

## THE CONSTITUTIONAL CONVENTION OF 1938

The 1894 New York State Constitution (Article 14, Section 2) required that the question "Shall there be a convention to revise the Constitution and amend the same" be put to voters during 1936. The legislature (Laws of 1936, Chapter 598) further clarified this constitutional requirement and on November 3, 1936, New York voters approved the holding of a constitutional convention. This Convention was held in Albany from April 5 to August 26, 1938.

As delegates to the Convention, voters chose 92 Republicans, 75 Democrats, and one member of the American Labor Party. Included among these delegates were Alfred E. Smith, Robert E. 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 results of this effort was a 12-volume report, popularly known as the "Poletti Report," named after Charles Poletti, Chairman of the New York State Constitutional Convention Committee. 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.

While failing in the ambitious goal of creating an entirely new constitution acceptable to voters, the 1938 Convention did succeed in getting voter approval of a number of significant amendments to the Constitution. The most significant accomplishment of the delegates was to add authorization for expanded state government responsibility for social welfare programs. During the 1930's, both the federal and state government began new programs to assist people caught in the economic depression in the state. The new amendments clarified the state government's role in providing for these programs and helped avoid problems when the state began to take over added responsibility for social programs later on.

Among the most important issues addressed by the Convention were:

- 1) Social security.** The delegates declared that the state government had responsibility for aiding the needy, promoting the 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.
- 2) Housing.** The Convention approved authorization for the legislature to increase debt limits to provide funds to clear slum areas and construct low-income housing.
- 3) 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.

**4) 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.

**5) Taxation.** The Convention clarified the legislature's role in taxation and gave it more power in assessing taxes.

**6) Education.** The delegates proposed giving the legislature authorization for transporting children at public expense to and from any school, public or private, in the state.

**7) New York City rapid transit.** The proposed amendment excluded New York City from constitutional debt limitations in order to borrow money for an expanded and integrated rapid transit system.

**8) 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, barge canal tolls, 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 57 new amendments proposed by the Convention. The proposed changes were submitted for a vote in nine questions. The voters approved an omnibus amendment containing questions considered non-controversial; an amendment raising the New York City debt limit; an amendment providing funding for eliminating railroad grade crossings; an amendment setting hours, rights and wages of employees on public works projects; and amendments authorizing state funding for social welfare programs.**

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