

State of Change: Gender and the 1972 Montana Constitutional Convention

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In October of 1968, Montanans discovered they were destined to become the “boiler-room of the nation.”¹ The United States Bureau of Reclamation had just published the North Central Power Study, calling for the “construction of forty-two coal-powered generating plants,” each supplying, at peak production, “a whopping 10,000 megawatt” hours using coal from strip mines.² Of the forty-two plants, eastern Montana would house twenty-one, with the others spread throughout the Dakotas and Wyoming. The study also estimated that “2.6 million acre-feet of water from the Yellowstone River system might be needed each year to cool the gargantuan coal plants.”³ These numbers caught the attention of Montanans. Many citizens joined in mounting an “environmental crusade” to save their state from the “scarred landscape, damaged river systems, air pollution, and social dislocations that such massive developments might bring.”⁴

One concerned Montanan, Louise Cross of Glendive, had personal experience with the repercussions of strip mining. Cross frequently compared the “spoil banks at Colstrip” to a human-made Makoshika State Park, a desert landscape “devoid of either plant or animal life” that was created not in millennia, but in a few weeks.⁵ Living near the state park, a “rugged, yet delicate land” of rock strata carved by the Yellowstone River, Cross was a daily witness to the power of nature.⁶ Although she found beauty in the Makoshika badlands, there was no redemption in the spoils of Colstrip. Her concern for Montana’s environment led this mother of six to political action. Already involved in civic affairs, in 1970, Cross began chairing a special committee “on strip mining and land reclamation” for the American Association of University

¹ Krys Holmes, *Montana: Stories of the Land*, (Helena, MT: Farcountry Press, 2008), 421.

² Michael P. Malone, Richard B. Roeder, and William L. Lang, *Montana: A History of Two Centuries, Revised Edition*, (Seattle and London: University of Washington Press, 1991), 339.

³ Malone, et. al., *Montana*, 339.

⁴ Ibid.

⁵ *Committee on Natural Resources and Agriculture: Joint Hearing of Committee on Bill of Rights and Committee on Natural Resources and Agriculture*, 1972 Constitutional Convention (statement of Louise Cross, Chairman of Committee on Natural Resources and Agriculture). Natural Resources Proposals, “Louise Cross Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

⁶ Friends of Makoshika, Inc., “History,” <http://makoshika.org/history.htm>.

Women (AAUW), dedicating two-and a-half years to researching “the effects of strip mining on people and land degradation.”⁷ With Cross at the helm, the Glendive Branch of the AAUW passed a resolution requiring mandatory reclamation legislation. Furthermore, the resolution called for all political candidates to “be polled as to their stand on reclamation laws and their views to be made known to their respective constituents.”⁸ The resolution, sent to and passed by the Montana Division of the AAUW, brought the ideas of land reclamation and environmental protection to the attention of concerned citizens statewide. In February 1971, Cross made a trip to Helena in a futile attempt to testify at the state legislature regarding a bill that would enforce mining regulations. Representing 1,200 AAUW members in support of land reclamation, Cross felt that “an individual [had] about as much chance to influence the legislature as a snowflake in July.”⁹ Thus, when Cross saw an opportunity to influence the state’s outlook on environmental protection and deploy her years of research, she threw in her hat to run as a delegate for the 1972 Montana Constitutional Convention.

Louise Cross and ninety-nine others were elected to represent the citizens of Montana at the convention. She was also one of nineteen women who served as delegates, believed to be the most ever to sit in a state constitutional convention. This group of women came from a variety of backgrounds, and included the oldest and youngest convention delegates. They also represented multiple organizations, from the AAUW, the League of Women Voters (LWV), and the Business and Professional Women of Montana (BPW). Women’s participation in these organizations was influential when deciding to run for election, and in preparing them for the convention. These

⁷ Quotes: “Louise Cross: Democrat,” *Glendive Ranger Review*, August 1, 1971. Note on Date: R.C. Hurd, “You Find Time to do What You Want to,” *The Billings Gazette*, June 19, 1973, morning edition.

⁸ Louise Cross to Margaret Pyeatt, Resolutions Chairman of Montana Division of AAUW, April 14, 1970, Support for Con-Con and Reorganization, “Louise Cross Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

⁹ “Society and Clubs: AAUW,” *Glendive Ranger Review*, February 14, 1971.

nineteen women played an integral role in the calling, writing, and passage of the 1972 Constitution.

When delegate Daphne Bugbee said, “We want our government to serve us, to be where we can look at it, feel it, touch it and know it,” she could not have voiced the desires of Montana citizens more concisely.¹⁰ During the 1960s, the state became more aware of the weaknesses of its governing document. The overwhelming concern was that the state had simply outgrown the 1889 charter that came with statehood. Many felt the document had become unwieldy, bogged down by its twenty-one articles and thirty-six amendments, “details, restrictions, and legal provisions” that only made the government’s job more difficult.¹¹ Montanans also realized that their state had changed significantly over the decades.

The 1889 Constitution represented a new state dominated by mining and ranching communities, which had supplied many of the delegates to the 1889 convention. By the 1970s, Montana had diversified, in both population and economy, with mining interests no longer controlling state and local politics. Although still a strong “agricultural-natural resources state” due to “strong farm years” and new technologies to increase oil and coal production, Montana had broadened its economy after World War II through increased emphasis on service industries throughout the state.¹² Such economic changes further emphasized the inadequacy of the 1889 Constitution.

¹⁰ Jesse Birnbaum, “Fresh Chance Gulch,” *Time*, April 10, 1972, 18.

¹¹ Notes on numbers of articles and amendments: Constitution of the State of Montana, Amended through the 1966 General Election. Note on quote: Montana Constitution Revision Commission, *Why Vote on Referendum 67*, Missoula, MT: Montana Constitutional Convention Vertical File, Montana Historical Society Archives, Helena, Montana).

¹² Note on agricultural-natural resources: Michael P. Malone, *Montana: A Contemporary Profile*, (Helena, MT: American & World Geographic Publishing, 1996), 55. Note on farming and service industries: Paul E. Polzin, “Montana’s Economy: All Sectors Contribute to Economic Growth,” *Montana Business Quarterly* (Summer 2007), <http://www.entrepreneur.com/tradejournals/article/172012561.html>.

Although Montana entered the 1970s with a stable economy, the political realm was experiencing major changes. Previously, conservative politics in Montana had reigned supreme on a state and local level, especially with the backing of ranchers and large corporations such as Montana Power and the Anaconda Company. Oddly enough, liberals, with support from the natural resources and railroad unions and the Farmers Union, tended to control the national congressional seats. In his work, *Montana: A Contemporary Profile*, historian Michael P. Malone refers to this phenomenon as “political schizophrenia.”¹³ But the politics of Montanans were beginning to change. The events at the national level would have a profound influence on the transformation of Montana’s political culture.

Throughout the 1960s and early 1970s, waves of political and cultural movements reverberated throughout American society. Addressing and reducing discrimination was one of the key political issues during this era. The 1960s saw the passage of various civil rights acts, including the Civil Rights Acts of 1964, which incorporated a section that prohibited “employment discrimination based on an employee’s race, color, religion, sex, or national origin.”¹⁴ This act also established the Equal Economic Opportunity Commission (EEOC), which provided an avenue for women to tackle sex discrimination complaints within the workplace. Women took advantage of this opportunity, filing over 500 complaints based on work-related sexual discrimination.¹⁵ The 1968 Civil Rights Act built upon these foundations and extended anti-discrimination laws, making discrimination “based upon a wide variety of factors . . . illegal at the federal level.”¹⁶ With the civil rights acts in place and a firm anti-

¹³ As quoted in Malone, *Montana: A Contemporary Profile*, 55.

¹⁴ Kelly Boyer Sagert, *The 1970s*, (Westport, CT: Greenwood Press, 2007), 21.

¹⁵ Mary P. Ryan, *Mysteries of Sex: Tracing Women and Men Through American History*, (Chapel Hill: University of North Carolina Press, 2006), 250.

¹⁶ Sagert, 21.

discrimination foundation established, other movements attempted to put this legislation into practice.

The feminist movement experienced revitalization in the 1960s and built upon the Civil Rights Acts' foundation. President John F. Kennedy established the Commission on the Status of Women in 1961, and the National Organization for Women (NOW) organized in 1967.¹⁷ Then, in 1970, the federal Equal Rights Amendment (ERA) became the center of national controversy as NOW reintroduced the legislation before the United States Congress. This legislation, emphasizing "equality of rights under the law" regardless of sex and giving Congress authority to enforce sexual equality, passed both the House of Representatives and Senate by 1972. It then remained for the states to ratify, igniting a controversial firestorm among political parties and organizations.¹⁸ Mary Ryan points out in *Mysteries of Sex* that gender-based reform, such as the ERA and Title IX, "gained credibility when . . . endorsed . . . by established concentrations of women power."¹⁹ Thus, organizations ranging from the Girls Scouts and the American Association of University Women to the National Association of Colored Women, helped establish a "steady keel to the feminist course through the American political process."²⁰

At the same time feminism roiled national politics, the environmental movement picked up steam. Kelly Boyer Sagert argued, "awareness of environmental issues rose to the forefront in the 1960s," when the National Environmental Protection Act passed through Congress.²¹ In his work *A History of Environmental Politics since 1945*, Samuel P. Hays analyzes the debates surrounding the Clean Air Act of 1970 and the Clean Water Act of 1972. Hays points out that a

¹⁷Note regarding Commission: Ryan, 249. Date of commission: *Encyclopedia Britannica Online* s.v. "President's Commission on the Status of Women," accessed April 27, 2011, <http://www.britannica.com/EBchecked/topic/475262/Presidents-Commission-on-the-Status-of-Women>. Note regarding NOW: Sagert, 25.

¹⁸ Sagert, 24-27. The required number of states never ratified the federal Equal Rights Amendment, thus it never took effect.

¹⁹ Ryan, 261.

²⁰ Ibid.

²¹ Sagert, 119.

major discussion occurring throughout the nation in relation to these acts was defining “how clean [was] clean.”²² The debates regarding defining and regulating “clean” led to the creation of the Environmental Protection Agency (EPA) in 1970.²³ Similarly, concerns about environmental degradation and cleanup helped make the first Earth Day in 1970 a success.²⁴

Amidst these various political and cultural movements, a major shift in both national and state affairs occurred in 1964, when the U.S. Supreme Court ruled that “state senate districts had to be based on population instead of area” so that “each legislator would represent about the same number of people.”²⁵ This led to Montana reapportioning state senate districts, decreasing the influence of the rural counties and giving more leverage to urban voters, who were more vocal in their desire for a new state constitution. Montana’s urban areas, which now had added political muscle, “became centers of moderate, middle-class, consensus politics, closely divided between the two parties and receptive to arguments for change.”²⁶ At the same time, rural areas “tended to fear and resist” change, and thus took a more conservative approach.²⁷ However, since the “growing urban middle class sang the state’s political tune” after 1965, the rural areas were left with much less political power than which they had grown accustomed.²⁸ According to Montana Governor Stan Stephens (1989-93), the citizenry of the 1960s exhibited “a determination—sometimes bordering on the reckless—to change the system.”²⁹ Malone concurs when he states that “not since the Progressive Era had Montana seen such widespread popular

²² Samuel P. Hays, *A History of Environmental Politics since 1945*, (Pittsburgh, PA: University of Pittsburgh Press, 2000), 64-65.

²³ Note on debates: Hays, 65. Note on date of EPA: Environmental Protection Agency, “The Origins of the EPA,” <http://www.epa.gov/history/origins.htm>.

²⁴ Note on Earth Day Date: Sagert, 119, 120. Note on Earth Day Success: James Smith, interview by author, March 1, 2011.

²⁵ Holmes, 422.

²⁶ Malone, et. al., *Montana*, 393.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ Note on Governor’s Tenure: Tom Cook, “Thumbnail History of Montana Governors,” *MT. gov: Montana’s Official State Website*, <http://governor.mt.gov/formergov/>. Quote: Holmes, 421.

participation in politics” as there was in the build-up to the Constitutional Convention.³⁰ Thus, the major concerns of Montana citizens in the 1960s, which reflected the discourses occurring at the national level, determined what the key issues would be in play at the 1972 Constitutional Convention. This influence was apparent in the convention debates “ensuring a strong, responsive government; guaranteeing the public’s right to know about and be involved in government; improving education; protecting the environment; and guaranteeing equal rights to all.”³¹

With Montana already receiving a political makeover due to reapportionment, the State Legislature assembled a Legislative Council in 1968 to analyze the original state constitution and its efficacy. The council’s report found “less than half of the constitution to be acceptable.”³² The Council echoed the complaints of citizen groups, and noted the document’s length and inflexibility, its weak judicial and executive branches, and the stringent limits on local control over local government.³³ The Legislative Council was not alone in its concerns. The National Chamber of Commerce and the National Economic Resource Council also urged reforms to state governments through their published work, *Modernizing State Government*, which discussed various ways to revise constitutions.³⁴ In addition to these concerns, the repercussions of national events played out within Montana’s populace. Whereas residents, since the homestead bust, had previously seen their future in leaving Montana and moving elsewhere, the “crises of America’s great cities” gave a “new generation of Montanans . . . appealing reasons for staying.”³⁵ Such

³⁰ Malone, et. al., *Montana*, 394.

³¹ Holmes, 425.

³² Barbara Mittal, “New Constitution Would End Legislative ‘Stop the Clock,’” *Great Falls Tribune*, October 28, 1970, pg. 10.

³³ *Ibid.*

³⁴ Note on publication: Dorothy Eck, interviewed by Jodie Foley, Montana Historical Society Archives, Helena, Montana, May 20, 1997. Discussion of *Modernizing State Government: Advisory Commission on Intergovernmental Relations, Striking a Better Balance: Federalism in 1972*, Report M-76, (January, 1973).

³⁵ Malone, et. al., *Montana*, 394.

attitudes manifested themselves in the desire to preserve the environment, foster community pride, and reform and improve Montana's government. Creating a constitution that better fulfilled the needs of the state propelled Montanans to take the necessary steps to call a convention.

According to the 1889 Constitution, the citizens of the state of Montana "have the sole and exclusive right of governing themselves . . . to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness."³⁶ Montanans exercised this right in 1970 when the electorate voted for Referendum 67, which called for a constitutional convention, with 113,982 voting for and 71,643 against.³⁷ That next legislative session in 1971 passed the Enabling Act, which specifically opened the doors for the convention to occur and allocated the necessary financial resources. This legislature also voted to create the Montana Constitutional Convention Commission, which conducted much of the preparatory work for the convention itself. The Commission analyzed and researched various constitutional issues to educate the delegates before the convention began.³⁸ In order to run for election, a candidate had to be twenty-four years old, a United States citizen, and have lived in the district from which they were running for at least a year.³⁹ The Montana Supreme Court issued an opinion regarding the elections on request from the state legislature that stated, "all state and local officers who are *now* prohibited from holding another public office may not serve as convention delegates."⁴⁰ In other words, when elected to state office, the position often came with a restriction of not holding any other office at the same time. Being a delegate to the

³⁶1889 Montana Constitution, art. 3, sec. 2.

³⁷ Malone, *Montana: A Contemporary Profile*, 142.

³⁸ Lucile Speer, *We the People...An Introduction to the Montana Constitutional Convention* (Bozeman, Montana: Cooperative Extension Service of Montana State University), 7.

³⁹ *Why Vote on Referendum 67*, Montana Constitutional Convention Vertical File, Montana Historical Society Archives, Helena, Montana.

⁴⁰ Speer, *We the People*, 5.

constitutional convention counted as a second office, an office in which no one currently serving a term could participate, even if that person resigned the other office. In addition, the members of the Constitutional Convention Commission were disqualified from participating in the convention itself. Not only did the state Attorney General not want those people doing the research and providing the information taking part in the convention, but the state of Montana also did not want political powerhouses at the convention drowning out novel ideas. The Supreme Court wanted "to insure independent consideration by the delegates of the new constitution."⁴¹ Finally, in November 1971, a special election occurred in which 100 delegates from twenty-three reapportioned districts, based on state legislative districts, were elected to attend the convention.⁴²

These elected delegates came from a broad spectrum of backgrounds. The majority were born and raised in Montana, nineteen were women, and ranged in ages from twenty-four to seventy-three.⁴³ Of the 100 delegates, twenty-four were lawyers, nineteen farmers and ranchers, fourteen identified as educators, and eleven called themselves housewives.⁴⁴ In addition, there were five ministers, a retired FBI agent, and even a beekeeper in attendance.⁴⁵ With such a variety of ages and occupations, it is no wonder that *Time* correspondent Jesse Birnbaum, half criticizing, half in awe, stated that the only thing these delegates shared "was virtually complete ignorance of the art of constitution writing and a somewhat unfounded self-assurance."⁴⁶

The delegates coming to the Montana Constitutional Convention did not have to start from scratch. Not only did they have the 1889 document to guide them, but they also had various

⁴¹ Speer, *We the People*, 5.

⁴² Montana Constitutional Convention (1972) Records History, Montana Historical Society Archives, Helena, Montana. Note on districts: Speer, *We the People*, 4a.

⁴³ Don Walchuck, *Convention Profile*, vertical files, Montana Historical Society Archives, Helena, Montana.

⁴⁴ Ibid.

⁴⁵ Birnbaum, "Fresh Chance Gulch," 18.

⁴⁶ Ibid.

constitutional revisions from states throughout the country to follow. A wave of constitutional revising had swept the United States throughout the late 1960s. Montana's neighbor to the east, North Dakota, was completing its Constitutional Convention around the same time Montana's was convening. As of 1969, at least twenty-six states were still operating under constitutions passed before 1900.⁴⁷ After years of increased scrutiny of these governing documents, between 1969 and 1970, thirty-four states took "some form of official action aimed at a broad revision of the basic instrument of government."⁴⁸ Many of these states were Montana's neighbors such as Idaho, Oregon, Washington, Wyoming, South Dakota, and North Dakota.⁴⁹ Although in the end, not all of these constitutional revisions would be adopted, several general trends occurred: lowering the voting age, extending home rule (increased self-government for towns), and adding some form of environmental protection clause within the state constitution.⁵⁰ Of the states throughout the country analyzing environmental provisions, Illinois passed one often considered the most progressive, which included a clause to maintain a "healthful environment" and to grant citizens the right "to sue polluters."⁵¹

Montana delegates paid special attention to the wording and format of other states' constitutions. Lucile Speer, one of the nineteen women delegates and author of several subsequent publications related to the Montana Constitutional Convention, expressed her admiration for Alaska's constitution, written and passed in 1956.⁵² Not only was it short in length, but it provided flexibility for "the great changes that the future will bring to Alaska" and

⁴⁷ Albert L. Sturm, "Constitutional Conventions," in *Selected Readings on the Organization of Constitutional Conventions*, ed. Montana Constitutional Convention Commission. (Montana Constitutional Convention Commission), 55-56.

⁴⁸ "Constitutional Revision Activities 1969-1970," in *A Collection of Readings on Recent Constitutional Revision Activities in the 50 States 1967-1970*, ed. Montana Constitutional Convention Commission. (Montana Constitutional Convention Commission), 4.

⁴⁹ "Constitutional Revision Activities 1969-1970," 24-34.

⁵⁰ *Oxford Dictionaries Online*, s.v. "home rule."

⁵¹ "Constitutional Revision Activities 1969-1970," 18.

⁵² Gerald E. Bowkett, "The Alaska Constitutional Convention," *The Alaska Journal*, 6, no.3 (Summer, 1976): 154.

looked out for “the welfare of all the people.”⁵³ Just as Alaska wrote a constitution that directly reflected the needs of that state, delegates to the Montana convention believed that Montana’s new document should be unique, a direct reflection of the “historical traditions, resources and economic conditions, geography and environment, and people and cultures” that were distinctly Montanan.⁵⁴ Such research influenced the ideas delegates brought to the convention and the goals they hoped to accomplish.

While the election of nineteen women to the 1972 Constitutional Convention may have been a first, the Con-Con was not Montana women’s first political stage. Prior to the convention, many of the female delegates had participated in various civic organizations such as the League of Women Voters (LWV) and the American Association of University Women (AAUW). For example, of the nineteen women at the convention, nine of them were active members of the LWV.⁵⁵ Such activity primed them for their participation in the convention, building on previous connections and giving them a solid background on constitutional items. For years before the convention, the LWV had taken an active hand in state politics, keeping themselves abreast of all developments relating to the potential convention. At the same time, they were actively researching environmental issues and participating in water rights conferences throughout the western United States. In addition, participation in such organizations gave women further confidence entering the convention. These organizations stressed the ability to run a meeting effectively, proper business communication, and keeping up to date on civic affairs.

The League of Women Voters was crucial to the calling of the Constitutional Convention and the promoting of the new document. The LWV, founded in 1920, is a civic organization that

⁵³ Speer, *We the People*, 100.

⁵⁴ *Ibid*, 101.

⁵⁵ “Nine League Members Go to Con-Con,” *The Montana Voter*, December 1971, 1.

focuses on governmental affairs.⁵⁶ According to one of the LWV's promotional pamphlets, the organization defines itself as "a nonpartisan organization working constantly to promote political responsibility through informed and active participation of citizens in government."⁵⁷ To succeed in this mission, many cities and towns throughout the state of Montana established local leagues. The League was extremely well received throughout Montana due to its bi-partisan approach. Members would study a wide variety of issues, including land use planning, taxes, voter education, environmental issues, and then take their information to both Democratic and Republican parties. It was not unheard of for this information to find its way eventually to the platform of the state party. Dorothy Eck, who served from 1967 to 1971 as president of the state LWV, stated that the League attracted "a lot of strong, able women" who were educated and "serious about getting things done."⁵⁸

The state board of the League of Women Voters oversees the operation of the local leagues, and with the aid of the national board, sets the program for each year that local leagues follow and research. Beginning in the late 1960s, both national and state LWV organizations began to be concerned about environmental issues, such as clean water and air. The late 1960s was also a significant period for the Montana LWV as they began researching the state constitution. The LWV created the Constitutional Action Committee and charged this body with studying the 1889 constitution and understanding changes that could be helpful.⁵⁹ When the Constitutional Revision Commission established the Constitutional Convention Committee and chose Dorothy Eck, president of the Montana LWV, as secretary, it only furthered the League's

⁵⁶ League of Women Voters, "Our History," http://www.lwv.org/AM/Template.cfm?Section=Our_History&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=36&ContentID=1501.

⁵⁷ League of Women Voters of Montana, *League of Women Voters has Friends All Around the Town* (Helena, MT: Montana Historical Society Research Center).

⁵⁸ Dorothy Eck, interviewed by Jodie Foley.

⁵⁹ Daphne Bugbee to Local Presidents of League of Women Voters of Montana, December 16, 1969, letter box 7, "League of Women Voters of Montana," Montana State Historical Society Archives, Helena, Montana.

involvement in pre-Convention research and planning.⁶⁰ The Montana League understood that in constitutional conventions across the United States, state LWV organizations had been critical in disseminating information to the public and “bringing about change in state constitutions.”⁶¹ The Montana League was excited for their chance to do the same.

As mentioned previously, Referendum 67, placed on the November 1970 ballot, called for a statewide constitutional convention. The Montana League of Women Voters immediately came out in the Referendum’s support.⁶² The Constitutional Revision Commission contacted the LWV regarding a public education campaign for the referendum. The LWV took this call to heart, writing and printing flyers and newspaper articles, creating bumper stickers, and coming up with creative ways to inform the public about the referendum vote. Members handed out pamphlets at fairs and malls, attended political party conventions, and talked to various civic organizations.⁶³ These women were also encouraged to set up booths at downtown “Crazy Day” events and march in parades to raise awareness. Daphne Bugbee, another female convention delegate, recalled creating costumes of “dark blue dresses with red scarves and sashes and white shoes,” and adding “small sandwich boards or red felt vests with the message: ‘Vote YES for Constitutional Convention, Give Montana a Chance, or Vote for Better Government.’”⁶⁴ From the beginning, the LWV of Montana took an active stance for constitutional change.

The League of Women Voters also created the Montana Constitutional Convention Society to do public education around the state to raise support for the Convention. The League

⁶⁰ Dale A. Harris Letter, October 2, 1970, letter box 7, folder 4, “League of Women Voters of Montana,” Montana State Historical Society Archives, Helena, Montana.

⁶¹ Daphne Bugbee December 16, 1969, letter box 7, “League of Women Voters of Montana,” Montana State Historical Society Archives, Helena, Montana.

⁶² Dale A. Harris Letter, October 2, 1970, letter box 7, folder 4, “League of Women Voters of Montana,” Montana State Historical Society Archives, Helena, Montana.

⁶³ Mrs. Henry Bugbee to Mr. Dale A. Harris, December 15, 1969, letter box 11, folder 4, “League of Women Voters of Montana,” Montana State Historical Society Archives, Helena, Montana.

⁶⁴ Daphne Bugbee to Constitutional Action Committees, May 19, 1970, letter box 11, folder 4, “League of Women Voters of Montana,” Montana State Historical Society Archives, Helena, Montana.

went to various organizations' state conventions to try to get them to vote affirmatively on the referendum for the Constitutional Convention. They urged organizations to write proclamations of support, newspaper articles, and other forms of publicity. Eck remembered that many organizations supported the initial referendum, even if they did not support the eventual document.⁶⁵

At the same time the legislative Constitutional Revision Committee was meeting in regards to constitutional changes, the Montana League of Women Voters established League Constitution Revision committees on the local level, asking local leagues to research various aspects of the constitutional revision. The committees were to commit to an "in-depth study of the constitution, its weaknesses and strengths and to organize their Leagues to cover . . . major public and political meetings" to inform the public regarding their findings.⁶⁶ These local committees were encouraged to read copies of other recent state constitutions, such as those from Alaska, Hawaii, Michigan, and New Jersey and peruse various other constitutional materials such as the National Municipal League's *Model State Constitution* and *State Constitutions: The Shape of the Document*.⁶⁷ These readings were to inform their background research as they brainstormed ideal changes and revisions to Montana's constitution.

The Constitutional Action Committees did their homework. The League of Women Voters of Montana established a two-part study regarding constitutional change, which focused on the steps towards change and items for revision.⁶⁸ They began by creating a list of possible issues for the upcoming constitutional convention. Initially, these were concerns regarding what

⁶⁵ Dorothy Eck, interviewed by Jodie Foley.

⁶⁶ Mrs. Henry Bugbee to Mr. Dale A. Harris, April 21, 1970, letter box 11, folder 4, "League of Women Voters of Montana," Montana State Historical Society Archives, Helena, Montana.

⁶⁷ Mrs. W. R. Woodgerd to Local League Constitution Revision Chairmen, May 14, 1969, letter box 7, folder 4, "League of Women Voters of Montana," Montana State Historical Society Archives, Helena, Montana.

⁶⁸ *A Better Constitution for Better Government: A Study of the Montana Constitution*, December 1969, letter box 7, folder 4, "League of Women Voters of Montana," Montana State Historical Society Archives, Helena, Montana.

should be included in the state's Bill of Rights and establishing processes for future possible revisions.⁶⁹ These initial issues blossomed into full-blown constitutional aims by 1972. The LWV believed it especially critical that the new constitution be limited to fundamental law, eliminating anything considered statutory. The LWV felt the 1889 Constitution's greatest weakness was that it had become too specific, whereas a constitution should mainly create a "framework of government" and delegate powers.⁷⁰ They also desired that the Bill of Rights would not only include a statement regarding an individual's right to "a clean and healthful environment," but also extend anti-discrimination to include "race, creed, color, national origin, sex and religion."⁷¹ The LWV stuck to these planks as their main platform for revision throughout the entire convention.

This in-depth research into not only the 1889 Montana Constitution, but also other state constitutions, gave the women of the League of Women Voters a solid foundation and confidence with which to run for the Constitutional Convention. Multiple women have cited the influence of the League not only in their decision to run for the Constitutional Convention, but also on how they handled themselves throughout the event. Delegate Daphne Bugbee, a Democrat from Missoula, described the League was critical to her involvement. For her, the League gave her a background on topics pertinent to the Convention and a platform she could build upon with the reports from the Revision Commission. After spending so much time studying the Constitution with the LWV from the very beginning of the constitutional reform

⁶⁹ *Possible Issues for the Constitutional Convention*, letter box 11, folder 4, "League of Women Voters," Montana State Historical Society Archives, Helena, Montana.

⁷⁰ *Constitutional Aims of the League of Women Voters 1972*, letter box 7, "League of Women Voters of Montana," Montana State Historical Society Archives, Helena, Montana.

⁷¹ *Ibid.*

movement, Bugbee felt that she had gotten in on the Constitutional Convention at the ground floor.⁷²

Arlyne Reichert understood from a young age the influence politics had on everyday life. A Jew, who grew up in Buffalo, New York during the Depression and World War II, she realized that politics shaped daily decisions. When she moved out to Montana with her husband, she became very involved with the Montana League of Women Voters. She credited the League with giving her necessary skills that aided her throughout her life. The research skills she learned from the League gave her the confidence to become the executive secretary at McLaughlin Research Institute in Great Falls, which specialized in immunology.⁷³ In addition, Reichert became a League lobbyist in Helena, one of the only non-profit lobbyists at the legislature at that time. Her tenure at the capital helped her realize just how unwieldy the Montana legislature was and that the majority of citizens had no idea what was actually happening at the state level. She created a TV "legislative report" program to update citizens on legislative events, informing the public of upcoming bills, and the times and locations of hearings.⁷⁴ Reichert ventured that her TV exposure gave her name recognition throughout Cascade County, a benefit when the time came to run for the Constitutional Convention. The League, her time in Helena, and the TV program taught her how to debate politically, a skill she would rely on during the Con-Con.⁷⁵

Arlyne Reichert's experiences running for election and during her tenure as a Constitutional Convention delegate were not unusual for the female delegates. After she filed for election and began her campaign, Reichert received as many comments regarding her appearance

⁷² Daphne Jones, interviewed by Marcellas Sherfy, Montana State Historical Society Archives, Helena, Montana, June 26, 1997.

⁷³ "History," *McLaughlin Research Institute*, <http://www.montana.edu/mri/history.html>.

⁷⁴ Arlyne Reichert, interviewed by Jodie Foley, Montana State Historical Society Archives, Helena, Montana, May or June 7, 1997.

⁷⁵ *Ibid.*

as she did about her stances on Constitutional issues. During her campaign for a convention seat, she received the following message:

Montana needs qualified women to win the Con Con election. You have the ability for the job but first you must win. Your biggest criticism is the high queeny hairdo. A professional style like KRTV Norma's [Ashby] is most talked about and exceptable (sic). Many of the west coast women over twenty-five are choosing shorter above the ears hairdo's. You have our support and will do everything to see you win.⁷⁶

Although Reichert could take heart that she had the support of the author, such comments only served to reinforce the notion that the women running for the convention were taking a major step and would be scrutinized for more than their political opinions.

Dorothy Eck's involvement with the Montana League of Women Voters started in the 1940s, when it was a new organization in the state. She felt it was "stimulating," especially for a woman who had married young and was taking a few classes here and there at Montana State College, where her husband taught.⁷⁷ Although always interested in international affairs, Eck had never imagined getting involved in politics herself. The League encouraged Eck to become more aware of issues in Montana and she became extremely interested in local government, executive reorganization and constitutional reform issues. Since the damming of the Yellowstone River was a hot topic, Eck remembered vociferous debates surrounding water concerns. Eventually Eck's involvement became noticeable and the state board of the LWV began calling her about becoming state president. She stated she was not interested but they began threatening to disband the League if she did not accept. Thus, Eck strongly felt that the League "thrust me into

⁷⁶ Ann to Arlyne Reichert, undated, Correspondence from Convention folder, "Arlyne Reichert Unprocessed Collection," Montana Historical Society Archives, Helena, Montana.

⁷⁷ Dorothy Eck, interviewed by Jodie Foley.

politics.”⁷⁸ During her tenure as League President, Eck took a strong stance for lobbying in Helena. During legislative sessions, she and Daphne Bugbee commuted to Helena, a 200-mile round trip, and manned an information booth in the capitol’s rotunda and provided testimony for different committees. According to Eck, these two women were the first full-time citizen lobbyists to the Montana legislature.⁷⁹ She felt her time as a lobbyist gave her the necessary background for the Constitutional Convention. Not only did it help her become more aware of the issues at hand, but it also boosted her confidence in herself. When the League began looking into revising the state’s governing document in 1968, they were one of the first organizations to endorse a convention. Other groups “poo-poo’d” the idea because they thought the voters would not want one.⁸⁰

The League of Women Voters may have influenced women’s political participation, but these women delegates had a unique perspective on party politics that was all their own. Daphne Bugbee noted that she ran as a Democratic candidate because she felt like a Democrat and was comfortable with that party affiliation. But she wanted to clarify that she did not think she was a liberal, she just considered herself a thoughtful human being who was concerned for others. When asked if she felt party politics had played a role in the election or in the Convention itself, she denied the influence of the party system. She pointed to the wide variety of candidates elected to refute the influence of parties. Throughout her campaign, Bugbee did not even remember if anybody asked her party affiliation. Her constituency was more concerned that she was educated and aware of the issues. She stated she sometimes doubted her own qualifications for candidacy, but was buoyed by her neighbor, Judge Russell Smith, who stated that she did not

⁷⁸Dorothy Eck, interviewed by Jodie Foley.

⁷⁹Dorothy Eck, interviewed by author, March 1, 2011.

⁸⁰Dorothy Eck, interviewed by Jodie Foley.

necessarily need to be well-versed in the law, but simply be able to “think straight.”⁸¹

Nonpartisanship was a major issue for Eck. In her mind, “if the convention were to be successful, it should be nonpartisan.”⁸² Although Eck campaigned as a Democrat, she was more concerned about the issues the League was concerned about (local government, environment, human rights issues) and mentioned that other League members, such as Jean Bowman, were Republicans.

The delegates to the Montana convention had examples of other states that had let party politics interfere with voters subsequently failing to pass the constitution. They did not want the same fate for Montana. The desire for nonpartisanship was strong enough that the women delegates had discussed not attending the Constitutional Convention’s initial party caucuses but they decided that they cared enough to attend in order to elect the President of the convention. During their candidacy speeches, many candidates for President spoke of their support for a nonpartisan convention. This nonpartisan feeling seemed to be a culmination of the entire convention process. Eck points to the fact that people elected religious clergy and women to the convention to show that the general populace of Montana wanted a non-political convention to write their future constitution. And Eck truly believed this made all the difference. The constitution was different because a group of politicians did not write it.⁸³

When it came to the Convention itself, Daphne Bugbee noted the simple brilliance that lay in having the delegates sit in alphabetical order. It ensured that party politics ended at the door and became an educational experience in itself. Bugbee and her neighbors debated, conversed, and argued with each other throughout the convention. She also strongly agreed with not allowing legislators to run for the Convention. She felt having fresh eyes look at the

⁸¹ Daphne Jones, interviewed by Marcellas Sherfy.

⁸² Dorothy Eck, interviewed by Jodie Foley.

⁸³ Ibid.

Constitution was more effective and minimized party politics even further.⁸⁴ Some Democrats initially rebelled against the idea of nonpartisanship as they were the majority party, but after sitting alphabetically for fifty-four days, Eck claimed decades later, no one could quite remember who belonged to which party.⁸⁵ Eck mentioned sitting next to Marion Erdmann, who was very conservative and what a different perspective that brought to her convention experience.

Although nineteen women were elected as delegates to the Constitutional Convention, there was some initial confusion about how to integrate them into the men's ranks. Many of the women, especially in the beginning of the convention, received letters addressed to "Mr." and entertained requests to bring their wives to social events. A memorandum circulated among the convention's women delegates from the Convention Arrangements Director regarding appropriate dress for the different events that would be occurring throughout the convention. The women were encouraged to wear "a dressy pants suit, an 'after-five' ensemble, or a knit."⁸⁶ For semi-formal banquets, they could vary their wardrobe with a cocktail dress.⁸⁷ Proper restroom facilities were also an issue for the female delegates. *The Missoulian* reported that the "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."⁸⁸ In response, the women ended up selecting the restroom by the lunch counter at the capitol for their own use, and labeled it with a homemade "Women's" sign, which Dorothy Eck photographed for posterity. Even with the sign though, a distributed memorandum warned the women that there

⁸⁴ Daphne Jones, interviewed by Marcellas Sherfy.

⁸⁵ Dorothy Eck, interviewed by Jodie Foley.

⁸⁶ Karen Cox Nyberg to All Constitutional Convention Women Delegates, November 22, 1971, box 1, folder 2, "Rachell K. Mansfield Papers," Montana Historical Society Archives, Helena, Montana.

⁸⁷ *Ibid.*

⁸⁸ "Con-Con Has Its Lighter Side," *The Missoulian*, February 1972. (article was found in a pile of newspaper clippings dated between February 5-8, 1972)

was “no way” to “insure these restrooms for us alone.”⁸⁹ It was also up to the women to keep the Sergeant apprised of when the restroom needed cleaning and additional supplies.

But women were not merely concerned with dress codes and personal needs. They were intent on making the most of the opportunity that had presented itself to them at this convention. Not long after the first organizational meeting for the convention in the fall of 1971, Jean Bowman wrote to Dorothy Eck regarding some of her concerns:

I don't like to be patted on the shoulder! Or called “kiddo.” That is the nickname I have acquired among some of the delegates here. Also I think that we women must not give the impression that we are a “block,” as I think that will make the men even more suspicious or what ever they are of us. I seriously doubt that we would ever vote as a block on anything, but feel it is important not to let anyone assume that we will.⁹⁰

Bowman was not the only one concerned about garnering her fellow delegates' respect. Louise Cross suggested that the women should attend as many social events as was physically possible. On her husband's authority, she believed that attendance at such functions was essential if the women wanted to be “included in the organizational specifics.”⁹¹ These women were very aware of their unique situation. They realized they might have to work harder to earn their colleagues' respect, but they would prove that they were more than equal to the task laid before them.

According to Reichert, Betty Babcock disliked the fact that all female delegates were addressed as “Madam Delegate.” She felt that if they were getting rid of party affiliations, they needed to “get rid of sex on the floor.”⁹² Multiple women stated that they did not feel like they

⁸⁹ Memorandum from Margaret Warden to Lady Delegates, March 10, 1972, “Louise Cross Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

⁹⁰ Jean Bowman to Dorothy Eck, November 21, 1971, box 2, folder 9, “Dorothy Eck Papers,” Montana Historical Society Archives, Helena, Montana.

⁹¹ Louise Cross to Dorothy Eck, November 23, 1971, box 2, folder 9, “Dorothy Eck Papers,” Montana Historical Society Archives, Helena, Montana.

⁹² Arlyne Reichert, interviewed by Jodie Foley.

stood out because they were women, that the acceptance of women at the Constitutional Convention was truly a unique experience. Reichert stated that she “didn’t feel at a loss or that it was a negative that I was a woman.”⁹³ Eck stated that gender did play a role in the Constitutional Convention, or that it was at least a factor, especially since the proposed Equal Rights Amendment was a federal issue at the time. However, the nineteen women who came to the Convention

didn’t feel intimidated at all...were quite strong. Most of them came with maybe a better understanding of the issues we were facing than most of the men. Most of the women had read all the papers that had been given to us...were conversant with issues. I think that gave them quite a bit of self-assurance.⁹⁴

Reichert agreed with this perspective. She thought that some of the smartest people at the convention were women and that throughout the convention the women “held their own.”⁹⁵ She went so far as to say that whenever there was a desire for an expert opinion during the Convention, the delegates turned to Mae Nan Ellingson, the youngest delegate and a law student at University of Montana. She was a very knowledgeable researcher, and other delegates – male and female – looked to her for answers because of it.⁹⁶ Reichert found that not all the women agreed on every subject but they did feel some camaraderie, as they knew they were in a unique position together.

Both Reichert and Eck had various explanations for how the women experienced the Constitutional Convention. Reichert did not personally remember any patronizing attitudes, but she credited that to the fact that there were no elected officials. Everyone was new to this game;

⁹³ Arlyne Reichert, interviewed by Jodie Foley.

⁹⁴ Dorothy Eck, interviewed by Jodie Foley. It is important to note that these sentiments were reiterated when the author interviewed Dorothy Eck in March of 2011.

⁹⁵ Arlyne Reichert, interviewed by Jodie Foley.

⁹⁶ Ibid.

everyone was on the same playing field.⁹⁷ Eck focused more on the women delegates themselves, stating that the women's "presence was felt," especially when they could always be found at the extra, voluntary meetings.⁹⁸ Eck explained that this was because the women were there because they were truly concerned about the issues. They had not come to the convention with ideas of enhancing a career. In addition, the women often rented rooms or houses together. For example, Eck and Bugbee rented a house together and did a lot of entertaining after hours. They held committee meetings in their living room and conducted strategy sessions as necessary, especially when debate came to a standstill during the day. These informal, non-partisan meetings gave delegates an opportunity to meet, strategize, and discuss so that the next day's debates could be more productive.⁹⁹

Figuring out how to maneuver around the different speed bumps and succeed at the political game created an intimate circle of friendships among the women, evidenced by the correspondence between them before, during, and after the Constitutional Convention. Outside of their desire to get involved and update the constitution, the women found that they had even more in common. Throughout the convention, these women exchanged memorandums to give support and encouragement, and filled post-convention letters with family news. Such friendships led Eck to state that the delegates felt like a body from the very beginning of the Con-Con. She recognized that there was a lot of respect for different points of view and that good humor usually reigned. Eck felt that "everyone really got to love one another . . . even people we disagreed with violently. And you understand where they are coming from."¹⁰⁰ While some were friends when they arrived, others developed a kinship over time. For example, Lucile

⁹⁷ Arlyne Reichert, interviewed by Jodie Foley.

⁹⁸ Dorothy Eck, interviewed by Jodie Foley.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

Speer and Mae Nan Ellingson “adopted each other” while Dorothy Eck, Daphne Bugbee, and Jean Bowman strengthened a friendship first established by activity in the League of Women Voters.¹⁰¹ And according to Eck, these Con-Con “friendships have remained” and attendance by women at annual Con-Con events has remained quite strong.¹⁰²

Several of the women mentioned the role motherhood played in their Constitutional Convention experiences. Reichert had five children, and although they were able to move to Helena with her, she mentioned the difficulties they had in adjusting to new schools and finding appropriate childcare in Helena. But, she also stated that her children look back now with pride that their mother was a delegate.¹⁰³ Daphne Bugbee had children at home as well, and her oldest were nearing graduation. She credits her husband for his help, not only in her campaign, but also in her tenure as a delegate.¹⁰⁴ Eck’s children were on their own by the time she ran for the Convention, so she did not face the same difficulties as Reichert.

The female delegates attempted to find a balance between their professional concerns and personal cares. This convergence occurred most notably in the debates about environmental protection throughout the Constitutional Convention. As the Chairman of the Natural Resources and Agriculture Committee, Louise Cross of Glendive was the only female committee chair of the entire convention.¹⁰⁵ Although other women held different offices or positions of power, Cross lead a committee of all men due to her well-known stand on environmental issues and concern regarding the use of the state’s natural resources.¹⁰⁶ Although she identified herself as a “civic worker and... a homemaker,” much of her activity (outside of women’s and political

¹⁰¹ Dorothy Eck, interviewed by Jodie Foley.

¹⁰² Ibid.

¹⁰³ Arlyne Reichert, interviewed by Jodie Foley.

¹⁰⁴ Daphne Jones, interviewed by Marcellas Sherfy.

¹⁰⁵ Louise Cross, *Thoughts from a Committee Chairman*, February 26, 1972, Natural Resources Proposals, “Louise Cross Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana. The Natural Resources and Agriculture Committee was one of fourteen committees at the Con-Con.

¹⁰⁶ Ibid.

organizations) was to educate herself regarding the environmental hazards of strip mining.¹⁰⁷ In a letter written to Leo Graybill, Jr., the President of the Constitutional Convention, she mentioned that for the two and a half years leading up to the convention, she had been researching and “trying to do something about land reclamation and strip mining.”¹⁰⁸ And she brought that fount of knowledge and desire to do something to the Natural Resources Committee.

While charged with the re-writing of the state constitution, most of the committees in the 1972 Convention re-worked articles and sections of the 1889 document. The Natural Resources and Agriculture Committee, however, started from scratch. Such a constitutional article was a completely new concept coming into the convention, one that reflected movements occurring throughout the state and the nation. Concern over the state’s natural resources was not necessarily new, but the idea of writing something into the constitution as fundamental law was.

Being chair of this committee was a formidable task. Cross and Henry Siderius supported the most progressive environmental program that state constitutions had seen. The rest of the committee was a jumble of ranchers, farmers, lawyers, and manufacturers. As lobbyists surged into the committee room, Cross quickly discovered that they drowned out other voices.¹⁰⁹ In order to push her own agenda, Cross took the stand, not as chairman, but as a concerned citizen of the state. She feared that the convention was too willing to steer a moderate course, to simply maintain, but not take any progressive stances. In her testimony, she clearly delineated her concerns about strip mining and land reclamation. Although she understood that she was fighting

¹⁰⁷ Louise Cross, interviewed by KBLL Radio, February 28, 1972.

¹⁰⁸ Louise Cross to Leo Graybill, Jr., December 26, 1971, “Louise Cross Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

¹⁰⁹ Louise Cross, *Thoughts From a Committee Chairman*, February 26, 1972, Natural Resources Proposals, “Louise Cross Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

big industries in Montana that provided income and employment, she believed the time had come for change.¹¹⁰

Nine days after the hearings began, with no significant progress occurring, Louise Cross decided to submit a formal delegate proposal. Her proposal, number 162, was one of the most environmentally progressive proposals to come before committee. Cross felt the “handwriting [was] on the wall” as air and water pollution increased, “productive land [was] destroyed by the ruthless efficiency of strip mining,” and that the lumber industry wasted timber and needlessly destroyed the forests.¹¹¹ Hence, proposal number 162 made such provisions as putting state land into a public trust and granted citizens the right to sue the appropriate responsible parties for not maintaining the environment of Montana.¹¹² While different environmental movements throughout the state strongly supported some sections of this proposal, it was overwhelmingly defeated 7-2 in committee.¹¹³ It never even saw the floor of the Committee as a Whole.

Louise Cross was not the only female delegate who took the idea of environmental protection to heart. Other women mentioned in their interviews how their jobs or their personal political beliefs led them to support the protection of Montana’s natural resources. Daphne Bugbee mentioned that her training as an architect influenced the issues she was most concerned about as a delegate. Due to her architectural background, she felt she got more involved with the environmental section of the Constitution. She stated that she “wanted beautiful cities, beautiful highways, beautiful everything, and I want it badly. I’m just one of those freaks.”¹¹⁴ Reichert was another candidate who ran for the convention with an open statement about protecting the

¹¹⁰ Joint Hearing of Committee on Bill of Rights and Committee on Natural Resources and Agriculture, *Louise Cross Testimony*, Montana Constitutional Convention, 1972.

¹¹¹ Hearing of Committee on Natural Resources and Agriculture, *Louise Cross Testimony*, Montana Constitutional Convention, 1972.

¹¹² Natural Resources and Agriculture Committee, *Delegate Proposal 162*, Montana Constitutional Convention, 1972.

¹¹³ *Ibid.*

¹¹⁴ Daphne Jones, interviewed by Marcellas Sherfy.

environment. Not long after filing to run, the candidates received questionnaires from the Montana League of Conservation Voters who had come out to support candidates “who most clearly are interested in the imaginative planning and wise preservation of our most beautiful state.”¹¹⁵ In Reichert’s response, she stated she felt an environmental article needed to be added to the constitution; for if a constitution was truly to be a fundamental document, then the “protection of the environment is a fundamental issue and should be properly included” in the new constitution.¹¹⁶

In order to support their environmental protection stances, delegates turned to both the Illinois and Alaska constitutions and their environmental and natural resources articles. The Illinois constitution allows individuals to take legal action “against any party, governmental or private” to enforce their “right to a healthful environment.”¹¹⁷ Many women, including Louise Cross, saw this as an example of how Montana could write its own article to ensure the protection of its natural environment. Alaska’s constitution also came under scrutiny as Alaska had added a section on natural resources, a key concern for several Montana delegates, especially those concerned with mining.¹¹⁸ Section VIII of Alaska’s constitution provides for “maximum use consistent with the public interest,” for the “conservation of all natural resources,” and restricts “surface uses of land by a mineral claimant” to that “necessary for the extraction or

¹¹⁵ Montana League of Conservation Voters to Arlyne Reichert, Constitution-Environment and Bill of Rights folder, “Arlyne Reichert Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

¹¹⁶ Arlyne Reichert to Montana League of Conservation Voters, Constitution-Environment and Bill of Right folder, “Arlyne Reichert Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

¹¹⁷ “Constitution of the State of Illinois,” Illinois General Assembly, accessed March 15, 2011, <http://www.ilga.gov/commission/lrb/con11.htm>.

¹¹⁸ Arlyne Reichert to Montana League of Conservation Voters, Constitution-Environment and Bill of Right folder, “Arlyne Reichert Unprocessed Collection,” Montana Historical Society Archives, Helena, Montana.

basic processing of the mineral deposits.”¹¹⁹ In the minds of many Montana delegates, adding such language would work for their state constitution as well.

Women delegates who placed the environment high on their priority list, took comfort in the fact that recognition of place, of Montana’s scenic beauty, had been written into the preamble of the constitution. The preamble stated that:

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.¹²⁰

Mae Nan Ellingson, the youngest delegate at the convention and co-author of the preamble, described its language when she said that “we were trying to capture the impact that this particular landscape has on us, collectively as a state and individually.”¹²¹ The preamble “recognized the impact of the state itself—of the country on the people. No other state has ever given such recognition to place.”¹²²

The environmental article that did pass, in addition to the “right to a clean and healthful environment” in Bill of Rights and statement in the preamble, ensured that protecting the environment was a key component to the 1972 Constitution. Article IX of the Constitution states “the state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.”¹²³ It charges the legislature with enforcement of this new article and specifically discusses land reclamation and water resources. The idea of

¹¹⁹ “The Alaska Constitution,” Office of the Lieutenant Governor, accessed March 15, 2011, <http://ltgov.alaska.gov/services/constitution.php?section=8>.

¹²⁰ Constitution of the State of Montana, 1972, preamble.

¹²¹ Sherry Devlin, *Missoulian*, June 22, 1997 A-1.

¹²² Devlin, *Missoulian*, A-10.

¹²³ 1972 Montana Constitution, art. 9, sec. 1.

requiring the reclamation of land after extracting natural resources was progressive for the time. The first national land reclamation legislation was not put into effect until 1977 when the federal government wrote the Surface Mining Control and Reclamation Act.¹²⁴ Although no specific reclamation guidelines are provided, the concept of making reclamation a fundamental law within the state went above and beyond any existing federal legislation. In another new and progressive section, Section 4 was added, providing for the

identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic, archeologic (sic), scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment by the people.¹²⁵

This was a completely new provision, adding an innovative and expansive depth to what constituted the environment and what the state legislature was required to do to protect it.

The Constitution did not pass easily. Although considered “populistic” as it “enhanced the power of the voters and the officials they elected,” various groups did not support the revised governing document.¹²⁶ Troubles started immediately when a successful lawsuit, *Slate ex rel Kvaalen v. Graybill*, took away the convention’s money to educate and inform the citizenry about the constitution, stating that the “delegates had exhausted their authority at adjournment.”¹²⁷ The convention had purposely tried to end early and use the \$45,000 saved for voter education.¹²⁸ Instead, many delegates campaigned for the constitution at their own expense. Mae Nan Ellingson presented “fifty-six talks at Missoula schools, banquets, and grange halls

¹²⁴ “Surface Mining Control and Reclamation Act of 1977,” Law Code, August 3, 1977, <http://www.osmre.gov/topic/smcra/smcra.shtm> (accessed September 14, 2010).

¹²⁵ 1972 Montana Constitution, art. 9, sec. 4.

¹²⁶ Malone, *Montana: A Contemporary Profile*, 142.

¹²⁷ Court case quoted in: Ellis Waldron and Paul B. Wilson, *Atlas of Montana Elections 1889-1976* (Missoula, MT: University of Montana Publications in History, 1978), 259.

¹²⁸ Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 259.

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¹²⁴ “Surface Mining Control and Reclamation Act of 1977,” Law Code, August 3, 1977, <http://www.osmre.gov/topic/smcr/smcr.shtm> (accessed September 14, 2010).

¹²⁵ 1972 Montana Constitution, art. 9, sec. 4.

¹²⁶ Malone, *Montana: A Contemporary Profile*, 142.

¹²⁷ Court case quoted in: Ellis Waldron and Paul B. Wilson, *Atlas of Montana Elections 1889-1976* (Missoula, MT: University of Montana Publications in History, 1978), 259.

¹²⁸ Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 259.

urging voters to approve the constitution.”¹²⁹ Meanwhile, Betty Babcock, a conservative Republican, “often traveled around with liberal Democrat Dorothy Eck and Reverend George Harper, an Independent, to answer questions” and concerns about the new constitution.¹³⁰

The League of Women Voters stepped into the milieu once again. After campaigning to get the constitutional referendum passed and sending letters of support to delegates throughout the convention, the League had a stake in the passage of the new document. Not only did the League financially support the “Praise the Lord and Pass the Constitution” campaign, but the LWV also came up with their own creative ways to educate Montana voters. The organization sent letters to raise funds “to promote the proposed Constitution.”¹³¹ The League established calling committees to contact voters prior to the election, arranged for local coffees where citizens could receive additional information, set up information booths in shopping centers, and offered to appear at various civic organizations’ meetings to answer further questions. In addition, League members were encouraged to call in to radio shows and write letters to the editor, all of which provided free media attention.¹³²

The hard work of both the delegates and the League of Women Voters paid off. The “new Montana organic law” passed in a special election on June 6, 1972 by a narrow margin: 116,415 for to 113,883 against.¹³³ Due to the narrow plurality of just over 2,500 votes, the members of the state canvassing board “debated whether the vote to ratify was sufficient.”¹³⁴

¹²⁹ Holmes, 431.

¹³⁰ Holmes, 431.

¹³¹ Note on “Praise the Lord” Campaign: Robert J. Campbell to Jean Anderson, “League of Women Voters of Montana,” Box 2, Folder 2, Montana Historical Society Archives, Helena, Montana. Note on campaign contribution request: Wesley W. Wertz to Mrs. Bruce (Jean) Anderson, “League of Women Voters of Montana,” Box 2, Folder 2, Montana Historical Society Archives, Helena, Montana.

¹³² Jean Anderson to Mrs. John (Margo) Talbot, “League of Women Voters of Montana,” Box 2, Folder 2, Montana Historical Society Archives, Helena, Montana.

¹³³ Note on organic law: Malone, *Montana: A Contemporary Profile*, 146. Note on election: Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 259.

¹³⁴ Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 259.

While Governor Forrest Anderson (1969-1973) signed a proclamation of ratification for the constitution on June 20, 1972, the Montana Farm Bureau sought an injunction from the state supreme court.¹³⁵ The Montana Farm Bureau organized the main opposition to the constitution's passage. They feared it actually took away local power and felt the document had stringent environmental provisions. The Bureau challenged the legality of instituting a new constitution since "ratification received only fifty percent of approval."¹³⁶ The case went before the Montana Supreme Court, which ruled in favor of the new document in a three to two decision on August 18, 1972.¹³⁷

The June 6 vote for constitutional ratification demonstrated the split that had occurred within Montana's political life. "Seven of Montana's ten largest cities approved" the new constitution, whereas the conservative rural areas failed to pass it.¹³⁸ In the "twenty-one counties with fewer than 5,000 inhabitants, it failed by a margin of better than two-to-one."¹³⁹ Ellis Waldron and Paul Wilson go beyond the simple urban-rural divide in their publication, *Atlas of Montana Elections 1889-1978*. They note how sixteen counties, twelve of which were in the western half of the state, "furnished the two-thirds of the vote most favorable" in the state.¹⁴⁰ The eastern counties that favored constitutional ratification "contained the three largest urban centers in the east."¹⁴¹ Waldron and Wilson's analysis demonstrates how divided the state had become not only between urban and rural constituencies; it also illuminates the diverging interests of those living in the western half of the state versus those in the east.

¹³⁵ Note on Anderson's term: Cook, "Thumbnail History of Montana Governors," <http://governor.mt.gov/formergov/>. Note on dates and injunction: Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 259.

¹³⁶ Note on Bureau's concern: Malone, *Montana: A Contemporary Profile*, 146. Note on ratification: Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 259.

¹³⁷ Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 260.

¹³⁸ Malone, *Montana: A Contemporary Profile*, 146.

¹³⁹ Ibid.

¹⁴⁰ Waldron and Wilson, *Atlas of Montana Elections 1889-1976*, 259-260.

¹⁴¹ Ibid, 260.

Women's concern for the environment did not end with the passage of the Constitution. The Montana League, along with the National League of Women Voters, continued to emphasize environmental issues. In Montana, the League held a Lower Yellowstone River Workshop in the fall of 1973 to discuss various viewpoints in relation to Montana's water resources.¹⁴² Such discussions fostered awareness that concerns did not die away just because of Constitutional revisions. These conferences also encouraged the state legislature to continue to work towards implementing all areas of the new document, with the public informed and watching.

The women delegates to the Constitutional Convention were able to use the experience they gained in Helena as a foundation to launch themselves into more state activities. Four years after the Constitutional Convention, Daphne Bugbee Jones campaigned for and won a seat in the state legislature. She stated that just four years later, it was a completely different environment in which to be politically active. She mentioned that there was a "strong feeling of anti-femaleness," a feeling that had not existed at the Con-Con.¹⁴³ Arlyne Reichert also successfully ran for the state legislature after her Con-Con experience. For her, after being part of a "political body that really worked," the state legislature was "no fun."¹⁴⁴ In addition, she believed that attitudes towards women had completely changed. Reichert stated that when she entered the legislature, her male compatriots felt she belonged at home with her children. She credited her experience at the Convention to her getting involved in other arenas, including serving on the National Council of Municipalities League (now known as the Civic Review Board).¹⁴⁵ It encouraged her to stay involved in a multitude of civic affairs and influenced her future career

¹⁴² Lower Yellowstone River Workshop Pamphlet, October 1973, letterbox 9, folder 8, "League of Women Voters of Montana," Montana State Historical Society Archives, Helena, Montana.

¹⁴³ Daphne Jones, interviewed by Marcellas Sherfy,

¹⁴⁴ Arlyne Reichert, interviewed by Jodie Foley.

¹⁴⁵ Ibid.

with the McLaughlin Research Institute. Her involvement at the Convention and her experiences with the League of Women Voters had a generational impact, inspiring her daughter to begin a research career.¹⁴⁶ After her experience with the Con-Con, Dorothy Eck became even more involved in the Democratic Party, involving herself in campaigns and working on a board appointed by the governor to implement the new constitution.¹⁴⁷ She too, eventually served in the state legislature.

For the twenty-fifth anniversary of the passage of the 1972 Constitution, the Montana State Historical Society conducted interviews with several of the female delegates, asking them to reflect on the document they helped to write and pass. Reichert felt that there were quite a few successes during the Constitutional Convention. One of the biggest changes implemented, and one very dear to Reichert, is the openness of government written into the Constitution. Although caucuses can still occur behind closed doors, there is a right to know and right to participate clause that is a significant step toward open democracy. She was also very proud that Montana included an Equal Rights Amendment section in the document. Although it is not the same as the Equal Rights Amendment that was debated on the federal level and failed to be ratified, no discrimination based on sex was included as part of the state's Bill of Rights.¹⁴⁸ While equal rights may have been a hot button issue at the national level, Eck felt that the equal rights section in the Bill of Rights was simply assumed by the delegates. Virginia Blend, a delegate from Great Falls, disagreed. She considered it important to add "sex" into the equal rights clause and justified the addition when she testified during the convention that

As late as two years ago [1970] a woman, single, divorced or widowed, could not purchase an automobile, home or open a charge account unless she had a male to cosign .

¹⁴⁶ Arlyne Reichert, interviewed by Jodie Foley.

¹⁴⁷ Dorothy Eck, interviewed by author.

¹⁴⁸ It is important to note that Montana, as a state, ratified the federal Equal Rights Amendment as well.

. . . The Equal Rights proposal I urge you to include in the Bill of Rights grants equality to both sexes which is what we think we now have, but do not.¹⁴⁹

For her, equal rights had been written into the constitution due to debate and discussion, not simply assumed.

Another huge success, mentioned by several delegates, was the emphases on environmental protection throughout the document. According to Reichert, the fact that the document mentions the environment in three different locations impresses even constitutional experts, including Charles Wilkinson, a public land law specialist. Wilkinson stated that Montana's environmental provisions serve "as 'the single strongest statement of conservation philosophy' in any constitution of any state."¹⁵⁰ Reichert credited the presence of the environment throughout the constitution to Louise Cross, a "marvelous lady" whose environmental article pushed the document into the 21st century.¹⁵¹ Overall, she felt, with some detachment, that Montana had "the best constitution . . . the very best" and hoped that the people of Montana recognize the groundwork that the constitution lays for their future.¹⁵² Betty Babcock, a delegate from Helena, believed that "people have to work together for good government. I think the [constitutional convention] proved that they could work together . . . We didn't always agree, but we did work together."¹⁵³ This is evidenced in the fact that every single delegate signed the final document. Even if they did not agree with the document in its entirety, they felt that there needed to be a sense of unity among the delegates and that even with a few flaws, it was still a much better document than currently existed.¹⁵⁴

¹⁴⁹ As quoted in Holmes, 428.

¹⁵⁰ Arlyne Reichert, interviewed by Jodie Foley. Charles Wilkinson, as quoted in Mary Sheehy Moe, "Without Parallel: 25 Years with the Montana Constitution," *Montana Magazine*, May/June 1997, 75.

¹⁵¹ Arlyne Reichert, interviewed by Jodie Foley.

¹⁵² *Ibid.*

¹⁵³ Holmes, 425.

¹⁵⁴ Arlyne Reichert, interviewed by Jodie Foley.

While this sounds idealistic, the delegates had mixed feelings about the document they passed. Reichert was disappointed that a unicameral legislature did not become a part of the Constitution. Even though delegates were in favor a unicameral state house, they realized the opposition to it at large and did not want the Constitution as a whole to fail because they included it.¹⁵⁵ Looking back on the document through the lens of time, some delegates are disappointed in the regression that has occurred since the passing of the Constitution. Multiple delegates feel uneasy that certain aspects of the document have never been implemented correctly or even utilized. Reichert stated her concern about the neglect of cultural resources and their integrity, even after emphasizing their importance within the document.¹⁵⁶

When asked about the criticisms that the new Constitution ended up being much more conservative than the document the delegates campaigned for, Daphne Bugbee stated that they were very aware of the opposition that they faced throughout the state. They knew if the constitution passed, it would only be by a narrow margin.¹⁵⁷ Near the end of the Constitutional Convention when newspapers across the state were printing negative articles regarding the constitution and the delegates who wrote it, Mae Nan Ellingson admitted to being “so disheartened” about all the negative publicity and “so much crap being distributed” throughout the state that she worried the constitutional vote would be negative.¹⁵⁸ She was not alone in her worries. Eck mentioned that all delegates were concerned with how much change the constituency would actually be willing to accept. With these thoughts constantly on their mind, Eck felt that the delegates wrote a more conservative document.¹⁵⁹

¹⁵⁵ Arlyne Reichert, interviewed by Jodie Foley.

¹⁵⁶ Ibid.

¹⁵⁷ Daphne Jones, interviewed by Marcellas Sherfy.

¹⁵⁸ Mae Nan Ellingson to Arlyne Reichert, May 23, 1972, Con Con Materials folder, “Arlyne Reichert Unprocessed Collection,” Montana State Historical Society Archives, Helena, Montana.

¹⁵⁹ Dorothy Eck, interviewed by Jodie Foley.

However important the new Constitution may be, there is a sense that the Convention occurred and the Constitution passed in a “charmed moment.”¹⁶⁰ Twenty-five years later, several delegates feel attitudes have changed too much to have another such convention. Daphne Bugbee Jones mentioned that there is a significant loss of trust in government now and this would affect the ability of a convention to make any lasting changes. For her, the 1970s were a different era, one in which citizens trusted each other and believed they could truly affect how things were done.¹⁶¹ Mae-Nan Ellingson added that “by and large the people . . . in 1972 believed in the power of government, or at least the people’s ability to govern themselves.”¹⁶² Reichert agreed that things happened at the convention that would not occur now. She stated there were several risqué comments made, which although not considered appropriate today, brought a laugh during tense moments of debate.¹⁶³ Dorothy Eck believed that the timing of the referendum election was crucial to the calling of the convention. It was a year when multiple issues came to the attention of the average voter: the courts had reapportioned districts, a sales tax was being discussed, and there had been a special session of the legislature because it had run into obstacles with the 1889 Constitution.¹⁶⁴ All of these circumstances combined to create a political atmosphere ripe for constitutional revision.

Many, and not just those inside Montana’s state boundaries, have considered the 1972 Montana Constitution a unique governing document. In the Rocky Mountain West, Montana is the only state to have passed an entirely new second constitution and only one other constitution in the United States has had fewer amendments.¹⁶⁵ Montana’s Secretary of State noted that as of

¹⁶⁰ Daphne Jones, interviewed by Marcellas Sherfy.

¹⁶¹ Ibid.

¹⁶² Charles Johnson, “Montana was Politically Ripe for Constitution,” *The Missoulian*, date unavailable.

¹⁶³ Arlyne Reichert, interviewed by Jodie Foley.

¹⁶⁴ Dorothy Eck, interviewed by Jodie Foley.

¹⁶⁵ Holmes, 431.

2010, the 1972 Constitution had only been amended thirty-two times.¹⁶⁶ Historian Albert L. Strum attributes the success of Montana's Constitutional Convention to "careful preparatory research," which also led to the success of the constitutional conventions in Hawaii and Illinois.¹⁶⁷ While some count the Constitution's efficacy by the minimal number of amendments, others point to the honors granted as proof of its historical success. Not long after its passage, *Time Magazine* dubbed the new constitution a "model document."¹⁶⁸ In addition, the federal government created a film documentary of the Con-Con "to portray it abroad as an example of grass-roots democracy in action."¹⁶⁹

Regardless of the document's faults and foibles, the 100 delegates who attended the 1972 Montana Constitutional Convention felt they had completed the task to which they had been elected. The delegates, and especially the nineteen women, were aware of both national and local trends that influenced the calling of the Constitutional Convention. Once there, the women demonstrated their drive and passion in fighting for changes they truly believed in, from tougher environmental protections, equal rights regardless of sex, to local control over local government. Even without funding, women took it upon themselves to organize and aggressively promote the passage of the document they had an integral role in writing. There can be no doubt that these nineteen women left an indelible imprint on the history of Montana by participating in the calling, writing, and passage of the 1972 Constitution.

¹⁶⁶ Linda McCulloch, Montana Secretary of State website, accessed April 20, 2011, <http://sos.mt.gov/>.

¹⁶⁷ Albert L. Sturm, "The Development of American State Constitutions," *Publius* 12, no. 1 (Winter, 1982): 57-98, <http://www.jstor.org>.

¹⁶⁸ Malone, et. al., *Montana*, 395.

¹⁶⁹ *Ibid.*

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Appendix: 1972 Constitution's Environmental Provisions
Taken from the Constitution of the State of Montana As Adopted by the Constitutional
Convention March 22, 1972 and as Ratified by the People June 6, 1972

Preamble:

"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."

Article II: Declaration of Rights

Section 2. **Inalienable Rights.**

"All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities . . ."

Article IX: Environment and Natural Resources

Section 1. Protection and Improvement.

- 1) The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.
- 2) The legislature shall provide for the administration and enforcement of this duty.
- 3) The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies from unreasonable depletion and degradation of natural resources.

Section 2. Reclamation.

- 1) All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

Section 3. Water Rights.

- 1) All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.
- 2) The use of all water that is now or may hereafter be appropriated for sale, rent, distribution, or other beneficial use, the right of way over the lands of others for all ditches, drains, flumes, canals, and aqueducts necessarily used in connection therewith, and the sites for reservoirs necessary for collecting and storing water shall be held to be a public use.
- 3) All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for the beneficial uses as provided by law.
- 4) The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.

Section 4. Cultural Resources.

The legislature shall provide for the identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic, archeologic, scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment by the people.