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MONTANA CONSTITUTIONAL CONVENTION

STATE CAPITOL

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GENERAL GOVERNMENT AND

CONSTITUTIONAL AMENDMENT COMMITTEE

Room 410, Capitol Building

January 25, 1972

10 a.m.

Committee Chairman: Mark Etchart

MINUTES OF THE SIXTH MEETING OF THE GENERAL GOVERNMENT AND CONSTITUTIONAL AMENDMENT COMMITTEE

Discussion of Article XIX, Sections 8 and 9;
Discussion of Article IV.

Roll Call:

Mark Etchart, Chairman	Present
Paul K. Harlow, V. Chairman	Present
Don E. Belcher	Present
Bruce M. Brown	Present
Lyman W. Choate	Present
Otto T. Habedank	Present
Peter "Pete" Lorello	Present
Robert Vermillion	Present

INTERESTED PERSONS TESTIFYING:

Name	Address	Occupation
C. B. McNeil	Polson	Delegate
Walter Stamm	Dillon	Retired Accountant
Frances Satterthwaite	Helena	Lobbyist, Inter-tribal Board
Earl Holman	Butte	County Commissioner

The meeting recessed at noon and reconvened at 1:30 and adjourned at 4:30 p.m.

The SIXTH meeting of the General Government and Constitutional Amendment Committee was called to order at 10 a.m. January 25 by Chairman Etchart. The minutes were read and approved. Roll call was taken.

Delegate C. B. McNeil testified on Article IV, Distribution of Powers. He wants to leave the article as it remains. He strongly urges the committee to leave it in its exact wording.

Mr. Brown remarked that the Legislative Council recommended that this section be left in and the Constitutional Convention Committee thought it should be taken out if the powers are set forth in other articles.

Mr. McNeil said there are no provisions for distribution of powers in the federal constitution and the model constitution is deceiving. Mr. McNeil thought there should be a strong consideration before the committee thinks of taking it out.

Mr. Etchart said in the original meeting, it was decided to keep it as it is. Mr. Belcher moved that we retain Article IV, Distribution of Powers. It was seconded and carried.

Mr. Walter Stamm from Dillon testified on boundaries. He said that you could save on the economy of words by relying on the federal law and leave it out of the state constitution but he doesn't believe we should do this. He thinks it should be clearly stated where the Montana boundaries are as there are no two maps that agree on the boundaries. (See attachment #1 for his written proposal on the boundaries).

Article XIX, Sections 8 and 9, Constitutional Revision and Amendments was opened for discussion. Mr. Habedank felt the constitution should be presented to the people at a set number of years so that the people would feel they are a part of the constitution. Most of the time the people would vote rejecting the idea of having a constitutional convention but at least they would have their say. He doesn't think the legislature should be able to amend it at each session. Mr. Habedank said to satisfy the people we should provide for initiative and referendum but he thinks referendum is far superior to initiative. He said the constitution should be acted on by the people at set intervals so that it is kept up to date.

Mr. Vermillion remarked that Alaska has the review provision and their legislature didn't feel the people had enough knowledge about the initiatives so they didn't provide the funds. Mr. Choate said that if the people have no reason to vote against something they will vote for it. He thought it would take a lot of publicity to get another convention called. Mr. Choate said you could provide for the initiative that the people could call a convention if they wanted it.

Mr. Harlow thought a ten year review was much too short as it didn't give the constitution a chance to be understood by the people. He thought it would get the same reaction as Alaska's did. Mr. Harlow is really opposed to any review as it gets away from the legislature making the laws but if it was decided to have a review it should be for a minimum of 20 years. Mr. Brown felt it would come before the floor if we don't put it in. He feels that if a good document is written it will be hard to amend and then there should be strict provisions for amendments. Mr. Habedank said there should be some fixed period so we are not at the mercy of the legislature to decide whether there needs to be a constitutional convention. Mr. Belcher said he liked the Alaskan section but thought it should be a longer time period. Mr. Etchart commented that there could be two types of amendments; one by the people and one by referendum.

Mr. Harlow wanted to know who would be the judge if we limit the amendments proposed by initiative. He said we could limit the number of amendments the legislature passes but not the number the people pass.

The qualifications of delegates was discussed. Mr. Habedank moved that the qualifications for membership in a constitutional convention be the same as the highest qualifications required for membership in the legislative assembly. Mr. Brown seconded the motion. Mr. Etchart said we could adopt it as the feeling of the committee but it wouldn't be hard and fast and it would still be open for consideration later. The motion carried.

Mr. Etchart mentioned that at the last meeting it was thought that the constitutional rules of procedure should be left as they are as they are the general rules of the convention. Mr. Harlow said there is no mention in the constitution as to rules of procedure.

The question of filling vacancies was discussed. Right now the county commissioners fill the vacancies. Mr. Etchart stated that vacancies in the constitution should be filled in the same manner as the legislature unless otherwise provided by law. It allows for the legislature to provide some other method of filling vacancies and if not it would be done by the same method the legislature does.

Mr. Habedank said he would draw up a suggested proposal like the model constitution with the provision for either a 2/3 vote or every 16 years to refer same to the voters. This will be presented as a delegate proposal after more consideration by the committee.

Mr. Brown said that initiatives would have to be voted on not less than four months after they are filed in the state. He said the convention is higher than the legislative, judicial or executive branch of government. Mr. Harlow said it should be established as a fundamental rule and have it apply to this matter. Mr. Choate said a convention can be called to author, amend or revise the constitution and it is not limited or else a limited convention could be called.

Mr. Habedank said he would object to letting the people call a convention for amending one amendment and it should be only when a general overhaul is needed and then it should be unlimited. Mr. Grady said some states have the word "limited" in their constitutions but he doesn't know if it has been used recently.

Frances Satterthwaite, registered lobbyist for the Inter-tribal Board, testified on Ordinance I, Section 2 that it should be retained as it is. The tax exempt status of the lands is a touchy subject because in reality the treaties made them a nation. The Navajo people refer to themselves as the Navajo nation and so do the Sioux. Mr. Brown asked her if she thought the committee had the power to amend that section. She said if the convention decided to write anything into the constitution that would give the state new control to write tax laws it would be null and void by Public Law 280. Mr. Habedank asked what the attitude would be if the United States government changed their provisions and allowed the states to have jurisdiction over Indian affairs. Mrs. Satterthwaite said it would meet with violent opposition. She said there are seven tribes and they all have their own opinions as to whether to go under state jurisdiction. Mr. Etchart stated that the Flathead reservation has gone under state jurisdiction and Mr. Harlow added that violators on that reservation are put in county jails and not Indian jails. Mr. Harlow said there is this nationwide talk of disbanding Indian reservations and if this occurs would this make the Indians liable to all the tax laws on the books now? Mrs. Satterthwaite answered if a termination policy was put into effect the land would no longer be tax exempt. It would have to be the vote of the entire reservation to disband. (See attachment #2).

Mr. Grady asked if there were specific cites that say we cannot deal with this ordinance and she stated it was federal statues and federal laws that control this. Mr. Etchart stated that it was pretty much the opinion of the committee earlier that we couldn't do much with this ordinance. Mr. Grady said the legal staff called the North Dakotan convention and they said they couldn't change the ordinances, but they could refer to the form but not the content. Mrs. Satterthwaite said that would meet with her group's approval.

The meeting was recessed at noon until 1:30 p.m.

The committee reconvened their discussion on Article XIX. Amendments may be proposed by the legislative assembly and if adopted it becomes a part of the constitution. It was mentioned that a bad thing about initiatives by the people is that they never have a chance to debate the initiative like a committee does. Mr. Habedank thought there should be some process like style and drafting to correct the problems before it goes back to the people for their vote. Mr. Brown said it could be referred to the Attorney General for style and drafting. It was mentioned that an initiative by the people would probably be prepared by a legal staff but it still wouldn't be debated. Mr. Habedank is very definitely opposed to limiting the number of amendments that can be made especially with a unicameral legislature where they wouldn't be trying to beat the other house.

Mr. Belcher said if we don't limit the number of amendments that go to the people, it is going to be hard to educate them on all the amendments.

Mr. Etchart asked if it was the general opinion that there be an unlimited number of amendments and Mr. Belcher objected as he thinks there should be some restriction. Mr. Habedank brought up the idea of limiting the initiatives to calling a constitutional convention.

Mr. Earl Holman, County Commissioner from Butte, testified on gambling. He was for legalized licensed gambling. He thinks it should be licensed to such an extent that if one part of the state wants gambling and one part doesn't that would be allowed. He thinks gambling should be tried by a few counties to see how it works. He also thinks it should be heavily taxed so it could provide relief to the property taxes. He said he received only a few unfavorable comments from all the people he talked to. See attachment #3.

There being no further business the meeting was adjourned.

Mark Etchart

Chairman

Bobbie Murphy
Secretary