statutory

law of the state. What labor gains by defeating the new Constitution is hard to tell, because the old Constitution would still be in effect and would still contain the right-to-work provision to which labor objects.

But there are some specific provisions in the new Constitution which should be attractive to labor, even though it didn't get what it wanted on the right-to-work provision. For instance, if the new Constitution is enacted, the chief executive of the state's Labor Department would undoubtedly be appointed by the governor,

with the consent of the Senate.

If this system were adopted by the Legislature, labor could count on having someone familiar with labor and its problems in the state Capitol at the head of a state department, no matter whether the governor were Republican or Democrat. Under the present system, the candidate with the most familiar name apparently gets elected as labor commissioner. Presently the office is held by Orville Hagen, a sometimes Republican and a sometimes Democrat. He was once lieutenant governor and his name identi-

fication with the voters undoubtedly helped in his election to the labor post, although he is a farmer in McKenzie County, which nestles the Montana border. He had no association with organized labor groups in the state's major cities prior to his election.

Under the appointive system, the governor, no matter who he is, would undoubtedly attempt to keep on friendly terms with organized labor. The appointive system would also see a concentration of all state agencies concerned with labor into the one department. Under such a system, labor at least would have a spokesman and a department on its behalf in the state Capitol.

Labor should also recognize that the new Constitution would eliminate the two-thirds majority vote required to amend the right-to-work statute now on the books. This law was passed by the 1947 Legislature, and referred to a vote of the people by organized labor. It was approved in the 1948 election, and as a result it takes a two-thirds vote of the Legislature to amend. The new Constitution reduced the term of this two-thirds protection to seven years, and for that 1948 law, this term has already run out. Therefore, if any improvements can

be made in the existing law, it will be easier to accomplish under the new Constitution than under the old.

Labor should also look at what it stands to gain in the legislative arena. Under the reapportionment program, there is a likelihood that subdistricts would be established for House membership, and therefore a labor neighborhood in a larger city district that now exists would be in a position to elect one of its own to the Legislature.

The opportunity for labor people to serve in Bismarck should also be enlarged by the taking off the ceiling on legislative pay. If the Legislature sees fit, it would presumably give the people who serve in Bismarck enough money to keep the legislator's home in operation and at the same time pay his Bismarck expenses. Under the present system, the legislator gets barely enough to take care of his expenses at Bismarck, and cannot afford to take a leave of absence from his regular job in order to serve in the Legislature.

These are some of the areas in which labor stands to gain. On the right-to-work, it breaks even. We would think that these possible gains should be more closely examined.

Delegates Hear Proposal To Recess Until August

Delegate Torrey B. Johnson proposed Thursday that the Constitutional Convention recess until August to give delegates more time to study proposals.

"We haven't time to become as knowledgeable on the proposed articles as we ought to," Johnson said. He is a Republican rancher from Busby.

If delegates had a few months to study the proposals and talk them over with folks back home, they would write a better document, he said.

A 10-day session in Mid-August would be sufficient, he said.

Vote Date Change

Adopting Johnson's resolution necessarily would change the date of the vote on the proposed constitution from June 6 to Nov. 7.

Johnson's resolution will be considered at a Rules Committee hearing Friday and should reach the floor later in the day or Saturday.

Present plans call for ending debates Saturday and wrapping up other convention business next week. The convention must adjourn sine die by April 6 to place the proposed document on the June ballot.

Johnson said a "substantial minority," possibly as many as one-third of the 100 delegates, like his idea.

"Ideally, we should wait until after the next legislature to finish but that's not practical," he said.

More Time for Thoroughness

Johnson said some of the proposals already approved could jeopardize passage of the document. He objected to the removal of local and state debt limits in the revenue and finance article.

It possibly could fail in my area, but it could pass in the rest of the state," he said of the proposed constitution.

The cost of the August session would not be great since few employees would be needed, he said, suggesting that some of the public information money be set aside for the 10 days.

Gazette bids low for ConCon tabloid

HELENA (AP) — The Billings Gazette was the low bidder Thursday for a contract to print 370,000 copies of a voter-information tabloid on the proposed constitution.

The three-color tabloid will be distributed to voters through the counties by the secretary of state's office. It will contain and explain the constitution proposed by the Montana Constitutional Convention. Voters will either ratify or reject the new document June 6.

The Gazette bid of \$12,138.87 for 370,000 boxed copies of a 28-page tabloid or \$11,688.87 for the same number of unboxed copies was lower than the Great Falls Tribune offer.

The Tribune bid was \$13,279. President Leo Graybill Jr. of D. Great Falls, was pleased with the low bid which was about half of what convention leaders figured

Members of the Administration Committee voted to order an additional 10,000 copies as insurance measure.

Marshall Murray, R-Kalispell, said it was much easier to print some extra ones now than try to scrape up some later.

The tabloid may be cut to 24 pages but delegates will not know until they finish deliberations and the Style and Drafting Committee assembles the proposed constitution and explanation.

BEETLE BAILEY



Report Deserves Study

Despite past promises of sweeping change, a proposed constitutional article on local government fails to reform where reform is most needed.

The major area in which it falls far short of needed reform is local government powers.

The new article seems aimed in the right direction, but in effect, gives power only to those governments that want it, thus establishing an awkward and confusing dual system of government.

It says local governments that write their own charters may have all powers not prohibited by the state legislature. Those which do not write their own charters remain strictly under the hand of the state legislature.

Support for the article is coming from local governments that do not want more power to run their own affairs.

That is understandable. But by cementing this restrictive and awkward article into a new constitution they are not looking far enough into the future.

As Bob Mitchell, chairman of Missoula's Interlocal Cooperation Commission, a local governmental study group, points out:

—Residual powers, or those powers not specifically prohibited by the state legislature, are optional, not mandatory, meaning local governments can exercise only those powers that its needs demand. Some, like Missoula, need wide-ranging powers;

other sparsely-populated county governments need few.

—The dual system would not remove the burden of solving local governmental problems from the state legislature which often acts inadequately and too late.

"We're saying everybody should have residual powers," Mitchell said. "They will be required to use them only to the extent that voters in an area tell them to.

"If the government is responsible to the peoples' needs to the point where they re-elect officials, then it is apparent they are using enough power. If they turn them out, then it is apparent they are not using enough power. And if they're using too much power the legislature is going to get on them."

Local governments need more power, specifically to pass ordinances, tax adequately and spend money where it needs to be spent. The structural fundamentals should rest with the state legislature.

That precisely is what the commission recommends. Mitchell said copies have been mailed to some convention delegates who this week are considering the constitution's local government article.

Before they cement local government restrictions into a new constitution, they would be wise to study the commission's recommendations.

The recommendations make sense.

He finds 'no fault'

By **ARTHUR HUTCHINSON**
Gazette State Bureau

HELENA — The Legislative Council's insurance committee chairman said Friday he finds no fault with a section in the proposed new constitution that the insurance industry fears may bar no-fault auto insurance laws in Montana.

Sen. Neil J. Lynch, D-Butte, commented on an opinion prepared by the Legislative Council's attorney, Peter Meloy, that a section in the new Bill of Rights proposal "may preclude" enactment of no-fault auto insurance in the state.

THE CONTROVERSIAL section which guarantees a speedy redress in court of alleged wrongs also allows an injured workman, whose employer carries workmen's compensation, to sue a negligent third party.

The Butte lawyer said he didn't see where the provision on workmen's compensation "can bar no-fault because it doesn't even reach it."

Lynch is chairman of a council committee charged with deciding whether to recommend no-fault auto insurance legislation to the 1973 legislature.

"I FEEL THIS is a ploy by the insurance industry to kill the constitution," Lynch said. "All those lobbyists want to kill the new constitution."

(Industry spokesmen say no insurance lobbyists are registered for the convention. They said they did not want to lobby against the provision they fear because they did not want to be in a position of opposing the new constitution simply because they objected to one section.)

"All Dahood has done, in effect, is leave the constitution, the law and the working man where he was before the Ashcraft vs. Montana Power Co. decision," said Lynch.

Lynch referred to delegate Wade J. Dahood, Anaconda attorney, who is chairman of the convention's bill of rights

committee, and who championed the third party lawsuit provision.

DAHOOD WAS ATTORNEY for Ashcraft who was injured while working on a pole line for an independent contractor hired by Montana Power Co. Ashcraft recovered workmen's compensation and the Supreme Court ruled he could not sue Montana Power.

Lynch said he felt that the Ashcraft decision ignored the legislative intent of the 1965 amendment at issue in the decision. The legislator said the amendment was sponsored by Democrats because many loggers were being injured and couldn't collect from "gyppo" contractors who didn't carry workmen's compensation insurance.

He said the amendment was to permit the injured worker to collect from the primary contractor if the subcontractor didn't carry workmen's compensation.

Now the Supreme Court comes along and says if the workman can collect from the third party, it bars third-party lawsuits," Lynch said. Up until then, you could sue the primary contractor."

A SOURCE CLOSE TO the Supreme Court said it was somewhat irritated by the discussion over the Ashcraft case it intimidated the injured workman received nothing.

The source explained the decision this way: "Where you have a subcontractor, it must be written into that contract that the subcontractor must carry workmen's compensation. If he doesn't, the prime contractor is stuck for the compensation in case a workman gets injured so there is protection of the workman either way."

The source said that the court was not aware that the legal profession was "shocked" by the decision as Dahood claimed, "but maybe the Trial Lawyer's Association was since that's their business."

Woodahl Drafts Bingo Proposal

HELENA, (AP) — Montana Attorney General Robert Woodahl has revealed he drafted a proposed constitutional proposal to legalize bingo games and raffles at the request of a delegate to the state Constitutional Convention.

Woodahl made it clear, though, that he remains a strong opponent of Nevada-type gambling in Montana.

His measure would only affect bingo games and raffles conducted by nonprofit or charitable organizations.

Presently the constitution states: "The legislative assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state."

Woodahl's proposal would eliminate the ban on bingo and raffles and would empower the legislature to pass laws regulating the conduct of such games.

As for the prospects of using gambling proceeds to finance government expenses, he said, "I think it's a sad day when some proponents of this we have to stoop to this get tax money to fund the state."

Wide-open gambling would bring many "unsavory elements" to the state and a general increase in crime activities, he added.

Woodahl said he does not consider bingo as an evil, but he'd hate to see the game get out of hand and "have bingo parlors on every corner where people are playing for big stakes."

Woodahl has been a vigorous enforcer of state antigambling statutes.

The issue of legalized gam-

bling will be taken up in the debate on the recommendations of the General Government Committee.

The majority report favors the following section for the new constitution:

"All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by the legislature or by the people through initiative or referendum."

A minority report recommends no mention, pro or con, of gambling in the new constitution.

Dahood Defended

Editor, Independent Record:

As vice chairman of the Constitutional Convention's Bill of Rights Committee and one who has worked closely in this convention with Wade Dahood, I would like to say a few words on his behalf in response to Sunday's critical editorial.

Mr. Dahood has been a fine chairman of the Bill of Rights and has striven like the rest of us to write a constitution that is forward looking and yet will meet with the approval of the people. He cares enough about this goal to fight for it. I find this praiseworthy, not condemnatory.

Your editorial faults Mr. Dahood because of the insertion in the Bill of Rights, the worker's right to sue negligent third parties under the Workmen's Compensation Law — a remedy workers had possessed for some 60 years until it was stripped from them by the Ashcraft case. Fair enough; but a question arises.

Why is it that the press does not occasionally analyze such cases on its editorial page? Every lawyer I've talked to tells me the Ashcraft case personifies bad reasoning and bad law.

Perhaps some reasoned criticism on the editorial page would have a wholesome effect on judges and they would know they are not gods, but men, and being men they must mend their syllogisms or suffer unkind editorials like the rest of us.

Chet Blaylock
Vice Chairman
Bill of Rights

next week. The convention must adjourn sine die by April 6 to place the proposed document on the June ballot.

Johnson said a "substantial minority," possibly as many as one-third of the 100 delegates, like his idea.

"Ideally, we should wait until after the next legislature to finish but that's not practical," he said.

Johnson said some of the proposals already approved could jeopardize passage of the document. He objected to the re-

Road Fund Remains 'Touchable'

HELENA (AP) — Constitutional Convention delegates held firm Tuesday and turned back an attempt to place an alternative to the antidiversion section they passed on the June 6 ballot.

They did agree to suspend the rules to consider the possibility but later rejected an attempt to offer voters an either-or-choice by 65-31.

They already turned down the possibility of offering alternatives March 4, defeating a motion by Betty Babcock, Helena, 60-30.

Delegates approved a section ten days ago that makes the present amendment, passed overwhelmingly by voters in 1966, less restrictive.

Unlike the present amendment, it allows 60 per cent of the legislators to vote to appropriate — previous "untouchable" highway money for other uses. The funds are collected from gasoline taxes and similar fees.

Delegates supporting the offering of an alternative said a large group of Montanans — laborers, contractors, car dealers, and others — could not vote for the convention proposal and might end up opposing the constitution.

Vice President John H. Toole, R-Missoula, a strong critic of the 1966 amendment, said an alternative was necessary.

"I'm convinced to save this constitution we must include this alternative," he said. "At this point in history, we must give them a choice."

Delegates have voted to offer Montanans a choice on two issues — whether they want a one- or two-house legislature and if the death penalty should be abolished.

Delegates Defeat Campaign Measure

Missoulian State Bureau

HELENA — The flip-flop section on judicial campaign financing flopped for good Thursday when it failed to win the majority of Constitutional Convention delegates necessary for final adoption.

The controversial section, which would have used public funds to finance supreme court campaigns, passed 49-46, but the total was two votes shy of the 51 votes needed for final passage.

The section, sponsored by delegate Jack Schiltz of Billings, was aimed at insuring an independent court by not forcing justices to solicit campaign funds. Schiltz complained that justices could be compromised by taking campaign contributions from lawyers or persons or firms likely to appear before the court.

Originally the section was passed narrowly during debate on the judiciary article, but delegates reconsidered their action that same day and voted the measure down. Then it was resurrected Monday and passed 55-32.

Democrats voted 37-17 for the

section Thursday while Republicans opposed it 25-10. Independents opposed it 4-2. Five delegates did not vote.

Lawyers favored it 14-9.

Here are the votes on the campaign expenses section:

Democrats for (37): Arbanas, Arnes, Arnow, Blaylock, Bugbee, Campbell, Cat'e, Champoux, Cross, Eck, Furlong, Graybill, Rod Hanson, Harbaugh, Harlow, Harrington, Heilber, Holland, James, Kelleher, Lorelio, McCarved, McKeon, Melvin, Monroe, Reichert, Roeder, Rollins, Romney, Scanlin, Schiltz, Siderus, Skari, Speer, Sullivan, Van Buskirk and Vermillion.

Democrats against (17): Aasheim, Artz, Barnard, Belcher, Blend, Brader, Cain, Davis, Delaney, Driscoll, Eklinsen, Joyce, Marsfield, McDonough, Sparks, Swenberg, and Wagner.

Democrats excused (3): Bates, Conover and Wardin.

Democrat absent (1): Fiebel.

Republicans for (19): Choate, Dahood, Felt, Habedank, Jacobsen, Loendorf, McNeil, Robinson, Ward and Woodmansey.

Republicans against (25): John Anderson, Ask, Babcock, Berg, Berthelson, Bowman, Burkhardt, Drum, Erdmann, Elchart, Garlington, Gysler, Johnson, Kamboot, Leubold, Martin, Noble, Nutting, Payne, Pemberton, Rygg, Simon, Studer, Toole and Wilson.

Republican absent (1): Murray.

Independents for (2): Foster and Harper.

Independents against (4): Oscar Anderson, Brown, Bob Hanson and Mahoney.

Delegates Artz, Barnard, Berg, Calc, Driscoll, McDonough, Simon and Wagner voted for the campaign expenses section Monday but against it Thursday. Delegates Murray and Rebal voted for the section Monday but did not vote Thursday.

Graybill told delegates he is hopeful that formal debate will end Saturday.

They must approve Style and Drafting Committee recommendations next week and will go to work Monday.

Later in the week, the Style and Drafting Committee will offer a proposed ballot, which could stir some debate. The committee can recommend certain items go on the ballot as separate items, but all recommendations must win the approval of the other delegates.

Graybill said he hoped a formal closing ceremony could be held next Thursday or Friday.

"At least we can see the end of the tunnel and we're going to be in the black," he said.

Money, adjournment cheer ConCon chief

HELENA (AP) — The president of the Constitutional Convention reported Friday that the convention is in good shape financially and should adjourn sometime next week.

President Leo Graybill Jr., D-Great Falls, said about \$50,000 should be left over for public information activities.

The legislative appropriation was about \$499,000, augmented by a \$30,000 federal grant from the Department of Housing and Urban Development.

Delegates will finish their ninth week of deliberations Saturday and will take care of some matters next week.

Money for the 10th week will come from a \$40,000 contingency fund set aside early in the convention.

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ConCon recess is asked

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"We haven't time to become as knowledgeable on the proposed articles as we ought to," Johnson said. He is a Republican rancher from Busby.

If delegates had a few months to study the proposals and talk them over with folks back home, they would write a better document, he said.

A 10-day session in mid-August would be sufficient, he said.

Adopting Johnson's resolution necessarily would change the date of the vote on the proposed constitution from June 6 to Nov. 7.

Johnson's resolution will be considered at a Rules Committee hearing Friday and should reach the floor later in the day or Saturday.

Present plans call for ending debates Saturday and wrapping up other convention business

Convention end in sight

Unless something unexpected takes place, Montana's Constitutional Convention will come to an end next week.

Delegates have been working long hours trying to write a state document that will replace the cumbersome one which has guided the state since the Constitutional Convention in 1889.

There is a wide difference of opinion so far about the articles that have been approved. Some Montanans think the delegates have not been progressive enough while others deplore the fact that so many changes have been made. The delegates have endeavored to steer a middle course, hoping to fashion an improved constitution and yet one that will be adopted by voters at the June 6 election.

The main question in the minds of many delegates is whether voters will approve the proposed constitution. Some delegates express concern about the "image" of the convention and think voters may remember weaknesses or minor points of friction rather than the over-all quality of the document.

There's not much question that the convention has received vast coverage from the news media. Montanans have been able to follow the activities of the convention in a manner quite different from that possible when the 1889 con-

vention was in session. Relatively few citizens knew what was taking place at the convention 83 years ago. The press has attempted to report this convention in a thorough manner, giving the background as well as the surface news. It has tried to report the bad as well as the good.

The press hoped for a change in the "right to know" section of the Bill of Rights because it is concerned about possible abuses of a loophole that will give bureaucrats on all levels of local and state government an opportunity to conceal public documents and conduct secret meetings. Delegates misinterpreted this concern and defeated a modification in the article which the press thought would protect the public's right to be informed.

Although the press regrets that the loophole remains, it will not adopt a petty or vindictive attitude about the constitution. The Montana press, which enthusiastically supported the movement to obtain a convention so the state could get a workable constitution, appreciates the fact that the delegates are dedicated and capable citizens trying to write a viable state document.

The main issue voters will face when they go to the polls June 6 is whether the constitution will be better than the 1889 one. The Tribune believes it will be much better.

Unicameral Legislature 'Far Better' for Montana

Tribune Capitol Bureau
HELENA (AP) — A unicameral legislature has brought enthusiastic support from one of the nation's leading authorities on constitutional revision, who is observing the work of the Montana convention.

Montana would be "far better off to try the unicameral system," Albert L. Sturm, a political science professor at Virginia Polytechnic Institute and State University, told the Tribune.

Dr. Sturm has written numerous articles for professional journals on trends in state constitution-making and was in Helena this week to collect data for a study he is preparing for the National Municipal League on constitutional preparatory commissions.

Sturm said the reason Nebraska is the only state with a one-house legislature is because legislators in other states always work against the spread of unicameralism. "They are afraid of voting themselves or their colleagues out of office," he said.

A unicameral legislature, he said, would avoid undemocratic "conference committees" which take place under a bicameral system, and shifting responsibility on controversial issues.

In weighing the advantages of unicameralism, Sturm sees little justification for the bicameral

system. Montana's con con has voted to present alternate bicameral and unicameral proposals to the voters June 6.

Though Sturm has not studied the work of Montana's convention in any detail, he has the impression that "they (delegates) have done a pretty good job in some areas and not as good a job in some other areas."

Sturm finds the legislative articles and revenue and finance articles adopted by the convention to be good examples of meaningful constitutional reform.

"I have the feeling that the document emerging is considerably ahead of the present document," he said.

He agrees that the more controversial issues should be presented as small parcels separate from the main package of constitutional revision.

"This has the effect of splitting the opposition," he observed.

Even if voters reject the work of the convention, Sturm believes that the effort and cost will be well worth the effort to the state.

Some of the delegates may later seek seats in congress or the legislature, he said, and these delegates are now well-versed in basic constitutional issues.

Sad day in Helena for state's people

Thursday was a sad day for the public in Helena.

The Constitutional Convention rejected an amendment which would have opened up the public right to know what its government is doing to its money and its life.

We believe that most delegates voted in the manner they believed right. A few others, members of or tied to professions which habitually distrust the public's right to know, voted their own special interests.

As it stands, the so-called right to know in the proposed Constitution's Bill of Rights, is nothing more than a right-handed gesture to an ideal while the left hand is taking it back.

Each of us who goes to a public official now will face the possibility of being refused admittance to normally-open records or meetings on the excuse that it will infringe on individual's right of privacy.

We believe that a right to know is an important element of any new Constitution. We have seen too many evidences the past years on local, state and national levels

where governmental mistakes and scandals have been hidden behind secrecy or privacy labels.

As members of the press, representatives of the public in keeping an eye on bureaucracy, we have been in the forefront of the battle to open up government.

Now, we see the doors being closed to us by people we hoped would do a great deal for Montana.

Delegates have claimed in Helena that we would lead a drive against the Constitution if the amendment to the right to know was not added.

We do believe that the public's right to know about government's activities is imperative and possibly the most important element of the Constitution.

But the document contains many things. Before we make any decision on supporting the new Constitution we will have to study the complete document. The good of the state must be paramount.

We can say that Thursday was a sorrowful day in Helena. R.I.P. the right to know.

Changed Minds Defeat Legislative Financed Campaigns for High Court

Some fickle Constitutional Convention delegates changed their minds again Thursday and defeated a plan directing the legislature to finance campaigns of candidates for the Montana Supreme Court.

The plan, promoted by delegate John M. Schiltz, D-Billings, failed to muster the 51 votes needed for final passage. A majority of those delegates voting, though, favored the idea but fell two votes short in two attempts.

It would have mandated the legislature to appropriate a set amount of money to those candidates who survived the primary election seeking seats on the supreme court. Neither they nor their supporters could spend any additional funds.

In recent weeks, delegates have wrangled over the section. It has been approved, defeated, approved and finally defeated Thursday.

Earlier in the week, they had approved the section 56-32.

On the first vote Friday, the section was approved 49-46 but failed two votes short of the needed absolute majority. The vote was reconsidered, and the second tally was 49-48 in favor of the Schiltz plan but again two votes shy of the 51 votes needed.

A disappointed Schiltz said later he did not plan to bring the plan up again.

"We already resurrected it once," said Schiltz, who ran unsuccessfully for the Montana Supreme Court in 1970.

"I don't know where the primary election seeking seats on the supreme court. Neither you get paranoid about big interests but can never prove anything."

"I thought I'd probably lose it but not for the lack of a majority," he said. "It was the only forward-looking thing they have in the piece."

Little Local Government Opposition

THE DAKOTA STUDENT

Most of a flexible new local government article breezed through the Constitutional Convention Thursday as delegates took care of the only problem by deleting it.

They approved seven of the
WEDNESDAY, MARCH 1, 1972

State Officials to Review Constitution and Financing

A comprehensive review of the proposed North Dakota Constitution and new problems in state financing will be main topics of the second biennial Conference for State Officials to be held March 5-7 at UND.

Approximately 200 legislators, state executive officials and judges are expected to attend the conferences sponsored by the Bureau of Governmental Affairs, according to its assistant director, Boyd Wright.

Following a keynote address opening the conference March 6, a series of six one-hour panel discussions, led by delegates to

the constitutional convention, will review the new document article by article. Each of the convention's six substantive committees will be represented in the discussions.

The major address of the conference will be presented later in the day by State Sen. Frank Wenstrom, Williston, who served as president of the constitutional convention.

On March 7, the conference will shift its attention to the problems of financing state functions, with special emphasis on education. Recent court decisions challenging local pro-

perty taxes as a means of school support are causing new interest in alternate forms of finance, Wright said.

The first summit conference was held in March, 1970, and attracted 190 legislators, officials and judges. Attendance this year should be slightly better because of the significance of the subject matter, Wright said.

Who's a door mat?

State Rep. D. L. "Ike" Knudsen was upset the other day because he feels the Legislature is a "ConCon door mat."

Wonder if he's read the news stories coming out of Helena the past few weeks from Leo Graybill Jr., Wade Dahood, Chet Blaylock and others about the news media.

Even before the hassle over the right to know provision, frustrated delegates were blaming the press.

We're used to it, however.

There are those, in these days of bureaucracy and the "deal," who seem to think a free press is spelled t-a-r-g-e-t.

11 sections and deleted one on revenue sharing, which sparked rural opposition. They expect to finish the article Friday.

The revenue-sharing article raised the eyebrows of some rural delegates who feared it might clear the way for their property taxes to be used to bail out money-hungry cities.

Committee members pointed out that the section was included for two reasons: To allow the state to share revenue with local units, which is presently restricted, and not to preclude the state or lower units from participating in federal revenue-sharing programs.

Adverse Affect on Rural

"I live 40 miles from a town that's in a financial mess," E. S. Gysler, R-Port Benton, said of Great Falls.

Gysler and other rural critics feared that their personal property taxes might be raised and used to assist cities such as

Great Falls

"My intent is to keep down the property taxes in the state," Gysler said, adding that this was a campaign issue in his district.

He moved to exclude revenue derived from real estate and personal property taxes from revenue sharing and was opposed initially by members of the Local Government Committee.

Thomas M. Ask, R-Roundup, said the section does not direct the legislature to share revenue but does not prohibit revenue sharing.

"I don't want to see these words locked in the constitution," Ask said.

After several other delegates complained about the section, the committee agreed to a motion to delete it.

The other sections were approved with little debate.

Provide Optional Local Government

One directs the legislature to provide for optional forms of government for local units.

One form of county government would be the traditional form used in all but Petroleum County in Montana. It would be headed by the board of county commissioners.

Petroleum County uses a county-manager form.

A yet-to-be debated section provides that local government residents will vote on the structure of their government four years after the passage of the constitution and every 10 years thereafter.

Voters could choose the existing form or opt for a new form.

Present elected county officials are retained in the traditional form.

County Consolidation

Another section approved Thursday allows counties to be consolidated if a majority of voters in each county approve.

Delegates approved a section on self-governmental charters that allows local units to draw

up their own charters for the kind of government desired. Several controls are included, however, as the legislature can set limits and local voters must approve the charters. The legislature, though, may not veto local charters.

If units choose to write their own charters, they would be able to exercise all power not prohibited by the constitution, state law or their charter. Presently, local units have only those powers granted or implied by the legislature.

Units not choosing to write their own charters would retain the powers they now have, which are granted by the state.

Chet Blaylock, D-Laurel, asked if local units that had their own charters could pass local sales taxes and right-to-work laws.

Several committee members said units could pass such laws unless prohibited by the legislature or their charters.

"People can restrict the power in the charter," Ask said, "I would assume there would be some restriction in a charter."

Lucile Speer, D-Missoula, quoted a letter from James Murry, executive secretary of the Montana AFL-CIO, that endorsed the local government proposal.

Murry's statements seemed to allay suspicions of some delegates.

Also approved was a section authorizing intergovernmental cooperation. It would allow units to consolidate offices and share services.

O'con-con greens it up

By DENNIS O'CURRAN
Standard State Bureau

HELENA — Smiling Irish eyes added a lilt to the Constitutional Convention Friday, but the blarney stopped short of making St. Patrick's Day a constitutional holiday.

But for the day, all the delegates were Irish, and the state color was green.

Leprechauns with green hats and green outfits sat in convention hall; green flowers sprouted on desk topos and lapels. For some, there was a green beer or two for lunch.

The festivities started at the top O' the morning' when the delegates completed debate on the local government article. As they began a brief recess, pages carried in green flowers to many of the delegates, including many male delegates.

Then Irishman Joseph McCarvel of Anaconda began singing and led the delegates in "When Irish Eyes Are Smiling."

The flowers for the men were provided by wives of delegates, led by Mrs. J. C. Garlington of Missoula.

"We decided the men needed something," Mrs. Garlington explained, noting that the women get flowers frequently.

Convention president Leo Graybill Jr., who has at times used his gavel as a shillelagh during the closing days of debate, noted that his wife gave him snapdragons.

Women delegates weren't neglected either, but few of them could match Butte's Veronica Sullivan, who sported a packet of genuine Irish shamrocks from the Village of Eyeries in the west end of County Cork.

Mrs. Sullivan, whose maiden name was O'Sullivan, said the shamrocks were sent to her by a first cousin in Ireland.

Not everybody could boast of Irish blood, of course, but that didn't seem to matter.

Socs Vratiss, lobbyist for the Montana Retailers, who has Greek ancestry, was wearing an "O'Vratiss" button for the day.

Delegate Erv Gysler of Port Benton, who says he's a "100 per cent Norwegian," was wearing the green, too.

"Today, everybody's an Irishman," he agreed.



Washington Star Syndicate, Inc.

BRICKMAN

8-Hour Day Wins Con Con Approval; Merit Plan Fails

HELENA (AP) — A section calling for an eight-hour day was approved at the Constitutional Convention, but provisions to allow collective bargaining and to direct the legislature to establish a merit system failed.

Joseph H. McCarvel, D-Anaconda, submitted the eight-hour day section, which was approved 74-13.

It sets an eight-hour day as a maximum period for a regular day's work except in agriculture and stock raising.

He said nothing in the section would restrict employers from going to a four-day 40-hour week, as some businesses are doing.

The legislature is given the power to change the maximum limit "whenever in its opinion the change will better promote the general welfare."

By a 63-29 vote, delegates accepted a motion by Thomas F. Joyce, D-Butte, to delete the section allowing private and public employees to bargain collectively.

Joyce said collective bargaining was a legislative issue and thus did not belong in the proposed constitution.

"Labor's right to organize should be left to the legislature," the Butte attorney said. "They should fight those battles in the legislative halls."

Fellow Butte delegate David L. Holland opposed Joyce, saying the right of groups to organize ought to be recognized in the constitution.

Some delegates feared the section would authorize public employees to strike, but George B. Heliker, D-Missoula, said it did not. Heliker, chairman of the Public Health, Welfare, Labor and Industry Committee,

Likes parliamentary system

For years I have insisted we must go to the parliamentary system, both in our federal and in our state government.

Now I am heartened by two important voices strongly advocating it—Robert Kelleher of Billings and Howard K. Smith of ABC television. As anchorman Smith said the other evening, we must do away with this stalemate quarrelling which has held us back so long.

Our so-called checks-and-balances system is often confused with the continual blocking tactics of our politicians and political parties. The Founding Fathers divided our government into its three branches so that no one branch could get the upper hand. What many Americans think is the checks-and-balances system is actually plotting to become entrenched on one hand, or checkmating to block progress on the other hand.

The parliamentary system insures that the party that got the most votes would have an executive department that would be responsive to the wishes of the people in a definite program which was promised in the election. As Mr. Kelleher says, "A man could be elected governor and he wouldn't have to spend a quarter of a million dollars. He just has to carry his own district." That would apply to presidents such as Nixon, who cost his supporters an esti-

mate of \$35 million to get to the White House. Someone has to be pleased after parting with money like that.

Mr. Kelleher further says, "What becomes important under the parliamentary system are issues." Yes, what becomes of issues under our present dog-fighting? To me, they go down the drain, with all the glib promises. He further says the parliamentary system does away with the veto, that England hasn't had a veto since 1707: "If I had my druthers, I'd much rather have a guaranteed majority by the governor than the veto power. . . . Anybody who studies unicameralism seriously—their mind is drawn like a magnet to the parliamentary system."

Unless we want our nation to go the way of the Roman Empire, which we are fast doing, I would also add something else: Short single terms for all elected and appointive officials who make decisions, which would undoubtedly pull in many more capable people in government because they wouldn't have to spend their terms worrying about the next election; entrenchment would be wiped out which means any corruption would be eliminated; and the public would be infinitely closer to public programs.

GORDON METTLER, Hungry Horse

Also rejected was a section that said the legislature "shall establish a system under which the merit principle will govern the employment of persons by the state."

It was defeated 75-15.

In Falls for Art Auction

Former RCMP Explains Duties of Ombudsman

From third class constable in 1932, the bottom of the Royal Canadian Mounted Police, to top commander position as commissioner of the force, George B. McClellan, Edmonton, Alta., arose in his police career.

In his retirement McClellan became the first ombudsman — trouble shooter for the man on the street — in the Western Hemisphere. There are ombudsmen in five Canadian provinces and five states. He described his new job during a weekend visit.

If a citizen has trouble with government or agency, he, at no cost, may come for help to an ombudsman. An ombudsman is not responsible to or employed by the government. He is an officer of the legislature only and responds only to the legislature.

All government files are open to him and he can summon any member of government to testify under oath in the matter of a complaint. This power is counter-balanced by the fact that an ombudsman may make only recommendations and cannot order an action.

Through an ombudsman a citizen could go from the state department to the cabinet and finally to the legislature if he finds no satisfaction at lower government levels. His complaint then would become public.

"The little guy who couldn't get anyone to listen to him," McClellan explained, "can get his case before the legislature and ultimately before the public in the news media."

Inmates in prison and mental hospitals have been freed

through the efforts of ombudsmen.

McClellan has represented 3,000 persons in four years. Only one of those cases has not been settled successfully, he said. Slightly over 27 per cent of all complaints made which come to McClellan's attention are found justified on investigation and are thus required to be rectified.

McClellan came to Great Falls for the C. M. Russell art auction

and during his visit confided how, for the past 25 years, he has dreamed of making the tour of "Russell-land" (Great Falls) with Fred Remner, western art authority.

His goal finally accomplished, McClellan, with many a story on how the Canadian Mountie always gets his man, stood in the center of the art exhibit at Hotel Rainbow and gazed at his dreamed-of Russell paintings.

"The Mounted Police have four copies of Russell paintings," said McClellan. "I always wanted to see the rest of them."

Chamber Puts Graybill On Its Candidate List

Tribune Capital Bureau

HELENA — Constitutional Convention President Leo Graybill Jr. is mentioned in a gubernatorial preference poll being conducted by the Montana Chamber of Commerce.

The poll, published in the chamber's publication, "The Montana Citizen," also lists Wade Dahood, chairman of the convention's Bill of Rights Committee, as a gubernatorial possibility.

Persons returning the survey forms are asked three questions:

1. Will the new, proposed constitution be adopted by the voters?

2. Which of these three Democrats do you think could win the primary race — Dick Davi, Leo Graybill Jr., Tom Judge?

3. Which of these four Republicans do you think could win the primary race — Wade Dahood, Frank Dunkle, Jim Lucas, Ed Smith?

Both the constitutional ratification election and the partisan primaries will be submitted to voters June 6. The chamber's poll explains that "by the time June is half over, the people of Montana will have made two significant decisions: Will we have a new constitution or not, and who will be the two major contenders for the governor's chair being vacated by Gov. Forrest Anderson?"

A Republican From Anaconda

Wade Dahood Seen as Political Rarity

Tribune Capitol Bureau

HELENA — The only thing so rare as a day in June is a Republican office holder from Anaconda. And

Constitutional Convention delegate Wade Dahood is both a Republican and from Anaconda. To further confuse the stereotypers, Dahood is the object of

a draft movement to get him to run for governor. Dahood says his basic philosophy has always been Republican because in his high school and college years he acquired "the sense that the Republican Party is more closely aligned with the ideals of efficiency and economy in government." And so when it came time to choose a party, "I decided to become a Republican."

Alluding to the labor as well as Democratic character of Anaconda, the 44-year-old lawyer says, "I represent labor unions. Most of my practice is devoted to helping the working man of my community. My dearest friends are working people of the community. I think my local philosophy is precisely their philosophy."

Regional planning matters also were discussed by the group which asked Stearns to request that the State Board of Equalization announce its plans for timberland management.

Next meeting of the five-county group was tentatively planned for Libby soon after April 15.

"More than that, I cannot conceive that being a Republican necessarily means that you have ideas or philosophies that are in contradiction with the rights of the individual — with the desire to have that individual progress and prosper and enjoy his rights in a progressive, affluent society."

"I think basically all sound



Dahood

thinking Republicans and Democrats are for that idea. I think the real difference between the Democratic and Republican parties at this time is on a higher level, perhaps at the national level, and I must confess that at times I cannot perceive the difference.

"And on a state level, within the last decade I haven't seen too much difference between the parties. I think in the area of taxation there's been some conflict, but I think the objective has been the same for both parties, and that is to try and broaden the tax base, reduce the burden upon the individual and the property owner, and structure the governmental budget in such a way that we can still provide service but provide it within the budgetary limitations that are set by the legislature."

Although Dahood is definitely giving the governorship some serious thought, his 20-year career as an attorney is conspicuous by an almost total lack of political ambition. Except for his present job as delegate, the only political office he has ever held has been that of deputy county attorney. "Early in my career," he says, "I ran for county attorney on the Republican ticket and did not succeed. And since then I have not run for any political office."

He says his chief motivation in seeking to be a convention delegate stemmed from the knowledge about the constitution he acquired during his appointment to the Constitutional Revision Commission.

And he's not certain even how that he has the political ambition necessary to make the race for governor. He says he expects to make a decision around the first of April, assuming the convention has adjourned by then. In no case does he plan to make it before adjournment.

Dahood also says the Dahood-for-Governor movement is strictly a draft situation which he had nothing to do with initiating. He says it started at the convention with a number of Republicans and some Democrats urging him to consider the race. Now it's progressed to the stage that "an organization is being formed and many prominent Republicans around the state have urged me to enter the race."

But political ambition or not, Dahood does not lack confidence in his abilities. "I'm satisfied that if I decide to run and if I'm successful that I can serve the people of Montana in the capacity of governor in the manner in which I think that office can function I'm devoted to economy and efficiency. I think we have a tax structure that has become much too complex and much too burdensome for the average citizen. I think there are some solutions available. There are no miracle solutions to the problems of

revenue and finance in so far as government is concerned. But on the other hand there are solutions.

Dahood would be loathe to give up his successful law practice — "one that I find most satisfying because I have a practice devoted to representing the individual rights of the people of my area. I find a great deal of professional satisfaction in that type of activity."

Asked if the governor talk has affected him as a delegate, Dahood replied, "I don't think it has at all. I'm absolutely dedicated to the proposition that I will not sacrifice personal integrity as a convention delegate for political expediency. I don't know of any decision that I have made that has any relationship at all to any political ambition."

Dahood is satisfied with the convention's efforts so far. "I think when the work is done here and the people have a chance to assess the total document, their opinion will be in favor of it and I think the majority of the people will then be satisfied that in calling this convention they secured the type of progressive constitution that they hoped for."

And he's particularly pleased with the work of the bill or rights committee, which he presided over as chairman. "We feel that we came up with a balanced bill or rights that, in our judgement, is the most modern ever passed by any state constitutional convention. We think when Montanans have an opportunity to fully examine it they will be satisfied that all rights have been protected."

Gambling Issue Up To Voters

HELENA (AP)—After fully struggling with the issue of gambling for several hours Saturday, Montana Constitutional Convention delegates chose to let the voters make the ultimate decision.

The electorate will have a choice June 8 between continuing the present ban on gambling and lotteries or leaving the decision to the state legislature of whether to allow certain forms of gambling.

They adopted a motion by Thomas M. Ask, R-Roundup, 83-8, to give the Montana voters a choice.

Gambling thus becomes the third alternative issue to go on the ballot. Other side issues are whether the death penalty should be abolished and whether the state legislature should have one or two houses.

Ask's motion was a welcome compromise after the delegates faced a variety of proposals.

One, introduced by Methodist Minister George Harper, I-Helena, would have continued the present ban. It was defeated 56-35.

Another would have deleted any constitutional mention of gambling.

A third, drafted for a delegate by Atty Gen. Robert L. Woodahl, would have banned gambling except for bingo games and raffles conducted by certain religious, charitable, fraternal or veterans organizations. Woodahl has waged occasional

wars on gambling in Montana since taking office in 1969.

Another would have removed the constitutional restriction on gambling but not allowed legalization of any form unless authorized by the people through initiative or referendum.

Ask's plan gives voters a choice between these alternatives:

1. "All forms of gambling, lotteries and gift enterprises are prohibited."

2. "All forms of gambling, lotteries and gift enterprises are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum."

Most of the gambling proponents said they favored bingo, raffles and possibly lotteries but not open Nevada-style gambling.

Harper strongly objected to gambling.

"The constitution helps to establish the character of our state," Harper said.

Harper disputed claims that gambling would raise money for the state, predicting that crime rates would rise, alcohol-related traffic accidents would increase and the suicide rate would also increase.

"Gambling has always been, and will always be, a parasite on our business community," Harper said. Money that usually would pay for groceries and other accessories is often wasted on gambling in Nevada, he said.

Con Con Proposals Approved

Constitution Would Give Citizen Bigger Voice

By JOHN KUGLIN
Tribune Capitol Bureau
HELENA — John Q. Citizen would have more of a voice in his state and local government under some of the proposals adopted by the Constitutional Convention.

On the other hand, the convention has killed some proposals aimed at increasing citizen involvement in government.

Most of the proposals for opening the doors of government to the average citizen were drafted by four of the convention's committees: legislative, bill of rights, local government and general government.

Proposals which should increase citizen power if the voters ratify the constitution June 6:

—Right of participation. Citizens would be guaranteed the right to expect governmental agencies to give them the reasonable opportunity to participate before the agencies made a final decision, with details left to the legislature. Floor debate on this proposal centered on whether the merits of citizen participation were outweighed by the possible disruption of orderly government by unruly citizens. Several delegates thought the proposal would create "havoc" in government, but Robert Vermillion, D-Shelby, argued, "I came here with the idea that the public was the boss."

—Protecting citizens. The legislature would be required to provide for protection and education for the citizens against harmful and unfair practices by corporations, individuals or associations.

—The right to sue government. The state, counties, cities, towns and other local government units would no longer have special immunity from lawsuit as they enjoy under their present "sovereign immunity" status.

—Right to know. No persons will be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of the government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure. Whether this provision will hinder rather than improve citizens' right to know is subject to debate. The state press maintained that the individual privacy exemption would be used by agencies to deny access to meetings and records. But a majority of the delegates, offended by the lobbying tactics of the press, disagreed.

—Consumer counsel. The convention did what the legislature has refused to do, by providing a consumer counsel to protect the people against unjust rate increases requested by utilities.

—Initiative and referendum. The convention's local government committee referred to this section as "people power" oriented. At a local level, citizens could bypass unresponsive local government through the initiative and referendum process.

—Voter review of local government. Voters will be able to review the structure of their local government within four years after the constitution is adopted. Every 10 years the citizens would be given the opportunity to review or change their type of government. This section described by the local government committee as its most "unique" piece of handwork, is aimed at "increased voter interest and awareness of local government." Even if citizens vote to retain their present form of government, the committee says, "the time spent in study and discussion of local government will result indirectly in more responsive and respon-

sible local government."

—Removal of unfit judges. For the first time, citizens would have an opportunity to participate in the removal of unfit judges from the bench. The legislature would appoint a judicial standards commission, which would report its findings to the Montana Supreme Court. The high court would still have the final say over removal of unfit judges, including its own membership.

—Open meetings of the legislature. The convention, which dedicated itself to open sessions, decided that legislators had no right to continue to conduct some of the public's business behind closed doors.

Both the unicameral and bicameral legislative options to be presented to the people would require open legislative sessions, including committees and hearings. Both proposals would simplify the legislative process and cut the size of the assembly—moves regarded as making this branch more responsive to the needs of the people, as will election of legislators from single-member districts.

—Recorded legislative votes. Though Con Con delegates, themselves, have not always conducted roll call votes on vital issues during committee debate, they decided that the legislature should be required on final passage of legislation to take a roll call vote with the results entered in the journal.

—Amending the constitution. Citizens will find it easier to change the constitution. For the first time, the people will be able to call a constitutional convention, or amend the constitution by initiative without waiting for the legislature to act. Another "people power" provision is aimed at giving the citizens a firm hold on their power to change government. The people must have the opportunity to

vote every 20 years on whether they want to have a constitutional convention.

On the minus side, the convention:

—Defeated a proposal to establish a people's advocate to act in an ombudsman role and assist citizens having difficulty coping with Montana's growing government bureaucracy.

—May have alienated thousands of youthful voters by saying that they cannot hold the state's highest elective offices until they are 25 years old.

—Failed to adopt a constitutional provision to allow citizens to bring lawsuits in class actions against polluters.

—Failed to make it easier to vote by providing for poll booth registration. The convention adopted a provision saying the legislature "may" provide for poll booth registration. This does not require the legislature to do anything.

—Refused to accept a proposal from the general government committee to allow 25 per cent of the number of persons voting in the preceding election for governor in the state or any political subdivision to call an election to remove local officials.

Instead, the delegates adopted a proposal that laws may be enacted to provide for the recall of all elected officials of the state and of its political subdivisions. This in effect, accomplished absolutely nothing, because the legislature last year enacted recall legislation. Opponents of the 25 per cent formula argued that elected officials would be subject to new pressures, especially from dissatisfied special interest groups. One advocate of the formula, delegate Louise Cross, D-Glen-dive, said "I have heard this is a peoples convention. If we really believe in the people we shouldn't be afraid of them."

Con Con Verbatim Transcripts to Be Limited

Tribune Capitol Bureau
HELENA—The verbatim transcript of the proceedings of the Constitutional Convention, which hardly is expected to be a best-seller, may never be more than a 10-edition collector's item.

That was the word from convention President Leo Graybill Jr. when he was questioned

closely by delegate Lyle Monroe, a fellow Great Falls Democrat.

While Graybill was giving a budget report to the delegates, Monroe inquired about the availability of copies of the verbatim proceedings.

Graybill replied that there were no funds budgeted for printing many copies of the document.

However, he said that 10 copies were being printed of the proceedings, which will be 8,000 to 10,000 pages in length.

The question of printing addi-

tional copies hinges on an appropriation by the legislature, he said.

The legislature will not meet in regular session until next winter, and the constitutional ratification election is June 6.

"If the constitution happens to pass, the legislature will clearly have a duty to print it (the verbatim proceedings)," Graybill told Monroe, adding "if it falls they probably won't print it."

He then quipped that delegates might be able to make

their own copies at five cents a page if they had access to a mimeograph machine.

Con Con Okays Counsel For Consumer

HELENA (AP)—Constitutional Convention delegates gave final approval Saturday to a section that will set up the office of consumer counsel to represent the public at rate hearings before the Public Service Commission.

The section was approved 67-28.

The office will be funded by a special tax on the net income or gross revenue of companies regulated by the Public Service Commission.

Convention Ends Debate

HELENA (AP) — Constitutional Convention delegates concluded debates on proposed articles Saturday but some spontaneous ones probably will emerge as they wind up business this week.

The delegates amended and approved their last committee report, which contained a hodgepodge of miscellaneous sections ranging from the oath of office to gambling.

Convention President Leo Graybill Jr., D-Great Falls, is hoping for a Thursday or Friday adjournment. Prior to that time, delegates will consider reports from the Style and Drafting Committee and discuss the form of the ballot.

Any subject, however, may be brought up again if supporters can muster the strength to suspend the rules.

Much of the time Saturday was devoted to a debate on gambling.

Delegates also spent a couple of hours on a section on initiative. The concept of voters having the right to initiate legislation was not at issue. Focus of the debate was a section added by the General Government Committee that covered previous action on the highway antidiversion amendment.

The highway fund section, already approved in the revenue and finance article, allows voters to initiate action to have the legislature appropriate formerly earmarked highway funds.

Some question arose whether the public should have the right to actually appropriate the

funds by initiative or merely direct the legislature to divert some of the money for other uses.

Revenue Chairman Sterling Rygg, R-Kalispell, said his committee had intended to allow citizens to direct the legislature to appropriate through initiative but not actually vote to appropriate the money themselves.

Delegates accepted a motion by George Harper, I-Helena, to delete the reference to appropriation of highway funds by initiative.

Attempts will be made this week to open up the revenue and finance section and take care of the rest of the problem. Delegates may clarify the language, as Rygg proposes, and state explicitly that citizens can only direct the legislature to appropriate the funds. They also could delete the initiative process altogether in the highway fund section.

Also approved were several less controversial sections.

One says the powers of state government are divided into three branches — legislative, executive and judicial.

Another provides for the continuity of government in the event of disaster. It allows the legislature to enact laws to insure the continuing emergencies.

For the second time in a week, delegates turned down an attempt by Arnold W. Jacobson, R-Whitefish, to take the state out of the liquor business.

His motion was rejected 33-

Con Con Clashes Pit Old vs. New

By JOHN KUGLIN
Tribune Capitol Bureau

HELENA — Sometimes the Constitutional Convention debates are like "clashes between two civilizations," in the opinion of delegate Rev. Harold Arbanas. "Montana seems to have one foot in its frontier history and the other foot in the 21st Century," said Arbanas, director of education for the Eastern Montana Catholic Diocese and one of the four delegates who are clergymen.

Arbanas, who led the ticket when Cascade County voters sent 12 delegates to the convention, has usually voted for major constitutional reforms. The status quo in the constitution.

There are three types of mentality in the convention, Arbanas says. He is in the first group, which believes the people should be offered a solid alternative to the present constitution. The second group favors patchwork constitutional revision. The third group wants to design a constitution that doesn't disturb the people.

Arbanas believes the convention should offer the people a valid alternative to the present constitution. "We didn't need a convention to amend the constitution in a patchwork fashion," he said.

When Montana's last constitution was drafted in 1889, Arbanas pointed out, the issue was to accept or reject the document. But now, he said, the issue is to find good alternatives to the present constitution.

Though Arbanas said the convention will present some reform-oriented alternatives to the people for ratification, especially in the areas of Bill of Rights and changes in the legislative branch, he believes that "by in large we are drafting a moderate document. This is the result of a lot of compromises."

The sentiment in the convention against abolishing capital punishment, in Arbanas' opinion, showed that "the vigilante mentality on Montana's history and heritage is not far removed."

Arbanas led the floor fight to abolish capital punishment. Though the convention voted against asking the voters to ban the death penalty, the delegates did agree to place the issue before the voters as a side issue.

Arbanas did not campaign on the death penalty issue. In fact, he said, "I hadn't really thought about this very much until I came to the convention and later learned that the Bill of Rights Committee was not going to act in this area."

The basic issue, he said, is whether society is "going to accomplish anything good for anybody by taking human life. People who disagree think that capital

punishment is a very legitimate way of enforcing law and order. Thus this becomes a very heated and emotional discussion because of the clash of two very basic philosophies."

To have not discussed the capital punishment issue, which

Arbanas terms "one of the vital issues of our time," would have been a mistake, in his opinion.

And, he believes that interest generated by the issue, and the issue of a unicameral versus a bicameral legislature, will attract voter interest in a new constitution. These issues will provoke "street corner talk," in Arbanas' opinion.

Arbanas, a strong believer in the "short ballot" for electing the top state elected officials, was disappointed that the governor was not given the power to appoint more of these officials when delegates approved the report on the executive branch.

"Some delegates wanted to keep all of the present seven top state officials in the constitution, others wanted six, some wanted four, three or even two," he said. "It was hard to find much agreement."

Arbanas agrees partially with proponents of a "long ballot" that election of a long list of elected officials brings a "accountability." "But this is only true up to a certain extent," he agrees. "Who are you responsible to when the thousands of voters are your boss? You're not responsible to anybody, at least not until the next election. In many cases your job may be such that people really can't evaluate it. How can you evaluate what some clerk is doing?"

Legislative reform was in the mind of most convention delegates, Arbanas believes. "Delegates were not thinking of strong executive reform. There may be a time and a place in Montana when this will be possible. People are saying that executive reorganization is so new that it should run its course before there should be other executive reforms."

The convention, while it only abolished one of the chief state officials as a constitutional officer — treasurer — at least put the problem before the people, Arbanas said.

Only a few executive branch departments headed by non-elected officials, including the department of agriculture, received constitutional status (this department is provided for in the present constitution). "Most delegates didn't believe that we lost anything by giving this concession to agriculture. There was a fear of losing the farmers' vote."

Arbanas had aspirations of becoming a professional ice skater when he attended high school in Great Falls as a teenager. But he entered the service of the church and graduated from a theological seminary in 1948, collected several advanced degrees and was principal of the

St. Mary's High School and Central High School in Great Falls and Billings Central High. He served in Indian missions' work for a year and three years ago, returned to Great Falls to become director of education for the Eastern Montana diocese.

How They Voted

Tribune Capitol Bureau

HELENA — A last-minute effort to give the state more accounting control over activities of the state university system failed by a 52-40 vote Friday.

Delegates reaffirmed their earlier action in ruling that the funds and appropriations under control of the board of regents are subject to the same audit provisions as are all other state funds. Killed by the close vote was an attempt by Sterling Rygg, R-Kalispell, to also make accounting provisions subject to the same controls over other state funds.

Debate over this issue, to a large part, rehearsed the earlier argument between state controller Doyle Saxby and Con Con Education Committee Chairman Richard Champoux, D-Kalispell,

over fiscal and administrative autonomy for the U system.

Democrats voting for Rygg's amendment (17): Ashburn, Aronow, Ariz, Barnard, Bates, Shind, Grayson, Delaney, Driscoll, Eskildsen, Rod Hanson, Harbaugh, Harlow, James, Jover, Mansfield, Reddy, Romney, Sullivan, Swenberg, Wagner.

Republicans voting for Rygg's amendment (17): John Anderson, ABE, Barcock, Gryler, Habedank, Johnson, Karmoon, Berthelson, Drum, Ergmann, Eshchari.

Leahold Murray, Nulling, Rygg, Stuart, Wilson.

Independents voting for Rygg's amendment (1): Bob Harlow, Mayberry.

Absent or not voting (8): Arness (D), Blaylock (D), Ferri (R), Housley (D), Jacobson (R), Martin (R), Scatlin (D), Warden (D).

of the kind of boys that Flanagan meant to help. The town's population has fallen from around 900 in the early '50s to under 700 last year.

Father Wegner responded to Buffett's story by explaining: "This is a business. No business ever stops trying to save for unknown contingencies. If we go into the retarded business, we'll need the money." That is true enough: caring for retarded children costs considerably more than the \$6,000 per boy the town now spends each year. In fact, providing such care is one of the new directions that Boys Town may take in a belated effort to catch up with the times. Recently its 17-member board voted to seek outside professional counsel in charting Boys Town's future. It is perhaps only a small step, but Buffett claims it is the boldest policy move the Boys Town directorship has made in the 24 years since Flanagan's death.

and partake of it as effortlessly as they drink their bourbon.

This populist verve was abundantly evident in the way Montanans overhauled their creaky, 82-year-old state constitution. That laborious, 28,000-word document had been written—or more precisely, foisted upon the people—largely by mining interests, who hobbled the processes of government while exempting their own properties from taxation. But it was not until 1970 that the heel-dragging legislature, under pressure from reform-minded citizens, called for a new charter. Appropriately, members of that legislature, as well as all other elected Montana officials, were not invited to participate actively. This was to be a people's crusade.

And it was. The election of delegates to the constitutional convention brought together 100 of the best people of grass-roots Montana. There were

legalize homosexuality and prostitution.

What they all seemed to understand implicitly was that in Montana, no less than in California or New York, ordinary people feel that they have lost touch with their own government. Said Delegate Daphne Bugbee, an architect from Missoula: "We want our government to serve us, to be where we can look at it, feel it, touch it and know it."

Even Break. As finally approved after 54 working days, Montana's new charter is a model document. Despite the individual political differences of the writers, it has a nonpartisan, populist character. Mercifully, it is only 12,000 words long, and it sparkles with flashes of human concern from the beginning: "We the people of Montana, grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life . . ."

The "Declaration of Rights" rings with progressive principles, declaring the citizens' right to privacy, to a clean environment, to equality regardless of age or race or sex. The legislature is made both more powerful and more responsible to the people. Moreover, it will now be more representative. Under the old system, many rural counties were grouped with larger urban counties; with city voters in the majority in those districts, the rural counties could scarcely carry a candidate into office. Now it will be one man, one vote: new lines will be drawn to create single-member districts that will give the countryside an even break.

Short Circuit. Under the old charter, the public service commission was dominated by the power companies it was supposed to regulate: the public got short-circuited. Now provision is made for an ombudsman, a consumer counsel who will represent the public in utility-rate cases. In the past, a single state board of education tried to run both the public schools and the six-unit university system; the new constitution creates separate boards and gives the regents full control—without political interference—over the universities. Montana also limped along with a tight constitutional limit on property taxes, which imposed great inequities in school-district financing: it was so restrictive that the state ranked last in the U.S. in the amount of aid it could give to local governments. Now the limit is removed, enabling the legislature to distribute the tax burden fairly.

It still remains for the electorate to vote on the new constitution on June 6. Home again, the delegates have taken it upon themselves to convince their constituents of the virtues of the people's new compact with the state. Helena Delegate George Harper, a Methodist minister, is preaching "Praise the Lord and pass the Constitution." It may require a lot of convincing, because nobody can tell what those cussed individualists will do at the polls.



DELEGATES DISCUSSING PROPOSALS AT CONSTITUTIONAL CONVENTION IN HELENA

MONTANA

Fresh Chance Gulch

Montanans have just rewritten their state constitution. San Francisco Bureau Chief Jesse Birnbaum observed the process and the participants and sent this report:

Critic Leslie Fiedler called it an "inhumanly virginal landscape," shuddered at the "atrocious magnificence of the mountains, the illimitable brute fact of the prairies." He was right. Montana is elusive, too vast to comprehend. It almost seems indecent for a land so big to have a population so small: 701,000 people in all, or five to every square mile of atrocious magnificence. Each resident reflects the Montana character: a cussed inconsistency that some people call rugged individualism. It is a trait bestowed by birthright ("You're not a Montanan until you've weathered 40 winters," the saying goes) and steeped in frontier nostalgia. Montanans are closet cowboys in haunting pursuit of the roundup, even while struggling with realities. Democrats vote Republican, Republicans vote Democrat. The naive are suspicious, the shrewd trusting. Together they brew 100-proof populism

ranchers, farmers, businessmen, three professors, five ministers, 24 attorneys, a beekeeper, a retired FBI agent. Nineteen were women, most of them housewives and educators. The oldest delegate was Lucille Speer, 73, a retired librarian; the youngest was a graduate student, Mae Nan Robinson, 24. What they all had in common was virtually complete ignorance of the art of constitution writing and a somewhat unfounded self-assurance.

Touch It. Undaunted, the delegates gathered in January in the former mining town of Last Chance Gulch, now better known as Helena, the state capital. Committees were formed. A squad of recent college graduates began turning out 2,368 pages of scholarly reports on human rights, welfare, education, taxation, legislative government, environment. Ordinary citizens and experts alike voiced their concerns before the committees. From the countryside came 1,500 letters filled with suggestions. The delegates studied, argued, hammered out their proposals, and hard work it was. "We had to educate ourselves and write a constitution at the same time," recalls Robert Kelleher of Billings, an imaginative attorney who fought in vain to change the government to the parliamentary system and

Health Panel Voices Early Approval Indigent Care May Move to State's Shoulders

HELENA — The Constitutional Convention's Public Health Committee has tentatively approved a proposal that has the intention of shifting care of the indigent from the counties to the state.

The proposal would make it the duty of the legislature to provide for the indigent, whereas the present constitution makes it a burden of the counties.

It was acknowledged that the legislature would have the power to do what it wanted with the program, even to the extent of returning it to the counties. But concern was voiced about going from one locked-in position where to finally require the state to pay for the indigent program.

William Swanberg, D-Great Falls, and Joseph McCarval, D-Anaconda, worked as a subcommittee in drafting the proposal that was tentatively adopted Wednesday. Swanberg said, "from the evidence gathered at several hearings on this subject, it is our opinion that the present section of the constitution which (puts the indigent burden on the counties) has worked a hardship on the larger counties of the state."

"This is so because indigents,

according to the evidence gathered, tend to gather in the larger population centers where better medical facilities are available, as well as better job opportunities, with the result that certain counties in the state have been compelled to assume an undue burden for welfare support."

The committee proposal is basically a re-wording of one submitted by state welfare director Ted Carulla. A

stranger but less flexible proposal had been submitted earlier by Cascade County commissioners Milo Dean and Ed Shubert that would have made indigent welfare a state responsibility.

But Swanberg said it's a matter of trusting the legislature to carry out the intent of the proposal and at the same time allowing enough room for any change that might be desirable in the future. He said that if the record of the legislature has

been good, the decision should be left to it.

If not, perhaps the intent should be spelled out in the constitution.

Don't Trust White Brothers

Indians Seeking Land Security

Tribe Capitol Bureau
HELENA — The Constitutional Convention's Bill of Rights Committee was told Wednesday that Montana Indians have a deep-seated fear of "termination" — that is, of having the white man take the rest of their lands from them.

The Inter-Tribal Policy Board has asked that the intent of a federal regulation in the constitution excluding Indian lands from state jurisdiction be retained. Helena attorney Barney Reagan suggested that it be removed in case a tribe got tired

of its council and wanted to come under state government. He said federal law provides for such a transfer of jurisdiction if approved by a majority of adult Indians involved and if acquiesced in by the state.

But Frances Satterthwaite of Helena, lobbyist for the Inter-Tribal Board, said Indians fear that any move made concerning Indian affairs is a "disguised move to take away their lands." "If for nothing more than peace of mind," she said, "leave the ordinance in."

Delegate Wade Dahood, R-Anaconda, suggested that it would be better for Indians to join the state of Montana and the federal government in walking the same path. "They're treated as something special — as wards of a benevolent government," he said. "Do you think that's helpful to the Indian people?"

Mrs. Satterthwaite replied, "You cannot by legislation or anything else bring another culture into the mainstream except in their own way. So I think it will be a long time before Indians do come into the mainstream."

Later she added "if we knew more about the Indians we might want to join them instead of getting them to join our mainstream."

The right to work, die

HELENA (AP) — Thirty-five proposals ranging from the right to work to the right to die were introduced at the Montana Constitutional Convention Wednesday.

Thursday is the deadline for delegate proposals.

Among the measures submitted was one by R. J. Stüder Sr., R-Billings, that says no persons shall be denied the

right to work because of union membership or nonmembership. It also guarantees the right to bargain collectively and forbids public employees from striking.

Abortions would be outlawed under a proposal of Robert L. Kelleher, D-Billings, but persons incurably ill would have the right to die.

The present language on reli-

gious freedom in the Bill of Rights would be replaced with the First Amendment if a proposal submitted by Dan W. Harrington, D-Butte, is approved.

Moreover, several sections banning state aid to private schools would be repealed.

Arnold W. Jacobson, R-Whitefish, proposed a measure that would direct the legislature to

provide for the acquisition of historic sites.

George Rollins, D-Billings, submitted a plan that would set up the units of the University System as corporate bodies under the direct control of the Board of Regents.

Kelleher also introduced a measure that would allow wa-

ives to contribute a dollar of their state taxes to the party of their choice.

Along with this was one requiring the legislature to appropriate a sum not more than 25 per cent of a legislator's salary to pay for campaign expenses. They would be forbidden to spend any other funds besides the state money.

Unicameralism finds opposition

By DANIEL J. FOLEY
Genève State Enroute

HELENA — The reform-minded Legislative Committee of the Constitutional Convention ran smack into a status quo group of legislators Wednesday on the question of a unicameral assembly.

Nine of 11 lawmakers attending the special committee hearing spoke in opposition to the one-house assembly apparently favored by many of the committee delegates.

Among those favoring retaining the bicameral system was the dean of the legislature, 74-year-old Dave Manning. The Rysham Democrat has served in 20 legislative sessions. In all, the nine legislators asking for two houses has a total of 59 years experience.

TWO LAWMAKERS urged the committee to submit a one-house plan to the voters, including Tom Harrison, R-Heleena, the House majority leader.

Sen. Star Stephens, R-Eavre, said a unicameral body would make it easier for vested interests to push through legislation, and it would result in more poorly drawn legislation. "There is no substitute for the objective critique by a second body of totally fresh minds," the lawmaker said.

Rep. Oscar S. Kvaalen, R-Lambert, told the committee that he favored a bicameral body because he believed that there was no spur of government where the wheels should turn more slowly than in the Legislature.

Sen. Gordon McComber, D-Fairfield, said that "over the years the two-house legislature had done what the people wanted. "Should citizen participation be sacrificed for quick decisions?" he asked.

Others supporting a bicameral body were Senators Carroll A. Graham, D-Lodge Grass; Glen T. Rugg, R-Fleevna, and Earl Morris, R-Lewistown, and Representatives J. O. "Boots" Ashjornson, R-Wadsworth, and J. D. Lynch, D-Butte.

'Taxation Without Representation'

Earmarking Tax Revenue Opposed

By FRANK ADAMS
Tribune Capitol Bureau

HELENA — An opponent of earmarking tax revenue in the Constitution raised the battle cry of "taxation without representation" Thursday, and called for a return of Montana's highways to the people.

Representative government was conceived by people who demanded a voice in how their money was to be spent for government, delegate Donald Foster, I-Lewistown, told the Constitutional Convention's taxation committee. "We elect representatives every two years, not every 100 years. There could be no greater dereliction of duty than for us to freeze hundreds of millions of dollars per year into the Constitution. This removes the scrutiny of the people through their elected representatives."

Present constitutional earmarking includes 25 per cent of the income tax for education, nearly \$40 million annually from gasoline and other vehicle taxes for highways, and 4 mills for livestock inspection and protection.

Foster does not suggest that earmarking ought to be abolished but that it should be left up to the legislature. "If we fail to give the legislature the fiscal freedom which is duly theirs," he said, "we are making a sham of the whole concept of a responsive legislature and representative government."

He said the strongest argument against constitutional earmarking is that "we do not have the slightest idea of what the economic condition of this state or nation will be 25 years, five years, or even two years from now."

Referring to the highway construction of public lobby, Foster said, "If we allow owned parking lots, vehicle a few self-seeking opportunists, the Highway Patrol and the disposal of special interest provision which junked cars.

He told the committee that every other special interest group in the state will have point where they are "force ample reason for expecting their feeding" an arrogant and preferential legislation be engraved in the marble of the constitution. "In situation."

Foster, a honey farmer, said for the people to take another he would like to see the state look at how these funds are apportioned being spent. Neither the people nor the legislature have the five billion bees in the state. "without which the flowering money."

plant life would eventually vanish." But he said he would be happy to forego that honor. "If this convention will return the state of Montana's highways back to the people."

Foster also said he does not believe the "rumor" that constitutional earmarking of highway revenues has widespread state support.

Delegate Virginia Blend, D-Great Falls, argued for abolishing earmarking altogether, except when required for federal funding as is the case of highway money.

She said earmarking was useful in getting such programs as highways, fish and game, and education established. But once established, she said, the system of earmarking lends itself to autonomy and waste. Her presentation led committee member Dave Drum, R-Billings, to suggest that one of the evils of earmarking is that it's on a percentage basis, "which may provide more than the department needs in the first place and might be a provision authorizing it has to expand its programs to use up the money."

Convention vice president John Toole, R-Missoula, explained his proposal for broadening the so-called "antidiversion amendment" to permit use of automobile taxes to solve some of the social and economic problems created by the automobile, rather than just to build more highways for the use of more and more automobiles. He proposes to open up the highway fund to such items as subsidizing mass transporta-

tion, construction of publicly owned parking lots, vehicle pollution control, the Highway Department and the disposal of junked cars. He told the committee that every other special interest group in the state will have point where they are "force ample reason for expecting their feeding" an arrogant and preferential legislation be engraved in the marble of the constitution. "In situation."

Toole acknowledged the popularity of the antidiversion amendment in 1956, but suggested that things may be different now "because so many people have been trodden on by the Highway Department since then."

The president of the Montana Grain Growers Association, Jim Stephens of Dutton, asked the committee to provide a constitutional levy for research and promotion of wheat and other commodities, similar to the levy for stockgrowers.

But the committee members seemed more inclined to even up things by removing the livestock levy. Bill Artz, D-Great Falls, agreed that if the stockgrowers have a constitutionally provided levy, then so should the wheat growers. But, he added, so should the CPA and the automobile dealers and before long "we have a very long document."

Delegate Drum suggested that certain group by the members of that group.

The committee has scheduled a public hearing on earmarking for Friday afternoon in the Senate chambers.

Poor Seek Medicaid Assistance

HELENA (AP) — A parade of people who share a too-common experience of burdensome medical bills resulting in despair, bankruptcy and eventually denied medical hospital assistance appeared before a Senate Committee Wednesday.

The low-income people, from Great Falls, Missoula and Helena, were supported by professional social workers and nurses who backed up their accounts of misery.

The delegation appeared to support Senate Bill 255, the 1969 version of Montana's Medicaid proposal to bring certain low-income people out of the cold and under the umbrella of assistance available to the sick.

There were no arguments against the bill.

Francis Mitchell, representing the Montana Community Action Association, introduced 11 men and women who said they and their families needed assistance.

Not Many 18-Year-Olds Equipped for Governor

Young Voters Also Want Right to Hold Office

By CHARLES S. JOHNSON
Associated Press Writer

HELENA (AP) — A proposal that would permit anyone over 18 to hold any state or local elective offices was supported by several students Thursday and two Constitutional Convention delegates.

The proposal, sponsored by Bob Campbell, D-Missoula, would give anyone with the right to vote the right to seek any elected office.

Presently an age limit of 30 is imposed on several offices, notably the governor

Campbell, who is 31, spoke in the nation are upon us."

support of his measure saying that this was one of the major challenges delegates face.

He said its delegates must give them the right to full participation in their government

Campbell traced the right of suffrage and quoted from the proceedings of the 1859 Constitutional Convention when delegates considered, but rejected, giving women the right to vote.

"The young generation is today's challenge for the convention," he said. "The eyes of so-

Also supporting the proposal was delegate Jerome J. Cate, D-Billings, who is 32. Cate said that four years ago many

young persons were rioting and demonstrating but this has died down largely because many

doctors such as suffrage have been opened.

A Missoula Sentinel High School student, Will Roscoe, noted that young people today

are more concerned with government than their predecessors.

Roscoe said the right to vote under the 26th Amendment was only half a right without being able to hold office.

"It's equivalent to allowing blacks to vote but only for whites," the student said.

He added that while there were not many 18-year-olds equipped to be governor, there aren't many 50-year-olds with the ability either.

He brought a petition signed by about 450 Missoula students and 35 teachers supporting the proposal.

Campbell contributes reform, poems, humor to Convention

By Pat Murdo

Montana Kaimin Reporter

Bob Campbell, one of the eight Constitutional Convention delegates from Missoula, is politically oriented, even though his originally chosen profession, pharmacy, has little to do with politics.

Campbell said in a recent Montana Kaimin interview, "I love politics. It's probably the second most exciting profession in the world. The first is bull-fighting. In both you can get gored but you have a better chance of coming back in politics."

Campbell is a 1963 graduate of the University of Montana School of Pharmacy. After a year of practice during which he got his license to practice pharmacy, Campbell decided to go into law, and leave pharmacy because in his words, "pharmacy is where the action isn't."

Currently he is appearing before city organizations and on radio talk shows to promote support for the Constitution which is to be presented before the voters in the June 6 primary.

He is extremely proud of the Bill of Rights, which he worked on. "Seven out of my 10 proposals were incorporated into the Constitution," he said.



Bob Campbell

These proposals were:

- The right of privacy.
- 18-year-old adult rights.
- A provision that all verdicts in criminal trials must be unanimous.
- A provision that full rights be restored to convicts who had served their debt to society.
- A provision providing that full extent of loss be paid in cases of eminent domain, when the government takes private property for public use.
- A provision for freedom of expression which is included in the freedom of speech article.
- A provision under the education section which recognizes that Indians have a unique cultural heritage which the state is committed to preserve through education.

Prison reform is a special concern of Campbell's. In addition to the section stating that convicts are entitled to full rights upon termination of their prison term, he has set up a Drive to End the Death Penalty in Montana. He said he has hopes that the Playboy Foundation will help finance the drive since they have the money available and are concerned in many areas such as prison reform.

Campbell enjoyed being termed a radical Democrat from Missoula, at the convention. He met the opposition of some conservative delegates with poems, such as the one which he said is in the convention records. The poem is dedicated to fellow delegate George Harper, a Methodist minister, and reads as follows:

"Ode To Reverend George"
"Your ideals are great
For the best in our state,
Your motives are most commendable.
But as you follow your star
Accept us as we are
And don't make sin unconstitutional."

The poem was in reference to the minister's stand against making gambling constitutional.

Campbell wrote two other poems

in addition to notes which he said were passed to delegates by pages at the convention. The poems were written after the convention passed the Bill of Rights sections and Campbell felt that he could relax. "To me," he said, "the high point of the convention was the passage of the Bill of Rights. It was my life."

The other poems poked fun at the conservative elements at the convention. The reason for this, Campbell said, was "humor can cut through the emotional prejudices. It's an effective political tool."

The 31-year-old father of two can also be serious. He sees his present duty as making the new constitution an accepted and effective power in the governing system.

"My whole premise is that it's going to take some radical changes to conserve the system. I have faith in the system but it has to change from within, and it can be

changed with the powers we now have available. In my view it's a race between changing the system or watching someone like George Wallace benefit from dissatisfaction with the system and in effect watching him destroy the system itself."

Campbell said that much of the change will come from the voting power of the 18-year-olds, since

"they find intolerable what their parents have endured uncomfortably."

Campbell's political plans? "Not for another year at least," he commented. Meanwhile he will keep active as a lawyer and as chairman for the Montana Young Lawyers Drug Education Program, in addition to his special drives in prison reform.

Few Changes Made in Con Con Revenue, Finance Suggestion

HELENA (AP) — Unlike other committee proposals, the Revenue and Finance Committee recommendations emerged after Constitutional Convention debate with few changes.

Highlights of the article, debated Friday and Saturday, are a less restrictive highway antidiversion section, groundwork for centralized property tax administration and the removal of a ceiling on state indebtedness.

Delegates supported the committee, which favored loosening the highway section. If three-fifths of the state legislators approve, the earmarked highway funds can be appropriated for other purposes, unlike under the present section.

Inequities in property tax administration led delegates to al-

low the legislature to come up with a new system, if it chooses.

The present constitution locks in the State Board of Equalization and boards of county commissioners as boards for the counties to adjust property tax rates. Some delegates cited instances of inequities within counties and between similar property in one county and another.

Rural delegates, led by Leslie "Joe" Eskildsen, D-Malta, fought the move, which they said would centralize the power in one man appointed by the governor. However, the proposal does not specify that the legislature has to adopt any particular system. It could retain the present system, committee members said.

Legislators also must provide for a statewide appeal board where taxpayers could take up grievances over appraisals, assessments and equalization. Moreover, similar boards must be set up at the county or local level of government.

The \$100,000 ceiling on state indebtedness also was removed.

At present, any debt over \$100,000 had to be approved by the electorate. The new section leaves the matter up to the legislature and locks no limit into the constitution. Debts must be approved by two-thirds of the legislators or a majority of the electorate.

Committee members had recommended three-fifths but did not object to raising the figure to two-thirds. An attempt by Charles H. Mahoney, I-Clancy,

to make three-fourths of the legislators approved failed.

William H. Swanberg, D-Great Falls, failed in trying to impose a \$1 million ceiling. Any indebtedness more than this figure would require voter approval, he said.

"When a man's taxes are about to be increased by constructing a builder over \$1 million, we should give him a chance to vote," he said.

Thomas F. Joyce, D-Butte, opposed Swanberg's motion, calling it "a gross step backwards." The amendment failed 57-16.

Local government indebtedness is left to the legislature.

An amendment submitted to Thomas M. Ask, R-Roundup, to allow local government units to

incur indebtedness not to exceed five per cent of the assessed property value was defeated. The limit could have been raised an additional five per cent if 60 per cent of the electorate approved.

Other sections approved give the legislature the power to levy taxes for public purposes and forbid the power of taxation from ever being surrendered.

At the request of delegate William H. Arts, D-Great Falls, the convention adopted an amendment forbidding public funds, except those contributed to retirement programs, from being invested in private corporate capital stock.

"I'm violently opposed to spending the state funds," he said. "Common stock is still a

gamble. You always have winners when you have losers."

The legislature is threatened to provide for a unified investment program of public funds. Moreover, the separate identity of each of the funds involved in the unified investment must be maintained.

The section, which delegates approved, also requires an annual audit of the investment program with reports submitted to the governor and legislature.

Lloyd Bernard, D-Saco, offered an amendment that was approved that provides that the public school fund "forever remain inviolate and (be) guaranteed against loss or diversion by the state."

The fund must be "safely and conservatively invested" in public securities of the state and its subdivisions, U.S. bonds or other securities fully guaranteed.

FREE PRESS ENDANGERED

Dear Editor:

The enclosed letter, providing a legal interpretation of the meaning and effect of the proposed "Right of Privacy" in the coming Montana Constitution, spells out the possible danger to the right of a free press.

At the suggestion of President Paul Husted we will send copies of it to all members of the Constitutional Convention, calling their attention to the statement that while the conception is realistic, it could be a cryptic restriction on the right of the public to know what their government is doing.

Moreover, in the latter of the two sections, there is no definition as to whose privacy is to be protected. It could be that of all the public officials who want to hide their actions.

Every question which might arise under either of the sections could result in the need for a legal interpretation, which would mean long and costly lawsuits.

If you feel that there is danger in these two sections, not only to the right of a free press but also to the people's right to know, please communicate with your convention delegates.

Sincerely,
George D. Remington,
Chairman, Freedom of Information Committee

'Decided' Issues May Be Amended

Tribune Capital Bureau

HELENA. — Most of the controversial decisions considered by the Constitutional Convention already have been decided.

Or have they been?

Several delegates said Saturday that they plan to try to beef up the environmental provisions incorporated in the article on environment and natural resources passed last week.

One suggested amendment, which might be made when delegates consider the Bill of Rights section next week, would be to direct the legislature to provide for a "clean" and "healthful" environment. A move to mention this in the Constitution failed by a 44-40 vote last week.

Also talked about is allowing citizens to sue alleged polluters or governmental agencies, another proposal that was rejected during debate over the article.

Chance of a lifetime

I would like to preface my remarks about the Constitutional Convention by saying that I am very interested in government and the future of Montana, only as a concerned citizen. I have no ax to grind, nor do I represent any lobby group. Because of our interest, my husband and I have visited the convention many times, only for the purpose of becoming informed, and witnessing an historical event.

We, in Montana, elected a group of people from our midst, with varying backgrounds of education and experience, to revise and rewrite our state constitution for us. Having done so, we have ceased to participate, and have sat back complacently making our judgments from the media. Personally, I think the media have done a splendid job — especially when I read accounts of proceedings on a day when I was there. However, by necessity, extraneous matters often are eliminated, and sometimes this makes all the difference in the end result of discussion.

Granted, quite often one person holds the one characteristic inherent to all the delegates is dedication to the writing of this document, awareness of the enormity of the task, and their obligation to make it a lasting instrument for generations to come. The committee of the whole is there in warm body and in spirit, deliberating every side of an issue — the checks and balances in motion. I must add, I am impressed with President Graybill's expert handling of discussion on the floor, and his ability to clarify complicated procedure.

It is not only my purpose to commend the convention (although, I might ask, "Would you like to trade places with one of the delegates tomorrow?"). I am continually amazed and disappointed, when I am there, to see the pitifully few observers in the gallery, who care enough to travel on a beautiful highway to a happening that will never occur again in our lifetime, and to listen to ALL the debate, not just bits and pieces.

Every Montanan owes it to himself to attend the sessions at least one and express himself to his delegates. They would welcome your interest. The experience will give you an understanding of the problems involved, the difficulty with the intent of the language, and the valid differences of opinion. You will find yourself more personally identified with your delegates and this history-making event. Hope to see you there!

MRS. ROBERT A. WATSON, 2912 3rd Ave. N.

North Dakota's Con Con proposal

North Dakota, which has been operating under an 1889 constitution just as Montana has, will vote upon a proposed new state document April 18.

The North Dakota Constitutional Convention adjourned two weeks ago after agreeing upon a 9,000-word document — about one third the size of the 1889 one.

The North Dakota voters will vote upon a basic constitution and four side issues at the April 28 election. The major alternate issue will give the voters a choice between a bicameral legislative system and a unicameral legislature. The other alternate issues involve initiative and referendum measures, declaring 18-year-olds as adults and empowering the legislature to authorize lotteries.

by \$600,000 from the legislature, finished with \$55,000 to return to the state's general fund. The convention also has \$89,000 in its public information budget to inform voters about the proposed constitution.

North Dakota delegates are confident the new constitution is vastly superior to the 1889 constitution. Montana Constitutional Convention delegates, as dedicated and capable as their counterparts in North Dakota, are nearing the end of their convention, determined to hammer out a document which will be a vast improvement over the 1889 constitution.

The proposed constitution will be considerably better than observers think if the delegates remember they are shaping a constitution for generations to come rather than one designed only to