

In the Words of the Delegates: Records of the 1938 New York State Constitutional Convention

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INTRODUCTION

A unique opportunity for "Conversations with History" is provided by the records of the 1938 New York State Constitutional Convention, in which the words of the delegates literally survive. The records of the 1938 Convention are now part of the holdings of the New York State Archives.

In 1936, the voters of the State of New York approved a resolution calling for the holding of a constitutional convention to consider changes to the State Constitution. In 1938, the New York State Constitutional Convention was held in Albany, the ninth convention of its kind to be held in New York State. Due to the lingering impact of the Great Depression, the most significant debates centered around the theme of social reform and the ongoing efforts of the state to improve living conditions for its citizens. Other key issues of this convention included: expansion of New York City's mass transit system, a more powerful and flexible Judiciary, a greater role for the Legislature in the area of taxation, and a cornucopia of lesser, but still important, items.

The records of the 1938 Convention give researchers a distinctive view of how the delegates planned to deal with the changing social and economic conditions that were shaping a modern New York State. The delegates included such notables as Alfred E. Smith, Hamilton Fish, Robert F. Wagner and Robert Moses. The records provide a complete and unabridged history of the proceedings of the Convention. The words spoken at the Convention, from the April 5th start to the August 26th finish, has been preserved for perusal. The expenses of the Convention staff and the delegates were recorded and are available for reference as are all the proposed amendments to the State Constitution. Editorial comment on the proceedings is included, with a file of newspaper clippings from *The New York Times* and several Albany newspapers. The daily floor proceedings have been preserved, allowing the researcher to share the "conversations" of this convention, day by day.

In all, the records of the 1938 New York State Constitutional Convention comprise a volume of 22.5 cubic feet. In 1977 these records were transferred to the New York State Archives. The Archives, part of the Office of Cultural Education in the State Education Department, is mandated to identify, acquire, preserve and make available for research use, State government records of enduring value. Since the opening of the Archives storage and research facility in the Cultural Education Center in 1978, almost 45,000 cubic feet of records have been transferred to the State Archives and additional records are added continually.

This guide is designed to assist researchers in identifying records of interest. A brief history of the 1938 New York State Constitutional Convention provides a background for understanding the records created by the Convention. This is followed by description of the documents in groups called record series.

All the records described in this guide are available for research use at the New York State Archives. The Archives research facility is open from 9 a.m. to 5 p.m. Monday through Friday, except for State holidays. For further information on the records described in this guide or on other holdings of the New York State Archives, contact:

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A BRIEF HISTORY OF THE 1938 CONSTITUTIONAL CONVENTION

The framers of the 1894 New York State Constitution were concerned that the issue of constitutional revision be brought before the people of New York on a regular basis, and included it as a provision of the State Constitution. In keeping with that requirement, the question of the need for a constitutional convention was put before New Yorkers in November 1936. They voted overwhelmingly to approve the holding of a constitutional convention.

In keeping with this mandate, a constitutional convention was scheduled for 1938. It was held in Albany from April 5th to August 26th, 1938. As delegates to the Convention, voters chose ninety-two Republicans, seventy-five Democrats, and one member of the American Labor Party. Included among the delegates were such well-known figures as Alfred E. Smith, Robert F. Wagner, Hamilton Fish, and Robert Moses. Frederick E. Crane, Chief Judge of the State Court of Appeals, was chosen President of the Convention.

Governor Herbert Lehman appointed a committee to gather information for the use of the delegates. The group, called the New York State Constitutional Convention Committee, was

headed by Charles Poletti. It produced a twelve volume report popularly known as the "Poletti Report." This report contained detailed information on past constitutional history, the functions of state and local government, New York City government, and a needs assessment for special committee work during the upcoming convention.

During the meeting of the Constitutional Convention, a variety of significant issues, many reflecting concerns raised by the Depression, were addressed. These included:

Social Security. The delegates declared that the state government had responsibility for aiding the needy, promoting public health, educating children, and caring for the physically and mentally handicapped. The Convention authorized the Legislature to establish programs to meet these needs and to provide for health, pension, and unemployment insurance.

Housing. The Convention approved authorization for the legislature to increase debt limits to provide funds to clear slum areas and construct low-income housing.

Reapportionment. Since the 1925 State Census, there had been a critical need for agreement on apportionment changes to make more equitable representation for New York City and other urban areas. Delegates were unable, however, to reach a consensus, and only minor changes were proposed in the existing apportionment rules.

The Judiciary. The Convention proposed a number of new powers and duties for the judicial branch, including expanded review of administrative decisions, greater flexibility in assigning judges, establishment of a new judicial district for Nassau and Suffolk counties, and new provisions for removing judges in certain courts.

Taxation. The Convention clarified the Legislature's role in taxation and gave it more power in assessing taxes.

Education. The delegates proposed giving the Legislature authorization for transporting children at public expense to and from any school, whether public or private, in the State.

New York City Rapid Transit. A proposed amendment excluded New York City from constitutional debt limitations in order to borrow money for an expanded and integrated rapid transit system.

Other Proposals. Other topics discussed and proposed by the Convention delegates included control of water power on the Niagara and St. Lawrence rivers, elimination of railroad grade crossings, tolls on the Barge Canal, regulation of highway billboards, and control over the State's forests and other natural resources.

In the election of November 8, 1938, voters were asked to approve five new constitutional amendments proposed by the Convention. The proposed changes were submitted for a vote in five questions. The voters approved amendments authorizing state funding for social welfare programs; an omnibus amendment containing debt limit; an amendment providing funding for eliminating railroad grade crossings; and an amendment setting hours, rights, and wages of

employees on public works projects. While failing in the ambitious goal of creating an entirely new constitution acceptable to voters, the 1938 Constitutional Convention did succeed in getting approval of a number of significant amendments to the 1894 Constitution. Particularly noteworthy were the amendments regarding social programs. The new amendments clarified the State government's role in providing for these programs, and laid the foundation for future efforts by the State to assume additional responsibility for social programs to benefit its citizens.

RECORDS OF THE CONVENTION

L0092. Transcript of Proceedings, 1938. 8 cubic feet (4 volumes).

Arrangement: Chronological by date of session.

The Convention Record comprises the published verbatim transcripts of the complete proceedings of the Convention from April 5 to August 26, 1938. The Record is divided into Numbers 1 thru 71, one number for each of the sessions held by the Convention. A Revised Record was published subsequently to the Record and contains delegates' corrections and additions made to the original transcripts.

Indexing: A name and subject index is included in the published records and revised record.

L0093. Proposed Amendments File, 1938. 2 cubic feet.

Arrangement: Numerical by amendment introductory number.

The series consists of copies of each of the 694 proposed amendments introduced in the Convention. The amendments contain the following: introductory number; title; date introduced; introducer; name of committee referred to; and text of amendment.

L0094. Summary of Proceedings, 1938. 2 cubic feet.

Arrangement: Chronological by date of session.

The Convention Journal is a summary of the daily floor proceedings of the Convention from April 5 to August 26, 1938. The journal summarizes all the activity of the delegates including motions, introduction of amendments, changes in Convention rules, reading of reports, etc. The Journal contains a roll call of delegate voting on amendments. The Journal for August 25 has the text of the proposed revised Constitution.

Indexing: A name and subject index is included in the published journal.

L0095. Committee Correspondence, Hearings, Minutes, and Proposals Files, 1938. 8 cubic feet.

Arrangement: Alphabetical by name of committee.

The series contains records produced or received by 13 out of the 34 committees active during the Convention. The records include correspondence, proposed amendments, minutes of meetings, and hearings held by various committees as they discussed approval of the 694 amendments introduced in the Convention and sent to committee. In addition, the records document pressure placed on delegates by individuals, private agencies and organizations, local and state government officials, businesses, educators, attorneys, and many other professionals attempting to influence adoption of specific amendments.

Most significant among the records are minutes of meetings and correspondence and proposals sent by constituents to committees. Approximately half of the series pertains to the Judiciary Committee's consideration of issues such as the selection and removal of judges, the power to review administrative decisions, and the creation of new judicial districts. The records reflect the Convention's concern with many conservation related issues (e.g., control of water power, billboard regulation, preservation of forest and other natural resources) and contain a great deal of correspondence and proposals on these matters. Throughout the records of several committees is information on the delegates' attempt to solve growing problems in the areas of housing, public health, education, and social welfare.

L0096. Newspaper Clipping File, 1938. .1 cubic foot.

Arrangement: Chronological by date of clipping.

The series contains approximately fifty articles and editorials relating to the Convention clipped from The New York Times and several Albany newspapers. The clippings cover the period from April 5 to May 12, 1938.

L0097. Log of Amendments Ordered to a Third Reading, 1938. .1 cubic foot (1 volume).

Arrangement: Chronological by date third reading order.

Before being voted upon by delegates, amendments were required to have a third reading before the convention. The series consists of a one-volume record used to track all amendments ordered to a third reading. The volume contains the following information for each of the 62 amendments ordered to a third reading: date ordered to a Third Reading; Third Reading number; introductory number; print number; introducer; dates: delivered to revision and engrossing, amended in Revision, reported, and passed: and remarks (e.g., date that amendment was reported, recommitted, restored, reconsidered or amended) .

L0098. General Orders Tracking Log, 1938. .1 cubic foot (1 volume).

Arrangement: Numerical by general order number.

A General Order was required before an amendment could be voted on by the Convention delegates. This series consists of a one volume record used to track all general orders considered by the delegates. For each amendment, the volume provides: date ordered to General Orders;

General Order number; introductory number; printer's number; introducer; when ordered to Third Reading; and remarks (e.g., date reported, date restored, date recommitted, not advanced).

L0099. Printed Amendment Filing Log, 1938. .1 cubic foot (1 volume).

Arrangement: Numerical by amendment print number.

The series consist of one volume record showing when amendments were officially filed after printing. For each amendment, the volume contains: date placed on members' file; print number; introductory number; and introducer.

L0100. Delegate and Committee Amendment Introduction and Progress Log, 1938. .2 cubic foot (1 volume).

Arrangement: Alphabetical by name of delegate or committee.

This series consists of one volume used to track amendments introduced by individual delegates or committees. The volume is arranged into two sections: the first with information concerning amendments introduced by delegates, arranged alphabetically by name of delegate; the second with information concerning amendments introduced by committees, arranged by name of committee.

The following information is provided for each amendment: date introduced; introduction number; print number; title; committee referred to; date of Special Order; date of Rules report; General Order number; date of General Orders; Third Reading number; date to Third Reading; amend and recommit (date); date reported amended; date amended on General Orders or Third Reading; date passed; date to Secretary of State; and remarks (e.g., died in committee, incorporated in substitute amendment, recommitted, passed).

L0105. Amendment Introduction and Progress Log, 1938. .2 cubic foot (1 volume)

Arrangement: Numerical by introductory number.

This series consists of one volume used to track the progress of each amendment introduced in the Convention. A total of 694 amendments were introduced while 57 of these were approved by delegates.

For each amendment introduced, the volume includes the following: date introduced; introducer; introductory number; print number; title; committee referred to; date of Special Order; date of Rules report; General Order number; date to General Orders; Third Reading number; date to Third Reading; amend and recommit (date); date reported amended; date amended on General Orders or Third Reading; date passed; date to Secretary of State; and remarks (e.g., died in committee, incorporated in substitute amendment, recommitted, passed).

L0106. Log of Committee Action on Amendments, 1938. .5 cubic foot (1 volume)

Arrangement: Alphabetical by committee name, then numerical by amendment number. The series consists of a one-volume summary of committee action on amendments referred to individual committees by the Convention. For each amendment considered by each committee, the volume contains the following information: introduced by; date of introduction in Convention; introductory number; print number; title; date of consideration by committee; action by committee (i. e., roll call of vote); date of report; and character of report (e. g., favorably, defeated, died in committee, changed committee, no action, to make no report).

L0107. Convention Secretary's Accounts for Staff Expenses, 1938. 2 cubic feet (21 volumes)

Arrangement: Numerical by warrant number.

The series documents payment from the Secretary of the Convention to Convention staff. 13 volumes contain payment stubs with warrant number, payee name, number of days attendance at Convention, job title, daily rate of pay, and total paid. The remaining 8 volumes contain warrant receipts with name of payee, date payment received, amount received, warrant number, and signature of Convention officer.

L0108. Convention Secretary's Accounts for Delegate Expenses, 1938. 1 cubic foot (8 volumes).

Arrangement: Numerical by warrant number.

The series documents payment to delegates from the Secretary of the Convention. Four of the volumes contain payment stubs with warrant number, delegate name, number of days attendance at Convention, total payment, date paid, and amount of pension deduction (if any). The remaining four volumes contain warrant receipts with name of delegate, date payment made, amount received, warrant number, and signature of delegate.