

Constitutional Convention
X/Resources/8/A
January 16, 1956

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 8/A

Introduced by Committee on Resources

STATE LANDS AND NATURAL RESOURCES

RESOLVED, that the following be agreed upon as part of
the Alaska State Constitution:

ARTICLE ON STATE LANDS AND NATURAL RESOURCES

Statement
of Purpose

1 It is the policy of the State to foster
2 and encourage settlement and development through the
3 maximum use and availability of its natural resources
4 consistent with the public interest and the avoidance
5 of waste. To that end it is the intent of this Article
6 to extend to all peoples the opportunity of participa-
7 tion in Alaska's heritage.

State
Boundaries

8 Section 1. The State of Alsaka shall consist
9 of all the territory, together with the territorial
10 waters appurtenant thereto, now included in the
11 territory of Alaska.

State's
Proprietary
Interest

12 Section 2. The State of Alaska shall provide
13 for the utilization, conservation and development of
14 all of the natural resources, including land and waters
15 belonging to the State, in accordance with provisions
16 of applicable acts of Congress, including the act
17 admitting Alaska to the Union, this Constitution, and

1 the laws of the State, for the maximum benefit of its
2 people.

Sustained 3 Section 3. Forests, fish, wildlife, grasslands
Yield 4 and other replenishable resources belonging to the
5 State shall be administered, utilized and maintained
6 on the sustained yield principle.

General 7 Section 4. Fish, wildlife, and waters, wherever
Reservations 8 occurring in their natural states, are reserved to the
9 people for common use.

Fish and 10 Section 5. Regulation and administration
Game 11 of the commercial fisheries and of the wildlife, in-
Management 12 cluding game fish, shall be delegated to a commission,
13 or to separate commissions, under such terms as the
14 legislature shall prescribe.

General 15 Section 6. Facilities, improvements and
Authoriza- 16 services may be provided to assure greater utilization,
tion for 17 development, reclamation and settlement of lands, and
Facilities, 18 fuller utilization and development of the fisheries,
Improve- 19 wildlife and waters.
ments and
Services

Uniform 20 Section 7. Laws and regulations governing
Application 21 the use or disposal of natural resources shall apply
22 equally to all persons similarly situated with reference
23 to the subject matter and purpose to be served by the
24 law or regulation.

Special 1 Section 8. Sites, objects, and areas of
Acquisitions 2 natural beauty or of historic, cultural, recreational
and Purposes 3 or scientific interest may be acquired, preserved, and
 4 administered for the use, enjoyment and welfare of the
 5 people, under the laws of the State, and may be re-
 6 served from the State public domain.

State 7 Section 9. Lands and interests therein, in-
Public 8 cluding submerged and tidal lands, possessed or
Domain 9 acquired by the State, and not used or intended
 10 exclusively for governmental purposes, constitute
 11 the State public domain.

 12 The Legislature shall make provision for the
 13 selection and administration of lands in the State
 14 public domain..

Leases 15 Section 10. The Legislature may provide for
 16 the leasing of any part of the public domain, or
 17 interests therein, subject to reasonable concurrent uses.

 18 Leases shall provide, among other conditions,
 19 for payment by the party at fault for damage or injury
 20 arising from noncompliance with terms governing con-
 21 current use, for forfeiture in the event of breach of
 22 conditions and, generally, for enforcement of terms.

Sales and 23 Section 11. The Legislature may provide for
Grants 24 the sale or grant of State lands or interests therein,
 25 and establish sales procedures subject to the following
 26 conditions;

1 All sales or grants of State land or interests
2 therein shall contain such reservations to the State
3 of all mineral or water resources as are required by
4 the Congress, or the State, and shall provide for
5 access thereto, and to all other resources reserved
6 to the people; except that the reservation of access
7 shall not impair the owners' beneficial use, prevent
8 the control of trespass, nor preclude compensation for
9 damage.

Public 10 Section 12. Disposals or leases of state
Notice and 11 lands or interests therein shall be preceded by such
Other 12 public notice and other appropriate safeguards of the
Safeguards 13 public interest as the Legislature shall prescribe.

Mineral . 14 Section 13. Discovery and appropriation shall
Rights 15 be the basis for establishing a right in those minerals
 16 subject to location under the Federal mining laws in
 17 the year 1955 and now reserved to the State, as well as
 18 to all other metallic minerals reserved to the State.
 19 Prior discovery, location and filing shall, as pres-
 20 cribed by law, give prior right to such minerals and
 21 to issuance of permits, licenses, leaseholds, deeds, or
 22 patents if authorized by the Congress, and by the State,
 23 for the extraction thereof. Except as title to mineral
 24 lands shall have been conveyed by the State, continuance
 25 of such right shall depend upon performance of annual

1 labor, on payment of fees, rents, or royalties, or such
2 other requirements as may be prescribed by the Legislature.

3 Surface use of such lands, by the **mineral**
4 claimant, shall be limited to those necessary to the
5 extraction and basic processing of mineral deposits.

6 The Legislature shall provide for the issuance,
7 type, and terms of leases for coal, oil, gas, oil shale,
8 sodium, phosphate, potash, sulphur, pumice, and other
9 minerals as may be prescribed by law.

10 Leases and prospecting permits giving exclusive
11 right of exploration for specific periods and areas may
12 be authorized for exploration conducted for coal, oil,
13 gas, oil shale, sodium, phosphate, potash, sulfur,
14 pumice, and other non-metallic minerals as may be
15 prescribed by law; and for the use of geophysical,
16 geochemical and similar methods of prospecting for all
17 minerals.

Water
Rights

18 Section 14. All waters reserved to the
19 people for common use shall be subject to appropriation.
20 Priority of appropriation shall give prior right. An
21 appropriation of water, except for public water supply,
22 shall be limited to stated purposes and subject to
23 preferences of beneficial uses, concurrent or otherwise,
24 as prescribed by the Legislature, and to the general
25 reservation of fish and wild life.
26

Access to Navigable Waters	1	Section 15. Free access to the navigable or
	2	public waters of the State shall not be denied any
	3	resident of Alaska or citizen of the United States,
	4	except that the State may by general law regulate and
	5	limit such access for other beneficial or public purposes.
No Ex- clusive Right of Fishery	6	Section 16. There shall be no exclusive right
	7	or special privilege of fishery created or authorized
	8	in the natural waters of the State.
Divestment of Rights	9	Section 17. No person shall be involuntarily
	10	divested of his right to use of waters, his interests in
	11	lands, or improvements affecting either, except for a
	12	superior beneficial or public use and then only by
	13	operation of law.
Private Ways of Necessity	14	Section 18. Proceedings in eminent domain
	15	may be undertaken for private ways of necessity to
	16	permit essential access for extraction or utilization
	17	of resources.
Residual Powers	18	Section 19. The enumeration of specified
	19	powers shall not be construed as limitations on other
	20	implied powers of the State in relation to the utiliza-
	21	tion, development and conservation of natural resources,
	22	except as specifically provided herein.

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ALASKA CONSTITUTIONAL CONVENTION

Commentary on Article on State Lands and
Natural Resources

(Sec. 1 State Boundaries)

This is the same boundary statement set forth in H.R. 2535.

(Sec. 2 States' Proprietary Interest)

This section is a general grant of authority to the State for the utilization and development of all resources over which the State has a proprietary interest. This includes all game fish, wildlife, fisheries, waters and those lands and related land uses including mineral rights, etc., that may be acquired by the State through grants from the United States or by other means. Authority over private lands and resource interests is not provided in this Article except as that authority is generally reserved in Section 18.

(Sec. 3 Sustained Yield)

Sustained yield is recognized as a principle applicable to the administration of plant and animal life subject to the immediate authority of the State. This provision applies generally to wildlife and fisheries anywhere in the State and to the forests and other replenishable resources including grass which occurs on lands in the State public domain. This principle is qualified in terms of "the highest beneficial public use" in recognition of its not being in the public interest to preserve certain parasitic or predatory organisms destructive of more beneficial plant and animal life. The

reference of this section is to the State of Alaska, and not to any particular parcel of land or any particular body of water.

(Sec. 4 General Reservations)

Game fish, wildlife, fisheries, and water are recognized as belonging to the State so long as in a natural state. These resources are subject to a private right only when they have been acquired or utilized as provided by law. For example, a private person has no right to buy and sell wild animals in their natural state, but once an animal is taken in compliance with law, it becomes the property of the taker, subject to use or disposition within the law. This provision does not apply to the domestication of fur-bearing animals or other animals subject to intensive culture, to fish in private ponds, or to registered trap lines if authorized by law. The ownership of water is generally recognized as vesting in the state. Private rights can be acquired only to the use of water.

(Sec. 5 Fish and Game Management)

Management of fish and game resources, and the regulation thereof, are by this section to be the responsibility of a commission, or commissions. Composition and tenure of commissions is not mentioned, because the Committee did not wish to fix membership rigidly in the Constitution, and because the "staggered term" concept is firmly established in Alaska's Board system.

(Sec. 6 General Authorization for Facilities, Improvements and Services)

This general authorization is made to facilitate the development of the State's natural resources. In localities where lands

are susceptible to general agricultural development, the State would have authority to undertake improvements by providing roads or improvements on the land in preparation for settlement. Where improvements or facilities may be essential to the development of fisheries and water resources, the state would have the authority to undertake those developments. Such developments could require the services of technical specialists and advisors who can assist citizens of the State on technical problems involving the improvement of production and resource utilization in much the same way that the farm agent has worked on problems of agricultural production and the Forest Service has rendered aid to private owners of standing timber. The section is not, however, intended as an authorization for the State's entering business in competition with private industry.

(Sec. 7 Uniform Application)

This section is intended to exclude any especially privileged status for any person in the use of natural resources subject to disposition by the State.

(Sec. 8 Special Acquisition and Reservations)

General authority is granted the State to acquire special sites, objects or areas of scenic, historic, cultural or scientific or recreational interest, to reserve similar sites, objects or areas in the state public lands and to administer these special sites, objects, and areas for general public use. These sites, objects or areas might ultimately become state monuments or parks.

(Sec. 9 State Public Domain)

The State public domain is defined to include all lands and interests therein that are acquired by the State except for (1) lands used or intended to be used exclusively for governmental operations, and (2) those sites and areas that have been acquired or reserved for special scenic, historic, cultural, recreational, or scientific interest. The lands, and interests therein, in the State Public Domain may be disposed of in accordance with provisions of federal law, the State Constitution and State Law. Should terms of enabling legislation covering grants of lands to the State be modified before passage, the language of this section would avoid necessity of amending the Constitution.

General authority is granted to the Legislature to provide for the selection and administration of the State Public Domain. The Enabling Bill provides for State selection of granted lands. The Legislature is given general authority to provide for the general administration of the State public domain in order to assure maximum use and public benefit in the several uses of those lands.

(Sec. 10 Leases)

The Legislature is authorized to lease State lands or interests therein. In granting leases, the potential uses of the land are to be considered so that maximum benefit can be derived. Each lease shall state the particular use or uses to be made of the lands as well as the conditions of the use and the term or tenure of the lease in order to facilitate reasonable concurrent use by others if occasion arises. "Reasonableness" of concurrent uses

implies that possibilities of conflict in use should be kept to a minimum. Provisions of liability, forfeiture and other means of enforcement of the lease are to be provided in the instrument.

(Sec. 11 Sales and Grants)

Sales and grants of State lands and interests therein are generally authorized with provision for reservation of mineral rights and for reservations of access. The reservation of mineral rights is prompted by provisions of H.R. 2535, the current Enabling Bill.

Reservation of access is required on all grants or sales of state land so as to assure access to reserved mineral rights and to those resources generally reserved to the people by Section 3 of the proposal. While reserving access, the section explicitly provides that these rights of access shall not impair the owner's beneficial use, shall permit the control of trespass and allow for compensation for damages done to the owner of the land.

(Sec. 12 Public Notices and Safeguards of the Public Interest)

Certain safeguards of the public interest are essential in public land transactions. Such transactions may vary in importance from routine matters to those of substantial value. If general constitutional provisions impose too rigid requirements, the land administration can become hopelessly ensnarled in red tape. As a result this section of the Constitution provides for the Legislature to establish public notice, and other safeguards to protect the public interest. As requirements change and many transactions become routine, appropriate modifications can be made in procedures if rigid requirements are not specified in the Constitution itself.

(Sec. 13 Mineral Rights)

With the restrictions on the sale, grant or patent of mineral lands as provided in the proposed Enabling Bill and in Section 9 of the proposal, this section recognizes the established pattern of mining rights whether applied to a system of leaseholds or patents. This established system of mining law recognizes the preferential right of a prospector to a mineral deposit on the basis of discovery and appropriation. Appropriation involves both location and filing. All mining law requires continued beneficial use (assessment work) to maintain a mining claim.

These elements of mining law were described by Costigan in his standard works on ~~A~~merican Mining Law when he stated, "They (mining laws) all recognize discovery followed by appropriation, as the foundation to the possessor's title and development by working as the condition of its retention". This conception underlies the statement of mineral rights contained in Section 13.

Exceptions to these general rules applicable to mineral rights have become recognized through the Federal Mineral Leasing Act of 1920, as amended, and other special legislation for Alaska. The fuel minerals of oil, gas, oil-shale, and coal and phosphates, potash and other non-metallic minerals have been developed under a lease system which involves exclusive right to prospect certain areas over a given period of time subject to payment of certain royalties if commercial development is undertaken. This is the reason for making exceptions of these non-metallic minerals and for the newer forms of geophysical and geochemical prospecting. Otherwise the

right of an ordinary prospector to search for mineral deposits is fully recognized and he is recognized as having a preferential right to the appropriate permit, license, lease or patent if possible, for the extraction of these mineral deposits. The prospector's preferential right would presumably be transferable in the same manner that a claim can be conveyed today.

Section 13 is so phrased as to permit patenting of claims on state land should Congress remove the anticipated restrictions and the Legislature so provide. However in adapting the ideas behind the Act of July 23, 1955 to Alaskan conditions, restrictions are placed upon claims and patents so that the surface uses of the land shall be limited to those uses necessary to the extraction and basic processing of mineral deposits. The land will be available for construction of mining works, the disposition of mining wastes and for the timber necessary in mine construction. However, forests on these lands would not be generally available to the mineral claimant. The further requirement of assessment work, operation, or payments is to assure that the lands claimed for mineral purposes will revert to public control when for example, mining has ceased, the mineral deposits have been exhausted or the property abandoned.

(Sec. 14 Water Rights)

This section provides for the prior appropriation system of water rights generally used in the western states and in Alaska. The prior appropriation system recognizes the principle of "first come; first served", or "first in time; first in right" which is also

the basic principle of mining law. Here again the concept of appropriation involves filing an application for stated quantities of water for stated uses at specific locations. The preservation of a prior appropriation right to water requires continued beneficial use. Concurrent use is recognized to assure maximum utilization. Water used for the generation of hydro-electric power, for example, is also subject to appropriation for domestic consumption or other uses that do not conflict with those for which prior appropriations have been made. Appropriations are subject to the general reservation of fish and wildlife provided in Section 3 so that reservoirs shall not exclude fish and wildlife remaining in natural states from coming under the provision of their general reservation to the people.

Preference among beneficial uses is a basic provision found in the resource codes and constitutions of several of the Western States. Orders of preference are usually made for water uses such as domestic or industrial consumption, irrigation, fisheries, mining, hydro-electric power production, etc.

The provision for divestment of right allows eminent domain proceedings to be used in permitting a higher use only. As among users of the same order of priority, the power of condemnation cannot be used. Under this type of provision the state may have granted a mining lease for placer mining in a river bed. If the stream had important hydro-electric potentialities a power company might desire to use a site, which would cause the flooding of the mine. If the hydro-electric development was determined to be a higher beneficial

use, the mining properties might be acquired by appropriate legal action with just compensation for the interests and improvements of the conflicting mining use.

(Sec. 15 Access to Navigable Waters)

This section assures free access to the navigable waters of the state for "any person resident of Alaska or citizen of the United States." However, such access may be limited by other beneficial purposes such as the construction of dam or other water-works. Since the control of navigable waters is a Federal question within the province of Congressional authority, any actions taken by the Federal government would supersede this constitutional provision.

(Sec. 16 No Exclusive Right of Fishery)

This section is intended to serve as a substitute for the provision prohibiting the several right of fisheries in the White Act. Instead of using the terminology of that Act the purposes sought by it are given expression in a prohibition of exclusive right or special privileges of any person to the fisheries of the State.

(Sec. 17 Divestment of Rights)

This section, protecting any person from involuntary divestment of property rights and interests, is generally applicable to any established right and might be relied upon to protect persons who claim possessory rights to tidelands in coastal areas where substantial improvements have been made in docks, wharves or other waterfront facilities and homes.

(Sec. 18 Private Ways of Necessity)

This provision was borrowed from the Wyoming Constitution and modified to meet Alaskan conditions. The Wyoming provision states, "Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and for reservoirs, drains, flumes, or ditches on or across the lands of others for agricultural, mining, domestic or sanitary purposes, nor in any case without due compensation." In that arid state this provision was developed to assure access to water supply even though it might be necessary for a private person to secure easement across adjoining private lands. Since the adoption of the Wyoming Constitution, a number of western states have included a similar provision in their constitutions. . Since the problem of essential access in Alaska is not limited to water supply as in Wyoming, this article makes only a general provision for the use of eminent domain proceedings to provide essential access for extraction and utilization of natural resources.

(Sec. 19 Residual Powers)

The Article on State Lands and Natural Resources is primarily concerned with the State's proprietary interests in the State public lands, waters, wildlife and fisheries. This section explicitly states that the other provisions in the Article on State Lands and Natural Resources shall not limit the exercise of the general police powers of the State to provide for the utilization, development and conservation of natural resources in general, including those in private ownership.

Regulation of stream pollution, the prohibition of fish-traps and fire control in timber areas are illustrations of action taken under general public police powers to provide for public health, safety or the general welfare which may affect resource development, utilization or conservation on both public and private lands.

TERMS

APPROPRIATION - mining

The term "appropriation" in mining law means the posting of notice at or near the point where the ledge is exposed; next the marking of the boundaries. (Ricketts, Am. Mining Law)

APPROPRIATION - water

An appropriation of water consists in the capture, impounding, or diversion of it from its natural course or channel and its actual application to some beneficial use private or personal to the appropriator, . . . exclusion to the extent of the water appropriated of all other persons, to constitute a valid appropriation, there must be an intent to apply the water to some beneficial use existing at the time or contemplated in the future, a diversion from the natural channel by means of a ditch or canal, or some other open physical act of taking possession of the water, and an actual application of it within reasonable time to some useful or beneficial purpose. (Black's Legal Dictionary)

Elements of valid appropriation of water are:

- (1) an intent to apply it to some beneficial use, existing or contemplated,
- (2) a diversion from a natural stream (or source),
- (3) an application of it within a reasonable time to some useful ends. (long line of Western cases).

BENEFICIAL USE

In both water and mining law a condition of the retention of a right is continued beneficial use. Beneficial use involves

making use, continuing active utilization or work.

In the laws of many states certain uses of water including the disposal of wastes and the preservation of scenic features are not recognized as beneficial uses and therefore not subject to appropriation for those purposes. Those uses that are beneficial and subject to appropriations may then be ordered in their importance so that a higher use can prevail over a lower use through eminent domain proceedings allowing for just compensation to the lower user for his rights and improvements. (V.O.)

Federal grazing permit on natural forests held to be sufficient "beneficial use" to support condemnation of defendants' land for access thereto (126 P2d 481)

Reservoir to hold water in reserve for use only if necessary held a sufficient beneficial use to defeat forfeiture through non-use and that Company could recover from U. S. for construction of the Friant Dam on San Joaquin River which cut off its reservoir source. (76 Fed Sup 836)

Summer resorts' use of a waterfall for its esthetic purposes in attracting patronage has been held a beneficial use sufficient to preclude diversion from above for purposes of generating electric power.

Cases hold irrigation and the generation of electric power to be among the many instances of the beneficial use of water. Where legal title is in one person and the right to beneficial use is in another (as in the case of a homesteader who has complied fully with requirements for patent) he is deemed the beneficial owner of the property pending issuance of patent.

CLASSIFICATION OF LANDS

Classification is characterization through the selection of some quality or feature, and therefore lands may be classified as pasture, grazing, timber, arable or mineral. It is determined by surface indications. Minerals may be hidden under any surface but a surveyor is not expected to explore for them that he may include or exclude reference to them in his reports. (8F Sup 407).

A surveyor's report that lands if cleared should be suitable for grazing, but at the time of the report were more valuable for timber, is, when accepted by the land office, a classification of the lands as non-mineral. (16 USCA 91 244 US 90.

GAME

Migratory fish in navigable waters of a state, like game within

its borders, are classified as animals *ferae naturae*, the title to which so far as susceptible to assertion before possession is obtained, is held by the state in its sovereign capacity, in trust for all its citizens. As an incident of the assumed ownership the state may protect the species from extinction by exhaustive measures of capture. (95 P 808)

INTEREST IN LAND

An interest in land is the legal concern of a person in the thing or property or in the right to some of the benefits or uses from which the property is inseparable. (273 NW121)

An appropriator's right pending determination of his application to use public lands was an "interest in real property" which he could protect by suit to determine conflicting claims. (119 P234)

A right to take water from a well by reason of occupation of a dwelling house, and for the more convenient occupation thereof, is an interest in land. (22 WP)

Most cases hold a mortgage not to be an interest in land but mere security until foreclosure.

A conveyance of an interest in the oil, gas and minerals in and under a tract of land is a conveyance of an interest in the land. (220 SW623)

Whether such right resides in lessee or lessor, as royalty, it is an interest in land (49F (2nd) 76)

Fractional mineral rights constitute an interest in land (78 P692)

A leasehold interest constitutes an interest in land; a contract for sale of land has been held an interest in land,

as has been a written option to purchase; standing timber is an interest in the land which the state may convey, but upon conveyance of stumpage, to be removed at once, such stumpage becomes personal property as distinguished from an interest in land. An agreement to sell forest products is an interest in land.

NATURAL WATERS

Navigable waters within the meaning of 5 Stat. 726 giving District Courts jurisdiction over contracts and torts pertaining to vessels navigating between different ports in different states and ports upon the lakes and waters connecting said lakes is not to be understood in the same sense as natural waters but includes artificial waterways as well. (21 Fed Cas. 851, No. 12549)

NAVIGABLE WATERS

Actually navigable in fact.

Capacity for navigation or capable of being navigated to float boats, ships, or produce of the country.

RESERVED TO THE PEOPLE FOR COMMON USE.

Ancient traditions in property rights have never recognized that a private right and title can be acquired by a private person to wildlife in their natural state or to water in general. The title remained with the sovereign, and in the American system of government with its concept of popular sovereignty this title is reserved to the people or the state on behalf of the people. The expression "for common use" implies that these resources are not to be subject to exclusive grants or special privilege as was so frequently the case in ancient royal tradition. Rather rights to use are secured by the general laws of the state. In all

English and American legal systems ownership of water cannot be asserted, rights acquire only to the use of water. Once wildlife is captured and removed from their natural state possessory right accrues to the captor, provided that the wildlife was captured in conformity with provisions of law. (V.O.)

SEVERAL RIGHT

A several fishery is an exclusive right to fish which is derived from the owner of the soil. (39 W&P 89)

The right may attach as well to an arm of the sea where the tide ebbs and flows as to fresh water. (60 NY 56)

"Sole and exclusive fishery" were, after verdict, equivalent to a description of a several fishery. (3QB 426)

SUSTAINED YIELD PRINCIPLE

As to forests, timber volume, rate of growth, and acreage of timber type can be determined with some degree of accuracy. For fish, for wildlife, and for some other replenishable resources such as huckleberries, as an example, it is difficult or even impossible to measure accurately the factors^{by}/which a calculated sustained yield could be determined. Yet the term "sustained yield principle" is used in connection with management of such resources. When so used it denotes conscious application insofar as practicable of principles of management intended to sustain the yield of the resource being managed. That broad meaning is the meaning of the term as used in the Article.

WHITE ACT PROVISION 48 U.S.C.A. 222

That every such regulation made by the Secretary shall be of general application within the particular area to which it applies, and that no exclusive or general right of fishery

shall be granted therein, nor shall any citizen of the U. S. be denied the right to take, prepare, cure, or preserve fish or shellfish in any area of the waters of Alaska where fishing is permitted by the Secretary.

With respect to traps, applications for sites within areas which the Secretary finds consistent with proper conservation, should be allotted in order of priority of time in applications among qualified applicants.

The word "exclusive" forbids not only a grant to a single person or corporation, but to any special group or number of people. (Hynes-Grimes Karluck Reservation)

Constitutional Convention
Committee Proposal 8/a
Date: January 16, 1956

ALASKA CONSTITUTIONAL CONVENTION
REPORT OF THE COMMITTEE ON RESOURCES

Hon. William A. Egan, President
Alaska Constitutional Convention

Your Committee on Natural Resources submits for consideration of the Convention the attached proposed Article No. 8, as a Committee Substitute for tentative committee Proposal No. 8 earlier submitted. Accompanying said Proposal is a revised Commentary.

The Committee has considered the following Delegate Proposals and reports on them as follows:

Sections 1 & 2 of Proposal 5 have been incorporated in part in the Committee Proposal.

Section 3 was not incorporated in the Committee Proposal and, in the Committee's opinion, might properly be considered by the Committee on Resolutions.

Section 13, Proposal No. 6 is believed to be more properly the concern of Finance, Ordinances and Transitional Matters.

In the Committee proposal matters proposed in delegate Proposal No. 7 are touched upon in part and the way left clear for such future Legislative action as may be desired.

The Committee recommends for reference to the Resolutions

Committee and to the next Territorial Legislature the proposition that the Territorial Legislature put in motion, through its Legislative Council or otherwise, a comprehensive study of necessary legislation in the resources field to implement this proposed Article. It is recognized that in most respects Legislation based on such study will be the province of the State Legislature, yet the Committee feels that the undertaking will be of such scope and magnitude that early attention should be given it.

Sections 5 & 6 of Proposal No. 9 are in part incorporated in Section 6 of the Committee Proposal.

Sections 6 & 7 of Proposal 17 are in substance incorporated in this Proposal.

Proposal 18 is in part incorporated in Section 10 of this Proposal.

Proposal 26 was considered beyond the province of the Committee and without the scope of the Constitution. However, the Committee recommends that the Convention adopt a suitable resolution addressed to appropriate Federal agencies now in position to remedy the situation which Proposal 26 seeks to reach.

Sections 1, 3, 4, and 5 of Proposal 30 are covered generally in this Proposal, while Sections 2 and 6 are not.

Proposal 32 is merged in this proposal.

Both before and since the submission of Proposal 33, the abolition of fishtraps received the Committee's searching attention. While the Committee Proposal does not mention traps, the Committee urges an expression in this respect by the Convention, and recommends that the Convention adopt an appropriate Resolution or Ordinance as a means of hastening the abolition of traps.

Respectfully submitted,

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