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

GENERAL GOVERNMENT AND  
CONSTITUTIONAL AMENDMENT COMMITTEE

Room 410, Capitol Building

January 27, 1972  
1:15 p.m.

Committee Chairman: Mark Etchart

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

Discussion of Article IX, Sections 11, 12, and 13;  
Discussion of Article V.

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 Lorello	Present
Robert Vermillion	Present

INTERESTED PERSONS TESTIFYING:

<u>Name</u>	<u>Address</u>	<u>Occupation</u>
Roy G. Crosby, Jr.	Missoula	Lobbyist, Citizens for Constitutional Government

Meeting adjourned at 3:30 p.m.

The EIGHTH meeting of the General Government and Constitutional Amendment Committee was called to order by Chairman Etchart at 10:15 a.m. January 27, 1972 in Room 410. The secretary called roll and the minutes of the last meeting were read. The minutes were approved as read.

Mr. Grady checked with the legal staff and there is no reason why the legislature can't handle the absentee ballot problem. It is strictly a legislative matter. Mr. Lorello said that he thinks sometimes the people get a little dissatisfied with the legislature and they try to get their ideas into the constitution.

Mr. Etchart has done some checking on the age qualification and so has the Bill of Rights Committee. Both committees will keep working and thinking on this and probably get together later. Each delegate proposal has to have a hearing.

Mr. Grady read Article IX, Sections 11, 12 and 13. Mr. Etchart said it was suggested at one time that we delete all three sections. Mr. Vermillion is concerned about the age limitation and this is being considered in the Bill of Rights Committee. Mr. Habedank said in regards to the qualifications of these county offices, Article XVI, Section 5 refers back to Section 2 of Article IX. Mr. Choate thought that we should retain the substance of Article IX, Section 13, as it gives a little muscle to the legality of the vote. Mr. Brown's reasoning for recommending deletion is that under Section 11, it is going to be taken care of. He thinks the legislature should make the requirements for the qualifications of office. The Legislative Council thinks it should be deleted. Mr. Habedank thought Section 11 should be revised but left in. He suggested the wording could be "that any person qualified to vote at general elections shall be eligible to run for any city, county, or state office unless otherwise prescribed in the legislative assembly". Mr. Etchart agreed with Mr. Habedank that Section 13 should be left in and Section 11 should be revised. Mr. Harlow also agrees on the revision of Section 11 and he emphasized the importance of Section 13. He felt that the decisions of the various study groups doesn't necessarily mean it would be best for our constitution. The present constitution does provide the people with this provision and he thinks they will want it.

It was the general opinion, after discussion, that the following revisions be made to Article IX, Sections 11, 12 and 13. The word "public" should be inserted before the word "office" and the paragraph will end after legislative assembly. Section 12 will be deleted and Section 13 will remain the same. Mr. Vermillion still objects as he thinks it is hard to foresee what problems might arise and then legislature couldn't act on them. Mr. Brown's present proposal takes care of the whole Article except Sections 11, 12 and 13 and he is going to incorporate them into his proposal.

Mr. Etchart said he would like the delegate proposals from his committee to have just one signature. If there is a proposal from this committee by one of its members and we want to make a proposal to another committee, more signatures would be fine.

Mr. Roy G. Crosly, Jr. of Missoula testified as a lobbyist for the Citizens for Constitutional Government. He said his biggest concern was the right to referendum. He stated that the people have to go out and get a large number of signatures and this is harder to do for the people than it is for an organization. He didn't like the idea that an issue can be voted down by the people and yet it keeps coming up again for election without having to get the required signatures again. He said he wasn't against the constitutional convention and the revision of the constitution but he thought it should be what the people want. The subject of school bonds was brought up and it was stated that the school bonds come under school laws. Mr. Crosly thinks the people should be educated well enough the first time a bond issue is presented so that it doesn't have to keep appearing on the ballot. (See attachment for written testimony).

The meeting recessed at 12 noon and reconvened at 1:15 p.m.

Mr. Brown read his proposal and told what changes he proposed on Article V, Initiative, referendum and recall. He said he rewrote it into sections and tried to simplify it.

Mr. Harlow said there are two powers of legislative appeal as set up in the present constitution. One is that the people can come up with an idea and then it is put to the people for a vote and the other way is to take a law out of the books which they don't like and vote to keep it or not. Mr. Grady said a referendum is a measure on which the legislature has acted and an initiative is where the people have done the work. Mr. Habedank said if we adopt Mr. Brown's revision this would be an amendment to our constitution the way it is now. The present wording has already stood the test of court battles. Mr. Grady said the veto that the constitution refers to is that the governor can't veto an amendment after the people have voted on it. If he lets it go by his desk before it is referred to the people, then the governor cannot veto that issue. Mr. Harlow stated that if an amendment of the constitution is passed by both houses in sincerity, the governor's veto doesn't mean a thing. Mr. Vermillion said he thinks the language should be clarified. It was decided upon that the part of the section regarding the veto should read as "the veto power of the governor shall not extend to measures to be referred to the people by the legislative assembly or to initiative or referendum petitions." It was also decided to change the reference of counties to "legislative districts" and that would take care of what the committee wants to do with Article V, Section 1 on initiatives and referendum.

The topic of recall was brought up. Right now our constitution doesn't have any recall. There are two proposals being submitted now. Mr. Habedank mentioned that the Montana Plan says that even though a judge is appointed his name does appear on the ballot every four years and this is a type of recall. Mr. Etchart said if we take Section 1 and have everything in it as in the present constitution except the minor changes we agreed to and add a new section for recall this would complete Article V.

The committee reviewed the citizens proposals and the meeting was adjourned. The next meeting will be Friday, January 28 at 1:30.

*Mark Etchart*

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CHAIRMAN

*Bobbie Murphy*

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SECRETARY