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MONTANA CONSTITUTIONAL CONVENTION
STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

EXECUTIVE COMMITTEE

Place of Meeting: Governor's Reception
Room

Date Meeting Held: 1/29/72
Hour Meeting Held: 2:00 p.m.

Committee Chairman: Thomas F. Joyce

THE MINUTES OF THE SIXTEENTH MEETING OF THE EXECUTIVE COMMITTEE

SUBJECT OF MEETING: Presentation by former Governor Babcock

Roll Call:

Thomas F. Joyce, Chairman	<u>Present</u>
J. C. Garlington, Vice Chairman	<u>Present</u>
Harold Arbanas	<u>Present</u>
Betty Babcock	<u>Present</u>
James R. Felt	<u>Excused</u>
Fred J. Martin	<u>Present</u>
Richard B. Roeder	<u>Present</u>
Margaret S. Warden	<u>Present</u>
Archie O. Wilson	<u>Present</u>

INTERESTED PERSONS TESTIFYING:

<u>Name</u>	<u>Occupation or Title</u>
Tim Babcock	Former Governor - State of Montana

This is the 1972 Montana Constitutional Convention Executive Committee meeting in the Capitol, in the Governor's Reception Room, in Helena, on January 29, 1972. I am Thomas F. Joyce, Chairman of the committee.

I feel some preliminary remarks are in order. When this committee was first formed at the organizational meeting, the first decision we made was to invite the present governor and the former governors of Montana to appear before our committee. Our thinking being that where better could we get information and advice as to what an executive article might contain than from people who have in fact exercised the power of the governor. Therefore, we have with us today, a man who has very graciously accepted our invitation, former Governor Tim Babcock. It is my pleasure at this time to introduce to the committee and the delegates assembled the honorable Tim Babcock.

TIM BABCOCK: Thank you very much Mr. Chairman. I am very appreciative of being asked to assemble with you. It is true that in public life I have had a great deal to do with several branches of the government, serving in the legislature, presiding over the senate as lieutenant governor and then, of course, serving seven years as chief executive. There are times, of course, that I was quite desperate with the constitution but it seems to me that in the end that it wasn't too bad a document after all. I am one that does not believe we have to completely overhaul it. I think there are some repairs that need to be made. I would like to give you some of the thoughts that I have had; some of the experiences and some of the frustrations that I have had dealing in government. As a person who is probably one of the most impatient men in the world, the solemn face of government is sometimes most difficult. I have said before that the toughest assignment for me when I took office was to decelerate to the pace of government after being used to business. I have had my frustrations with some of the rules and regulations we have to live under. But in the long run I think that they are very necessary, and I hope that in your deliberations you may not shorten this process too much so far as it will not allow democracy to work as we know it should. After the preliminary remarks of how impatient I am about getting things done, I would almost think you would believe I was giving a case for a unicameral legislature. This is not true. I hope you will give this your most serious thought, because I think it is so necessary for us to have complete due process of any piece of legislation, to have two bodies think it over very clearly. When I was governor, I remember even then when the two branches of legislature went to a particular majority, we found errors in it when it got down to my office. Consequently I think one year I exercised twenty vetoes. It wasn't that I enjoyed doing it at all, but it was because some errors went by even two houses. So I think in order to give a measure the deliberation we should, I very much recommend that you maintain the bicameral system. I know that you and perhaps the general public sometimes feel quite disappointed in the legislature. I want to join you by saying that I too many times am quite frustrated with their seemingly slow deliberations. But in the system of democracy we must be reminded that it was never intended to be something that happens overnight. I think the checks and balances that were built into the democratic system are very

necessary. It always seems to me that it rights itself eventually. Sometimes it is slow in coming, but it seemingly always does right itself. Now I do believe that we should shorten the ballot. I understand that this is in great deliberation, as it should be, because of its importance. I don't think there is hardly any question that the governor and lieutenant governor should be on the same ticket. I have had some personal experiences in that regard, and I think most people agree that this should be corrected. I very definitely feel that the governor should appoint his own attorney general. I realize that this is a matter of controversy, but I strongly recommend that the governor should have his own legal counsel. I think it should be his own appointed attorney general. I realize that you can garner legal counsel elsewhere but I do believe the attorney general should be a position appointed by the governor. Although I am not quite so sure I would think that the secretary of state should also be appointed to shorten up the ballot. There are a number of other offices, such as the superintendent of public instruction, which should be appointed by the governor. I think that the clerk of the supreme court should be a selection of the justices themselves. The present public service commission is a legislative body, and I have no recommendations to offer for your deliberations concerning it. There is one other deep concern that I have in regard to elected offices, so that we may maintain the checks and balances that I think are so necessary. I believe the state auditor and the state treasurer should be elected. In the quest for efficiency I am fearful that the checks and balances that I think are necessary for fiscal matters might be left out. So for that reason I would strongly recommend that the auditing and treasurers departments should be strengthened and given more responsibilities. As it is presently constituted I don't believe that they are allowed to do a good job. Now, I also would recommend an annual session of the legislature. In doing so I believe that we can possibly eliminate some of the work of the legislative council and possibly the legislative audit. I say this in the matter of economy. And I hope that you all will when you make these deliberations, think very much about the cost of some of these boards, bureaus and commissions that have been set up because there are dollar considerations to each one of them. As you know, Montana's finances have seemingly always been quite strict. The first legislative audit I believe was started with a small appropriation of some \$40,000. I understand the last one was over a half million dollars. I use that as only one example. I think that many of these responsibilities should be placed in the control of the office of the auditor, and some of the other duties given to the treasurer. These are some of my general comments, and I am sure that many of you have some questions that I would be glad to answer. If that is now in order, I shall entertain questions.

MARGARET WARDEN - District 13 - Cascade County:

I would like to ask you how you feel about appointed boards versus the elected boards, and how you feel about one person in charge of a department versus boards over the department.

GOVERNOR BABCOCK: Well, if I understand that correctly, I think

that you should give the governor a great deal of appointive power. Let me expand on a point that I would like to mention which concerns all of these appointed positions. I hope that you will always bring these appointments under scrutiny by providing for approval of the senate, because there again you create another check on giving the executive too much authority which I think he can't handle, and provide against eliminating checks and balances. Of course, the appointive responsibility of the governor is not only the toughest but is also among the more responsible decisions that he has to make, because his administration or state government is only as good as the people brought into it. I think that I, when I was in office, spent a good three quarters of my time in trying to select good competent people for various positions so the state could be efficient. So I would say that I very definitely would keep the approval of all of these appointments, subject to concurrence of the senate. Did that answer your questions completely?

FRED MARTIN - District 11 - Livingston:

Being that I am particularly interested in the conduct of both the transactions of private business and public business, I think that one of the questions that I would like to ask is as governor do you think you have adequate staff and adequate appropriations to operate the business of the state, to be able to do the research and make the reports being conducted?

GOVERNOR BABCOCK: Well, in this department I think I did, because I called on various state departments. I called on the departments to assist me on special matters. If it had to do with agriculture, I, of course, called on our commissioner of agriculture. By using the various departments in that department I think that I had enough staff. Now of course I was always quite conscious of the lack of finances to be able to do things for the state that I would have liked to have done which we couldn't afford to do. One way that's very easy for us to build up a big administrative staff and I think you could bring about more efficiency by using the various departments that concern themselves with the particular problem that you need help on. To that exception I thought I had adequate staff, we had, I believe three administrative assistants and three secretaries. I thought we handled it well. But you can only do that by utilizing other members of other departments to get the job done.

FRED MARTIN

Do you think there should be a change in transition? In other words the governor is elected in November, but takes over in January and has little time or staff in the interim. Do you think that should be changed?

GOVERNOR BABCOCK: Yes, it should. I forget what the appropriation of the federal level that is allowed the incoming presidential staff and help to make this transition work. I remember very well when Governor Nutter and I took office that Governor Nutter had to come up here under his own expense and rent an office and run his own

staff in preparing himself to take over the duties in this short time from the election to the state of office. So I would very definitely think you should give serious consideration to either appropriations or some staff help during the transitional period.

BETTY BABCOCK - District 12 - Lewis & Clark

And also Mr. Babcock's wife. I think that I know most of his answers and would like to give my time to another committee member.

RICHARD ROEDER - District 11 - Gallatin & Park County

You mentioned that you had occasion to use the veto power, and I was wondering how do you feel about giving the governor the power to reduce line items to appropriation bills, instead of just vetoing them as he can do now. Should he have the power to reduce a particular line item in an appropriation bill.

GOVERNOR BABCOCK: No I don't think so. During the deliberations it is just like giving the persons the responsibility without giving him the money to carry it out. This has been the problem of Montana government for far too long. I used the line item veto I think very very seldom. I think there were a few times that I did. But I don't believe that you should give the governor the power to reduce the expenditures because generally that is either well thought out or in the law. I would think that the legislative committees give this a great deal of thought so I don't think I would give the governor that power.

J. C. GARLINGTON - District 18 - Missoula

I would like your comments about the attorney general office. Would we gain to have an appointed official rather than an elected one. The view point has been suggested to our committee that he has many duties that really signify his obligation to the public, rather than to the executive department alone. And I wonder if you would comment on the ways in which you would have found the office of governor easier to handle if you would have had appointed the attorney general rather than distinguished through an elected one. Is there a considerable area where the attorney general is involved in other duties and not directly functional to the governor?

GOVERNOR BABCOCK: Well, I think what you need to do really, as we look back over the history of the last 25 years, it seems to me we have always had a great deal of contention between the attorney general and the governor. There is always a battle going on. I say Mr. Garlington, I don't know whether the problems can be solved by the elective process, and in my own case and that of Governor Anderson's I don't think you are going to have the smoothness and the working together of departments when this situation develops. The man should very definitely be the governor's. The governor should have the counsel of his own choosing which not only can he trust to some degree, and who is not looking for your job, but rather is trying to do a good job in his own right. I just feel very strongly that this can best be accomplished by the governor appointing the attorney general. I realize that you can weigh both sides but I think in conclusion the important consideration is the effectiveness of the administration.

J. C. GARLINGTON

Would you have any comment on whether it would be easier if we would pay him better. A good man for this office would want an appointive basis.

GOVERNOR BABCOCK: No I don't. And I don't think that in this case that you would want to - it all depends on who they are and their qualifications. Of course I can't imagine anyone not picking the best talented individual he could possibly attain and I am certain you agree yourself that there is great competence in the field. I think that the counselling should be made of the bar association with the selection of this man. It is a most important decision in state government.

HAROLD ARBANAS - District 13 - Cascade

I would like to hear some of your comments on executive reorganization and specifically whether there should be single executives as heads of departments or boards.

GOVERNOR BABCOCK: I have some very serious thoughts about this, and I probably have not studied this reorganization as much as I should. I can only say that if we count heads you'll find you haven't eliminated any people but have added some, so if we talk about executive reorganization in the minds of economy I don't quite believe that the figures or statistics will justify it. Now again I am a great believer in lay boards. I think you should draw on the counsel of common people in the lay area in the organization of many of these departments. I know that we talked about some 121 departments, a figure that I don't think was entirely correct. I think that some of them were there as a matter of convenience. They were not costly to government as such. Many boards were just honorary boards so I don't believe that you have affected the amount of efficiency and economy in this executive reorganization that has probably been said or anticipated. Again I think in eliminating your board members, I think it is bad because again it separates government from the people more. I remember the board of education that tried to always place appointments according to geographic considerations and also in a political manner so that all of the state had, they felt, that they had at least equal representation of their problems. I think that this is true in many of the other departments and I think that we should maintain it.

ARCHIE O. WILSON - District 6 - Eastern Montana

I represent five counties - In our deliberations in trying to set up the power of the executive, I think we have to be constantly thinking of the drafting of the legislative powers. In other words a strong legislative body would assist us in being able to place more powers in the executive department, for if we don't have a strong legislative body it would be terrible. Have you any suggestions as to how an efficiently strengthened legislative body can be brought about?

GOVERNOR BABCOCK: Mr. Wilson I think that we have a fair balance right now. I doubt that perhaps after this last legislative session that this was a disappointment to the general public, and I don't know whether this is justified or not. I think these people were making quite lengthy deliberations that were in the best interest of the state. I am a great believer that we should keep our

balance between our three branches of our government - judicial, executive, and legislative. I think we have a fair balance there now. And that is why I think that this is possibly one part of the constitution that does not need too much repair. Again, I think if one is strengthened over the other the due process is hurt. Again, I can understand your concern because this is one of the problems I find the most difficult. But I do think that we should keep this balance. I don't think there is any need for strengthening the legislature any more than is now in the constitution. I think also that the executive department with the measures that I have outlined and I think many of you are thinking about, would bring the balance that I think is about right.

ARCHIE O. WILSON

I was thinking in the terms of efficiency perhaps providing the legislature with some assistant staff and office space.

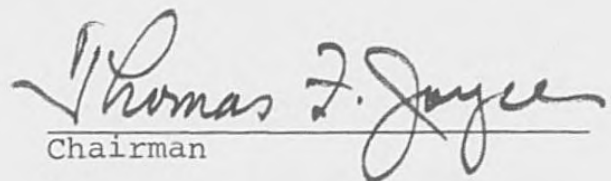
GOVERNOR BABCOCK: Let me comment on that because this has been thought about many, many times. I think an annual session, which I recommend, would at least alleviate some of the workload that must confront them every year to two years. While there is no question that we probably need some additional staff, let's again be thinking of something that is so important, and that is the cost of government. Now I'm hopeful, and, if I leave no other thought today, we must be reminded that the taxpayers' dollar is not going around and doing the job that you wish it would, because it is not there. I have been on this road, and I know how difficult it is to know the needed things of government and then not be able to do them because you lack the financial needs. The legislature is a costly proceedings - I am sure that you well know. How much more money you people can spend in providing them with a greater secretarial service I don't know. Having served there three sessions I thought I got by all right. I worked hard, I thought I was adequately compensated at \$10.00 a day with no subsistence because I thought it was part of the public service for me to sit at these proceedings. I realize that things are different today, but once again when you run out of money there's nothing more frustrating for a chief executive in the world than to have the things that you know need to be done, and then can't do them. I know something else that you are all going to be confronted with, I am afraid, and that is the Supreme Court ruling on financing education through real property tax. This is going to be chaotic. We're back to the money game again. What you are going to do then I don't know. So I measure these things I guess in a comedy, Archie - if you had a lot of money it would be real nice, but I just don't think we have this money. I think they are getting by doing a fair job, and I think the annual session will alleviate many of the problems that we have been talking about.


THOMAS F. JOYCE - District 20 - Silver Bow

Governor, if you have a few minutes I would like to ask what was your experience, or what would you recommend with reference specifically say to the elected officials remaining on the new constitutionally established board of education?

GOVERNOR BABCOCK: Well, I think it's to some degree necessary, and I don't have a real positive recommendation to that. I also know that the same deliberations apply as to whether we should have two separate boards or not. I would think that in each case that you would at least have one elected official to act as a counsel. I know we feel that politics shouldn't be brought in to these things, but I would think that you would at least keep one elected ex officio member, to give it some value of continuity. I very definitely feel the staggered terms of the board of education members are essential. I know again that some people think that an eight year term is awfully long, but it gives continuity. I think that if this is any way of alleviating political pressure you should do it; otherwise you might want to eliminate them all - I don't know. But I recommend that at least you should keep an elected member that would be there to counsel. I would like to add just one more word concerning the elected auditor and the treasurer. I would urge you to give serious consideration to having this be the check and balance that I think is completely essential in taking care of the taxpayers' monies. You want to alleviate, I think, any temptations at all, and it is sensible to assume that they could exist. I just think that you would have the lack of faith and trust of the people if you obliterated a complete check and balance of the monies of the state of Montana. Because that to me is a very important part. I don't know whether we are running out of time, if we are I would say that I am pleased to have been asked to have this discussion with you, that I may have added something, that any time I could be with you and discuss any subject I would be pleased to do so. I should note that for the records this was unrehearsed and that I did not know what questions I would be answering, but I hope they will help in answering your pursuit to further investigations.

CHAIRMAN JOYCE: Thank you very much Governor.


Chairman


Secretary