

About the Constitution

What Experts Think

In the days ahead the Tribune will present special interpretations of the proposed new constitution by 10 members of the University of Montana faculty. The interpretations were commissioned by the University's Bureau of Government Research under the direction of Dr. Ellis Waldron.

The essays are brought together in the bureau's Public Affairs report No. 11.

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CITIZEN PARTICIPATION

The proposed constitution establishes procedures by which Montana citizens may participate directly in their own government. These procedures are embodied in articles dealing with suffrage and elections, general government, and constitutional revision.

SUFFRAGE AND ELECTIONS

The draft constitution essentially retains provisions of the present document relating to suffrage and elections, but uses about half as many words. None of the provisions to be deleted from the present constitution is of great significance, nor does the new constitution introduce drastic or untested innovations, excepting possibly legislative discretion to authorize poll booth registration.

ELIGIBILITY AND QUALIFICATIONS

To qualify to vote in Montana, a person must be a citizen of the United States, at least 18 years of age, and meet registration and residence requirements. The age requirement is that required by the recent amendment to the U.S. Constitution. Eligibility requirements are similar to those found in most states. A person otherwise qualified may be denied voter privileges on two grounds: imprisonment for committing a felony, or court determination that he is of unsound mind.

Eligibility for office holding is identical to that of voters, except that the legislature may add qualifications and the draft constitution specifies additional qualifications for certain elective offices. A person convicted of a felony would become eligible to hold office upon final discharge from state supervision, without the present requirement of a pardon or citizenship restoration by the governor.

REGISTRATION: The legislature would establish a system of voter registration, and also "may provide for a system of poll booth registration." The present system of voter registration in Montana leaves much to be desired. Failure to register is the most common reason for not voting. But all democratic systems find, especially as their populations become increasingly urbanized, that some form of voter registration before election day is needed to establish that the prospective voter is eligible. Poll booth registration would eliminate the present safeguards against such well-known election frauds as "repeating" and "colonizing." The legislature is free, of course, to ignore poll booth registration and to enact future registration statutes as circumstances may require.

ELECTION PROCEDURES: The legislature is required to provide procedures for the conduct of elections. The provisions that the winning candidate in an election need have only a plurality and that a voter is immune from arrest, with some exceptions are retained.

Suffrage and election provisions of the draft constitution would be a substantial improvement. Broad discretionary authority has been granted the legislature, while adequate safeguards protect the citizen's interest in free and fair elections.

GENERAL GOVERNMENT
A variety of provisions not easily fitted elsewhere into the draft constitution were brought together here. Their general effect would continue the spirit, if not the letter, of the present con-

stitution. A notable exception is the option that would enable the legislature to legalize gambling, one of three separate issues that will appear on the ratification ballot.

DIRECT LEGISLATION: The initiative and referendum provisions of the present constitution are liberalized in the draft constitution. Both initiative and referendum petitions would require signatures of 5 per cent of voters. By comparison, initiatives now require 8 per cent. Distributive provisions for both initiative and referendum petitions would require the minimum percentage of signatures in one-third of the legislative districts (which could be largely urban) instead of the present two-fifths of the counties — a substantial concession to the state's urban populations, as against the usual veto implicit in the present requirement.

GAMBLING: The present provision which prohibits the legislature or the people from legalizing gambling is retained, but a separate issue on the June ballot permits voters to opt for an alternate provision which would empower the legislature to legalize "forms of gambling, lotteries, or gift enterprises." Under the optional gambling provision, the people could legalize gambling directly through the initiative.

Those who espouse gambling as a panacea for Montana financial ills should be admonished that elsewhere (with the exception of New Jersey's lottery) it has failed to produce revenues at the level promised by its proponents. Moreover, additional law enforcement costs and social costs in rising incidence of gambling-associated crime suggest that the introduction of gambling into this state would exact a substantial, if not fully visible, price.

CONSTITUTIONAL REVISION PRESENT PROCEDURES RETAINED: The draft constitution retains amendment processes of the present constitution essentially unchanged, but introduces an important new process as well, the popular initiative of constitutional amendments. It also eliminates the present limitation of three amendments which the legislature may submit in a single general election. The present constitution may be amended either:

NEW AMENDMENT PROCEDURES: (1) Voters could bypass the legislature in the initiative and ratification of amendments. Petitions to initiate an amendment would require signatures of 10 per cent of the voters, with at least 10 per cent in each of two-fifths of the legislative districts (not counties); the initiative amendment would be adopted if approved by a majority of those voting on the question. (2) A similar initiative approach could be used by the people to call a convention. (3) The question of calling a convention must be placed on the general election ballot once in

every 20 years. (4) There would be no limit on the number of amendments that could be submitted to the people by the legislature at any one general election. (5) The legislature could specify that delegates to future conventions be elected on a non-partisan ballot.

COMMENT: With the changes indicated, the amending process would be much easier than under the present constitution. Of the five changes listed, all but one have merit. The exception is the initiative to adopt single amendments. It has been neither a successful nor an effective mode of revision in states that have employed it. Well-financed, articulate minority interests have found the initiative to be a handy weapon to exploit. More positively, the initiative may be viewed as a popular safeguard against legislative inaction on demands for constitutional change. It does seem less essential as a safeguard in a constitution which affords other, more liberalized opportunities for change.

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Burec Eyes East Bench Job Bids

Bids were opened Tuesday, in the Great Falls office of the Bureau of Reclamation for earthwork and structures for pipe drains, berm (dike area) construction, and modification of channels on the East Bench Unit near Dillon.

The work, to be performed includes construction of 3½ miles of pipe drains, construction of a berm along part of an existing canal, and modification of a total of approximately .6 miles of channel in three existing channels.

The apparent low bidder was Clark Bros. Contractors, Victor, with a bid of \$107,647. The only other bid was received from Bill Brothers Excavating and Construction Co., Butte, for \$141,741.00. The Engineer's Estimate for performance of the work is \$91,321.20.

Bids are currently under consideration and award will be made at a later date.

Indians Sue Over Cig Tax Status

BUTTE (AP) — Store operators on the Flathead Indian Reservation have filed a suit in federal court asking that Missoula and Lake county law officers be restrained from seizing revenue-free cigarettes for sale on the reservation.

The suit was filed by the Confederated Salish-Kootenai Tribe, with tribal council chairman Harold W. Mitchell Jr. as one of the plaintiffs.

Other plaintiffs are Joseph A. Wheeler Jr. and Dorothy E. Wheeler Clickenbeard, brother and sister and until recently store-owners on Indian land at which cigarettes were offered at \$2.99 per carton without the Montana revenue stamp.

The same cigarettes would cost over \$4 per carton in stores where the tax applies.

Attorneys for the plaintiffs ask an injunction halting further interference by Montana officers with Indians selling cigarettes on Indian lands. They also ask that the court reaffirm that state revenue laws and authority end at reservation boundaries.

Although the tribal council agreed to an extension of Montana law to the reservation in criminal matters and in eight specific instances of civil matters, the Indians contend the eight instances did not cover the right of the state to tax cigarettes on the reservation.

New Postmaster Named at Geraldine

SAN FRANCISCO (AP) — Appointment of postmasters in five western states has been announced by Fred Hulon, regional postmaster general.

The appointments, effective April 30, include: Montana—Geraldine, Thomas A. Reeves.

Treasure State Deaths

MILES CITY — PETERSON, Gustaf, 87, died at a local hospital. Services will be Wednesday at 2 p.m. at the First Lutheran Church. Born in Sweden, he married Marie Modin in 1913 in Minneapolis. They homesteaded near Miles City in 1914 and later he operated a machine shop here. Survivors include a daughter, Mrs. Ed Gran, Miles City; three sons and a brother.

Governor Picks Sidney Man for Highway Board

HELENA (AP) — The appointment of Jay Lalonde, a Sidney businessman, to Montana's Highway Commission was announced Tuesday by Gov. Forrest H. Anderson.

A Democrat, Lalonde fills the vacancy caused by the death of

R. E. "Pete" Coffey, Wolf Point. Coffey, who died last March 18, was serving a four-year term which started Feb. 1, 1971.

The new commissioner was 1960-61 president of the Montana Contractors Association.

He currently is chief executive officer of the Richland National Bank; vice president of Tenderloin Industries, a commercial feedlot operation; and president of Yellowstone Livestock Co., all of Sidney.

The governor, in a prepared statement, said Lalonde "has demonstrated great ability in business and a strong dedication to his community and his state. I believe these assets should make him a very effective member of the Montana Highway Commission."

A native of Bainville, Lalonde attended the University of Montana and in 1937 joined his father in contracting, agriculture and other businesses. He managed the family corporations until 1963.

Lalonde has been president of the Sidney Chamber of Commerce.

On the state's road agency, he represents Dist. 14, which covers the counties of Roosevelt, Sheridan, Daniels, Phillips, Valley, Dawson, McCone, Prairie, Richland, Wibaux, Garfield, Petroleum and Fergus.

Police Demotion Follows Gun Incident in Missoula

MISSOULA (AP) — A Missoula police lieutenant involved in the shooting death of another man in his home last month has been demoted to patrolman and suspended for 60 days, according to Chief of Police E. G. Hanson.

The disciplinary action against Warren Cochran was taken by the Missoula City Police Commission, Hanson said.

James Feucht was shot by Patrolman David Strom on April 12 after Feucht had entered Cochran's home. Feucht had threatened to shoot Cochran because of an alleged relationship with Mrs. Feucht.

Cochran testified before a coroner's jury that he was a friend of Mrs. Feucht and had helped her with some personal problems.

In a prepared statement, Hanson said: "It was felt...that a senior officer who is trying to assist any person with a personal problem should have done so at the police station or in the accompaniment of another officer; thereby, avoiding any embarrassment to the Police Department and the City of Missoula."

Cochran had been off duty when Strom followed Feucht into the Cochran home. Later, Strom killed Feucht with a shotgun and was cleared by the inquest.



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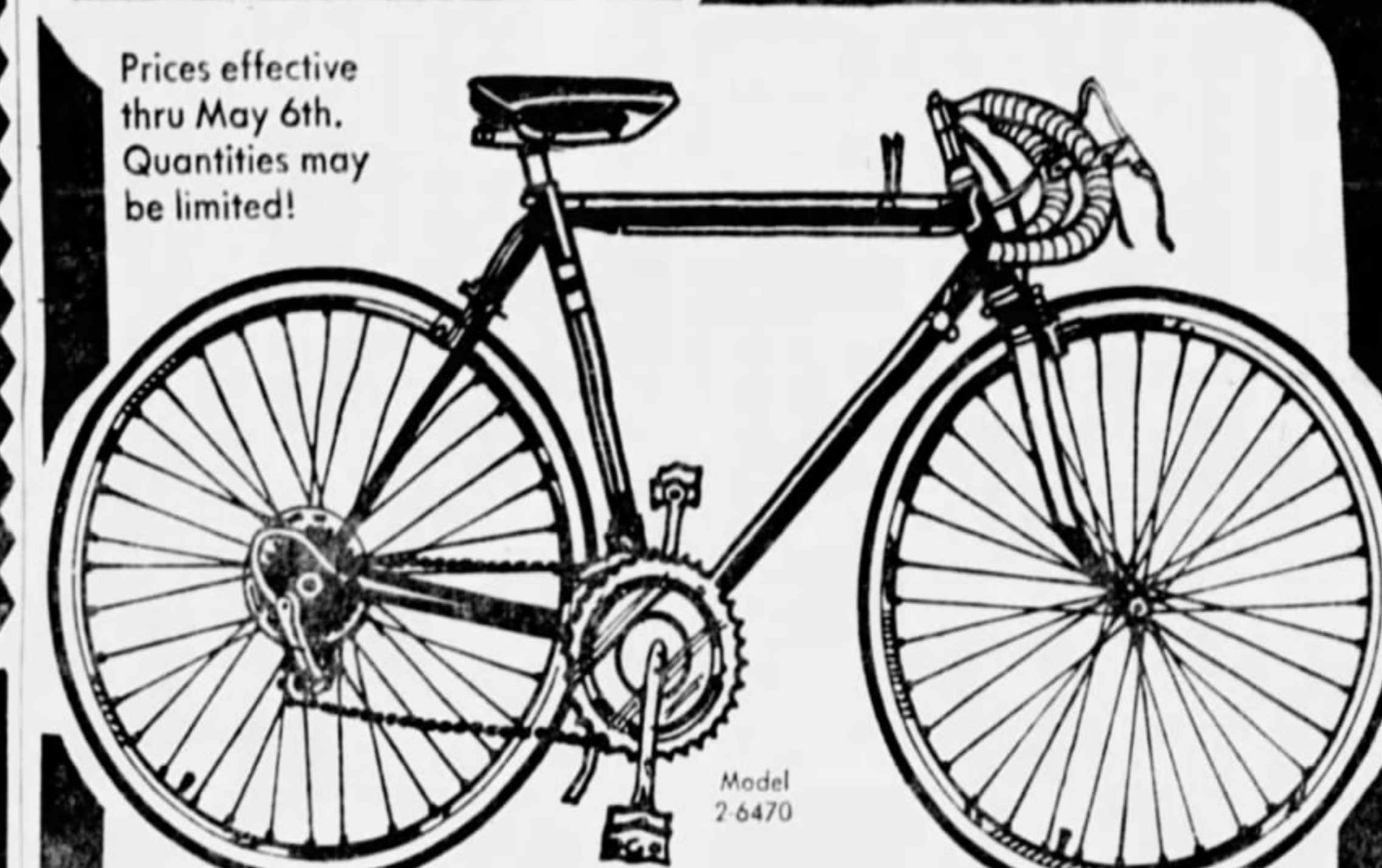
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