

## **Office of the Vermont Secretary of State Vermont State Archives**

### **Statewide Referendum 1969: Constitutional Convention Referenda**

**Background:** Since 1870 amendments to the Vermont Constitution had been under a ten year time lock; that is they could only be proposed by the general assembly every ten years. In the 1960s the emergence of a competitive Democratic Party (marked by Philip Hoff's election as governor in 1962) and pressure to reapportion the legislature brought demands for a quicker amending process.

**Issue:** When, under federal court order, the house was reapportioned in 1965, it was in technical violation of the Vermont Constitution, which still called for town representation. The constitution, however, could not be amended under the time lock process any sooner than 1974.

In 1966 Governor Hoff asked Attorney General Charles Gibson for an opinion on whether the legislature could call a constitutional convention rather than follow the amending process set out in Chapter II, Sec. 72 (Hoff was specifically interested in changing from town to population based apportionment of the house). Gibson, citing Article 7th's enumeration of the people's right to "reform or alter" government, opined a convention could be called.

In addition the newly victorious Democrats saw the constitution as a barrier to modernizing Vermont government and sought a host of changes besides reapportionment. In response to further inquiries, in 1968 Assistant Attorney General Frank Mahady reaffirmed Gibson's opinion. Republicans disagreed, believing the proposed convention was unconstitutional; several formed a committee to defend the Vermont Constitution. By Act 298 of 1968 the legislature created a Constitutional Commission to the Study of the Vermont Constitution. Though the commission was not unanimous, it recommended calling a convention and listed items to be addressed.

**Referendum:** Act 74 of 1969, An Act to Convene a Constitutional Convention and Provide for a Referendum for Revision of the Constitution, called for two referenda.

The first was advisory, asking: "Shall a Vermont Constitutional Convention be convened at the state house in Montpelier on October 6, 1969 to consider the following topics which shall receive a majority of the votes cast upon it in this election, and no others?" It included on the ballot seven issues: method of amending the constitution; apportionment of the house; the judicial system, four year terms, method of selection the lieutenant governor and appointing rather than electing, the treasurer, secretary of state and auditor; the voting age and residential requirements; and annual sessions of the legislature.

If a convention was approved, a second referendum was called for ratification votes on each proposed revision agreed to by the convention.

On June 3, 1969 the constitutional convention was disapproved by an 8,969 margin. 14,861 to 23,830. All seven topics were similarly rejected.

**Result:** There were regional splits over the convention, southern Vermont being generally in favor with northern towns opposed. Economic health of communities also shaped local votes, municipalities with growing economies supporting the convention. See Robert V. Daniels and Robert H. Daniels, "The Vermont Constitutional Referendum of 1969: An Analysis" in *Vermont History*, Spring 1970.

The loss of the convention vote ended challenges to the constitutionality of the process and left other questions unanswered as well. Could, for example, the convention been restricted to any of the seven topics that passed or, since it was an advisory referendum, could other topics have been introduced from the convention floor (some opponents, for example, feared an effort to add gun control to the topics)?

In 1970 the time lock opened with many of the seven topics defeated in 1969 now proposed by the senate. In 1974 the voters ratified amendments bringing the constitution into conformity

with the new apportionment scheme; reforming the judiciary; changing the age of voting to 18 and the residency requirements, and changing the amending process (reducing the time lock on proposals of amendment from ten to four years).