

Constitutional Convention of Alaska

PROPOSAL 1

Introduced by R. E. Robertson

COURTS, JUDICIAL, TENURE, AND JURIES.

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

1 1. The judicial power of the State of Alaska shall be
2 vested in one Supreme Court, and in one Superior Court, and in
3 such inferior Courts as the Legislature may from time to time
4 ordain and establish. The Judges of the Supreme and Superior
5 Court shall hold their offices during good behavior and for
6 life until reaching the retirement age prescribed by the
7 Legislature, and they as well as the Judges of the inferior
8 Courts shall, at stated times, receive for their services
9 a compensation which shall not be diminished during their
10 continuance in office. The Supreme Court shall consist of the
11 Chief Justice and of not less than two Associate Justices.

12 2. The judicial power shall extend to all cases, in law,
13 equity and probate, and to all criminal cases, arising under
14 this Constitution and the laws of the State of Alaska. The
15 Supreme Court shall have appellate jurisdiction in all cases,
16 both as to law and fact, with such exceptions and under such
17 regulations as the Legislature shall ordain, but shall have
18 original jurisdiction in habeas corpus and other extraordinary
19 writs where a Superior Court judge is incapacitated or is not
20 available to grant the writ, and in cases involving acts,

1 either of commission or omission, whether misfeasance, malfeasance or
2 non-feasance, of any Superior Court judge, and in cases of impeach-
3 ment of inferior Court judges. The Superior Court shall be a
4 court of record and shall have original jurisdiction in all cases
5 both civil and criminal, except impeachment, arising under this
6 Constitution and the laws of the State of Alaska. The Chief
7 Justice, or in event of his absence, incapacity or non-availability
8 then the next ranking Associate Justice, of the Supreme Court may
9 assign, whenever reasonable exigency of juridical work and the
10 best interests of litigants require, a Superior Court judge to
11 try cases in other than the judicial district for which he is
12 appointed.

13 3. All justices and judges shall be citizens of the United
14 States and of the State of Alaska, and, also, except inferior
15 Court judges, practicing attorneys at law; otherwise, the Legis-
16 lature shall prescribe the respective qualifications of all
17 justices and judges, fix their respective compensations, and their
18 respective retirement ages; and shall, also, prescribe the tenure
19 of office of Inferior Court judges. All justices and judges shall
20 be appointed by the Governor but they shall be selected by him
21 from not less than two nominees for each respective judicial
22 office nominated upon a non-partisan, non-political basis by the
23 Alaska Bar Association or its successor. Supreme Court Justices
24 and Superior Court Judges shall each be appointed during good
25 behavior and for life until they reach the retirement age; but,

1 each at the end of his first seven years of judicial tenure
2 shall stand for election to his respective judicial office
3 at the then next following general election. Should he fail
4 of election by a majority vote of the qualified electors,
5 in the case of Supreme Court Judges, of the State of Alaska
6 and, in case of Superior Court Judges, of the respective
7 judicial district for which he is appointed, his term of
8 office shall immediately cease and he shall not be eligible
9 for reappointment to any judicial office for a period of
10 three years. In such event his successor shall be appointed
11 and selected as hereinbefore provided.

12 4. Impeachment proceedings against any Supreme Court Justice
13 or Superior Court Judge may be initiated for cause by either
14 the lower House of the Legislature or by the Alaska Bar Associa-
15 tion or its successor, and shall be tried before the Senate of
16 the Legislature, at which hearing the accused may be represented
17 by counsel. A two-thirds vote of the Senate shall be required
18 to impeach a judge. Upon such vote the term of office of the
19 accused shall immediately end. Inferior Court judges may be
20 removed for cause by the Supreme Court upon complaint of one
21 or more Superior Court judges or of the Alaska Bar Association
22 or its successor. A vacancy in the office of any justice or
23 judge by impeachment or otherwise shall be filled by appoint-
24 ment and selection as hereinbefore provided.

25 5. Trial of all civil cases, unless waived, involving

1 \$500 or more shall be by jury of twelve and shall be heard
2 in the judicial district wherein it arose; but, the Legislature
3 may provide for alternate jurors and for verdict to be returned
4 by less than the full jury of twelve. Trial of all crimes,
5 unless waived and except in cases of Impeachment and in cases
6 of such petit crimes as the Legislature may ordain, shall be
7 by jury of twelve. All criminal cases, except impeachment,
8 shall be tried in the judicial district wherein the accused
9 resides, unless waived. Jurors may be either men or women
10 of such qualification as the Legislature may ordain. No fact
11 tried by a jury shall be otherwise re-examined in any court
12 in the State of Alaska than according to the rules of the
13 common law. Excessive bail shall not be required, nor excessive
14 fines imposed, nor cruel and unusual punishments inflicted.

November 21, 1955

Constitutional Convention of Alaska

PROPOSAL NO. 12

Introduced by Edward V. Davis

Pertaining to that section of the constitution relative to the establishment of the Judicial Branch of the government of the State of Alaska.

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

1 Section I

2 1. The Judicial power of the State of Alaska shall be vested
3 in a supreme court, a district court and in such inferior courts
4 as the legislature may establish from time to time.

5 2. The several courts of the State of Alaska shall have
6 original and appellate jurisdiction as may be provided by law.
7 Inferior courts and their jurisdiction may be established,
8 altered or abolished from time to time by law as the need thereof
9 may arise.

10 Section II

11 The Supreme Court of Alaska shall be the highest court of
12 the State and shall exercise appellate jurisdiction as the
13 court of last resort of the state in civil and criminal matters.
14 It shall consist of not less than three justices and until
15 otherwise provided by the legislature the number of such justices
16 shall be three. The Justices of the Supreme Court shall elect one
17 of their number to preside as Chief Justice in such manner and

1 under such terms and conditions as they may provide by rules and
2 regulations to be adopted by them. The Supreme Court is hereby
3 empowered to make rules and regulations governing the administra-
4 tion of the other courts of the State, and governing the practice
5 and procedure in civil and criminal cases in all of the courts
6 of the state. Any rules of practice and procedure adopted by
7 the Supreme Court pursuant to authority here given shall have the
8 force and effect of law until and unless they are changed by vote
9 of at least two-thirds of both houses of the legislature and such
10 change approved by the governor, and thereafter except as so
11 changed.

12 Section III

13 The District Court shall be a court of general jurisdiction,
14 throughout the state, in civil and in criminal matters. It shall
15 have such other and further powers and duties as may be provided
16 by law. It shall operate under the general supervision of the
17 Supreme Court and according to rules of practice and procedure
18 to be prescribed by the Supreme Court.

19 Until otherwise provided by law the number of District Judges
20 shall be four. Such Judges shall serve for such term as may be
21 prescribed by law and according to assignment to be made by the
22 Supreme Court from time to time as the need shall arise.

23 Section IV

24 As used in this Article the word "Judge" shall include Justices
25 of the Supreme Court of Alaska, Judges of the District Court of

1 Alaska and all Judges of the inferior or subordinate Courts
2 which may be prescribed by the legislature. The word "Judge"
3 likewise shall be deemed to include the feminine gender as well
4 as the masculine and the plural as well as the singular
5 wherever applicable.

6 Section V

7 All Judges of the State of Alaska shall be appointed on a
8 nonpartisan basis from the best available candidates. Such Judges
9 likewise shall be continued as Judges subject to periodic elections
10 to be conducted by separate ballot and on a nonpartisan basis.
11 Details of such appointment and tenure of office are to be provided
12 by law. Among other things such law is to provide for all Judges
13 of Alaska to be appointed by the governor of Alaska from a panel of
14 names of eligible persons to be furnished to the governor by a
15 Judicial council. Such Judicial council is to be composed of at
16 least two members appointed by the governor from the public at
17 large by and with the consent of the Senate, and of at least two
18 members named by the Alaska Bar Association or its successor.
19 The membership of the Judicial council may be increased from time
20 to time but the number of members to be appointed from the public
21 at large and the number of members to be named by the Alaska Bar
22 Association shall always remain equal. The Chief Justice of the
23 Supreme Court, after his appointment and qualification, shall be
24 an ex-officio member of the Judicial council. All Judges after
25 appointment, and at a time and in a manner to be prescribed by

1 the legislature, shall stand election. Under such procedure,
2 a majority of the persons voting at a general election may vote to
3 retain or to reject such Judges. The law shall prescribe a manner
4 for periodic elections as to retention or rejection of such judges
5 depending on the terms prescribed by law for such Judges.

6 Section VI

7 No Justice of the Supreme Court and no Judge of the District
8 Court shall hold any other office or position of profit under the
9 State of Alaska or the United States of America. This prohibition
10 shall not be construed to prevent such parties from performing
11 such administrative duties as may be assigned by the Supreme Court
12 and shall not disqualify the Chief Justice of the Supreme Court
13 from serving as a member of the Judicial council as herein
14 provided.

15 Section VII

16 No person shall be eligible to hold the office of Justice of
17 the Supreme Court or District Judge unless he shall have been
18 admitted to practice law before the Supreme Court of Alaska for
19 a period of at least five years before his appointment or who has
20 not been engaged in the active practice of law for at least three
21 of the last five years before such appointment. Admission to
22 practice law, and the practice of law, in the Courts of the
23 Territory of Alaska for the prescribed periods or a combination
24 of such Territorial and State practice for such time shall be
25 deemed to satisfy the requirements of this section.

Section VIII

Any Justice of the Supreme Court or any Judge of the District Court who shall become a candidate for any elective public office shall thereby forfeit his Judicial office.

Section IX

Justices of the Supreme Court and Judges of the District Court shall not, while in office, engage in the practice of law. Other Judges may engage in the practice of law subject to such limitations and restrictions as may be provided by law.

Section X

Judges shall receive for their services such compensation as may be provided by law from time to time. Such compensation shall not be decreased as to any Judge during his term in office.

Section XI

Judges shall be subject to any applicable retirement law of the State of Alaska and shall be retired at the age prescribed by such law. This section shall not prevent the utilization of retired Judges as Judges or Judicial officers under temporary assignment by the Supreme Court.

Section XII

Whenever the Supreme Court shall certify to the governor that it appears that any Judge of Alaska is so incapacitated, either mentally or physically, as to substantially prevent him from performing his duties, the governor shall appoint a commission of three persons to inquire into the circumstances. On the

1 recommendation of such commission the governor may retire such
2 Judge from office on such pension as may be provided by law.

3 Section XIII

4 Any Judge of Alaska shall be subject to impeachment in the
5 same manner and with like effect as provided in this constitution,
6 or as may be provided by law, as to other officers of the State
7 of Alaska. Any Judge so impeached shall not exercise his office
8 until acquitted.

Constitutional Convention
Delegate Proposal No. 22
Referred to Committee on
Judiciary Branch
November 25, 1955

Constitutional Convention of Alaska
PROPOSAL NO. 22
Introduced by Warren A. Taylor

JUDICIAL BRANCH

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

1 Sect. 1 The Judicial power of the State of Alaska shall be vested
2 in one Supreme Court, one Superior Court, Probate Courts, and
3 Justices of the Peace. Probate Courts and Justices of the Peace
4 may be combined in one judge. The Legislature may also establish
5 courts, for municipal purposes only, in incorporated cities and
6 towns.

7 Sect. 2 The Supreme Court shall consist of a Chief Justice and
8 two associate Judges, a majority of whom shall constitute a quorum;
9 provided that the Legislature, by a majority of all the members
10 elected to each branch thereof, may provide for the election of
11 two additional associate justices, and if so increased three shall
12 constitute a quorum. The concurrence of a majority of the whole
13 court shall be necessary to render a decision.

14 Sect. 3 The justices of Supreme Court and Superior Court shall be
15 appointed by the Governor of the State by appointing one of three
16 persons possessing the qualifications for such office, who shall
17 be nominated and whose names shall be submitted to the Governor by
18 non-partisan judicial commission established and organized as
19 hereinafter provided.

1 Sect. 4 Tenure of Judges--Declaration of Candidacy--

2 Form of Judicial Ballot - Rejection and Retention

3 Each Judge appointed pursuant to the provisions of Section
4 3, hereof, shall hold office in a term ending December 31st
5 following the next general election after the expiration of
6 twelve months in the office. Not less than sixty days prior to
7 the holding of the general election next preceding the expiration
8 of his term of office, any judge whose office is subject to the
9 provisions hereto may file in the office of the Secretary of State
10 a declaration of Candidacy for election to succeed himself. If
11 such declaration is not so filed by any judge, the vacancy result-
12 ing from the expiration of his term of office shall be filled
13 by appointment as herein provided. If such declaration is filed,
14 his name shall be submitted at the next general election to the
15 voters eligible to vote within the geographic jurisdictional
16 limit of his court, or Superior Court if his office is that of a
17 Superior Judge, on a separate judicial ballot, without party
18 designation, which ballot shall state that the said judge seeks
19 to be retained in office for the term of his particular office
20 as herein provided. If a majority of those voting on the question
21 vote against retaining him in office, a vacancy shall exist which
22 shall be filled by appointment as provided herein; otherwise, said
23 judge shall, unless removed for cause, remain in office for the
24 number of years after December 31st following such election as is
25 provided for the full term of such office, and at the expiration

1 of each such term shall be eligible for retention in office by
2 election in the manner herein prescribed.

3 Sect. 5 Terms of Judges: Judges of the Supreme Court shall
4 be selected for terms of nine years and Superior Courts for terms
5 of seven years. Judges of probate, justice and magistrate courts
6 shall hold office for such terms as shall be established by law.

7 Sect. 6 Qualifications - age limit - legal training and
8 experience: Judges of the Supreme Court shall have been citizens
9 of the United States for at least fifteen years and shall have
10 been residents and qualified voters of this state for ten years
11 next preceding their selection. Such judges shall be at least
12 thirty-five years of age and shall have been in the general
13 practice of law for ten years, five years of which shall have
14 been in the courts of this state. Such judges shall not continue
15 to hold office after attaining the age of seventy years. Superior
16 Court judges shall have been citizens of the United States for
17 at least twelve years and qualified voters of this state for
18 six years next preceding their selection, and be not less than
19 thirty years of age and residents of the judicial district to
20 which they shall be appointed. They shall have been in the
21 general practice of law for a period of eight years next pre-
22 ceding their selection, five of which shall have been in the
23 courts of the Territory of Alaska or the State of Alaska. The
24 appointment age, qualifications, term of office and removal of
25 Justices of the Peace, Judges of Probate and Magistrates shall

1 be established by law.

2 Sect. 7 Retirement of Judges: Any judge of a court of record
3 or magistrate who is unable to discharge the duties of his office
4 with efficiency by reason of continued illness or physical or
5 mental infirmity shall be retired from the office by order of a
6 committee composed of two judges of the Supreme Court and three
7 superior judges, after notice and a fair hearing and on a finding
8 of three-fifths of the committee that the disability is permanent.
9 The judge so retired shall receive one-half his regular compen-
10 sation until the end of his term of office. The Supreme Court shall
11 prescribe rules of procedure under this section.

12 Sect. 7 (Alternative Method of Retiring Judges for Disability)
13 Whenever the Supreme Court shall certify to the Governor that it
14 appears that any Justice of the Supreme Court or Judge of the
15 Superior Court is so incapacitated as substantially to prevent
16 him from performing his judicial duties, the Governor shall appoint
17 a commission of three persons to inquire into the circumstances,
18 and, on their recommendation that the said judge is incapable of
19 efficiently performing his judicial duties, the Governor shall
20 retire the Justice or Judge from office, on pension as may be
21 provided by law.

22 Sect. 8 Impeachment: The Justices of the Supreme Court and
23 the Judges of the Superior Court shall be subject to impeachment,
24 and any judicial officer impeached shall not exercise his office
25 until acquitted.

1 Sect. 9 (Salary of Judges): The Justices of the Supreme
2 Court and the Judges of the Superior Court shall receive for their
3 services such salaries as may be provided by law, which shall not
4 be diminished during the term of their appointment. They shall not,
5 while in office, engage in the practice of law or other gainful
6 pursuit. They shall hold no other office or position of profit
7 under this state or the United States. Any Justice or Judge who
8 shall become a candidate for an elective public office shall
9 thereby forfeit his judicial office.

10 Sect. 10 The Chief Justice of the Supreme Court shall be the
11 Administrative head of the courts of the state. He may assign
12 judges from one Judicial District to another for temporary service.
13 With the approval of the Supreme Court he shall appoint an
14 administrative director to serve at his pleasure.

15 Sect. 11 Promulgation of Rules: The Supreme Court shall
16 establish rules of practice and procedure for all courts. The
17 rules shall not change substantive rights, or the law relating to
18 evidence, the oral examination of witnesses, juries, the right
19 of trial by jury, or the right of appeal. The Court shall publish
20 the rules and fix a day on which they take effect, but no rule
21 shall take effect before six months after its publication. Any
22 rule may be annulled or amended by a law limited to that purpose.

23 Sect. 12 (Jurisdiction of Supreme Court): The Supreme Court
24 shall have exclusive appellate jurisdiction in all cases involv-
25 ing the construction of the Constitution of the United States or of

1 this state, the validity of a treaty or statute of the United
2 States, or any authority exercised under the laws of the United
3 States, the construction of the revenue laws of this state, the
4 title to any office under this state, the title to real estate,
5 in all civil cases where the state or political subdivision of
6 the state or any state officer as such is a party, in all cases of
7 felony, in all other classes of cases provided by law and until
8 otherwise provided by law, on all cases where the amount in
9 dispute, exclusive of costs, exceeds the sum of three thousand
10 dollars.

11 Sect. 13 (Jurisdiction of Superior Courts): The Superior
12 Courts shall have jurisdiction over all criminal cases not other-
13 wise provided by law, exclusive jurisdiction in all civil cases
14 not otherwise provided for by law, and concurrent and appellate
15 jurisdiction as provided by law. The Superior Courts shall sit
16 at times and places in each judicial district as prescribed by
17 law.

18 Sect. 14 Judicial Districts (Establishment): The state
19 shall be divided into three judicial districts, which, until
20 revised or amended by law shall be constituted as follows:

21 Judicial District No. One shall consist of that part of the
22 state situated in what is known as Division No. One; Judicial
23 Division No. Two shall consist of that part of the state situated
24 in what are known as Divisions Nos. Two and Four; and Judicial
25 Division No. Three shall consist of that part of the state

1 situated in what is known as Division No. Three. That the
2 headquarters of the Superior Court for the First Judicial District
3 shall be at Juneau, Alaska, and one judge shall be assigned thereto;
4 that the headquarters of Judicial District Number Two shall be at
5 Fairbanks, Alaska, and two judges shall be assigned thereto; that
6 the headquarters of Judicial District No. Three shall be at
7 Anchorage, Alaska, and two judges shall be assigned thereto.
8 The judges shall hold court from time to time in other localities
9 within their judicial districts, when in their opinion, the same
10 will promote justice, and expedite litigation. The Judicial
11 Districts may be changed or abolished by law as public convenience
12 may require, but no judge shall be removed thereby from office
13 during his term. Any Superior Judge may sit in another judicial
14 district at the request of a judge thereof, or upon the direction
15 of the Chief Justice of the Supreme Court.
16 Sect. 15 Judicial Commission: There shall be established a non-
17 partisan commission whose duty it shall be to nominate and submit
18 to the Governor, names of persons for appointment to fill vacancies
19 in the Supreme Court and Superior Court. The Judicial Commission
20 shall consist of seven members, one of whom shall be the Chief
21 Justice of the Supreme Court who shall act as chairman, and the
22 remaining six members shall be chosen in the following manner: The
23 members of the bar of this state residing in each Judicial District
24 shall elect one of their number to serve as a member of said
25 commission, and the Governor shall appoint one

1 citizen, not a member of the bar, from the residents of each
2 judicial district; the term of office of the members of such
3 commission shall be fixed by the Supreme Court and may be changed
4 from time to time, but not so as to shorten or lengthen the term
5 of any member then in office. No member of any such commission
6 other than the chairman shall hold any public office, and no
7 member shall hold any official position in a political party.
8 Such commission shall act only by concurrence of a majority of
9 its members. The members of said commission shall receive no
10 salary for their services, but they shall receive their necessary
11 traveling and other expenses or per diem incurred while actually
12 engaged in the discharge of their official duties. All elections
13 provided for under this section shall be held and regulated, under
14 such rules as the Supreme Court shall promulgate.

15 Sect. 16 (Review of Action of Administrative Agencies):

16 All final decisions, findings, rules and orders of any administra-
17 tive officer or body existing under the Constitution or by law,
18 which are judicial or quasi-judicial and affect private rights,
19 shall be subject to direct review by the courts as provided by
20 law; and such review shall include the determination whether the
21 same are authorized by law, and in cases in which a hearing is
22 required by law, whether the same are supported by competent and
23 substantial evidence upon the whole record.

24 Sect. 17 (Election of Chief Justice): The Justices of the Supreme
25 Court shall elect a Chief Justice to preside over the court en banc.

FELLOWS: CHESTER I. BARNARD, New York City • HENRY P. CHANDLER, Washington, D. C. • CHARLES E. CLARK, New Haven, Connecticut • HOMER S. CUMMINGS, Washington, D. C. • ALEXANDER HOLTZOFF, Washington, D. C. • LAURANCE M. HYDE, Jefferson City, Missouri • CHARLES E. KENWORTHY, Pittsburgh, Pennsylvania • JAMES KERNEY, JR., Trenton, New Jersey • BOLITHA J. LAWS, Washington, D. C. • PHILBRICK MCCOY, Los Angeles, California • CARL MCFARLAND, Missoula, Montana • B. M. MCKELWAY, Washington, D. C. • WILLIAM D. MITCHELL, New York City • JOHN J. PARKER, Charlotte, North Carolina • ORIE L. PHILLIPS, Denver, Colorado • ROSCOE POUND, Cambridge, Mass. • GEORGE ROSSMAN, Salem, Ore. • ARTHUR T. VANDERBILT, Newark, New Jersey

THE INSTITUTE OF JUDICIAL ADMINISTRATION, INC.

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January 9, 1955

William A. Egan, President
Alaska Constitutional Convention
University of Alaska
College, Alaska

Dear Mr. Egan:

I am in receipt of your telegram requesting me to send any suggested drafting or substantive changes in the Committee Proposal on the Judiciary Article, or additional topics which should be covered therein. I have also received a copy of the Committee Proposal as amended on second reading.

After a careful study of the proposal in its present form, I am convinced that it represents a model of which Alaska or any other American state could well be proud. If adopted as it now stands, it will assure that Alaska is in the forefront of states complying with the requirements of a modern and efficient judicial system. There are no suggested changes or additions which I could offer to improve it, and I am most hopeful that it will be finally approved in its present form.

With all best wishes,

Sincerely yours,


Shelden D. Elliott
Director

WILLIAM V. BOGGESS
ATTORNEY AT LAW
213-215 NERLAND BUILDING
FAIRBANKS, ALASKA

December 1, 1955

*ordered filed
12/5/55*

George M. McLaughlin, Chairman
Committee on Judiciary Branch
Constitutional Convention
College, Alaska

Gentlemen:

Any proposed method for the selection of Supreme Court justices should be carefully reviewed in the light of four agreed objectives:

1. That the Bench be non-partisan in composition--or, perhaps more correctly--able to administer justice without political obligation; and
2. That the Bench be able to deal competently with diverse problems arising from the economic and social differences between one area of Alaska and another; and
3. That the Bench be composed of able lawyers having judicial temperaments; and
4. That the Bench be completely independent of the Executive and Legislative branches of the State government.

The following outline of method for selection is submitted for your consideration in light of those objectives:

1. That the Legislature be empowered to divide the State into an even number of judicial election districts, subject to the limitation that such districts shall at no time exceed eight in number.
2. That the voters of each such district elect a district justice to the Supreme Court and the voters of the State at large a chief justice.
3. That the candidates for district justice, at least two in number, be selected by vote of the practicing attorneys in each such district and the candidates for chief justice, at least two in number, be selected by vote of the practicing attorneys of the State. A justice would automatically be a candidate for re-election unless he declared otherwise.
4. That the term of office for justice and chief justice be seven years. The first chief justice elected would hold office for a term of seven years and the remaining justices for terms of six years, five years, etc. as determined by lot.

5. That the ballot for justice or chief justice not indicate party affiliation.

The foregoing outline is skeletal only and for the purpose of brevity does not touch upon such important considerations as age, residence, citizenship and length of practice qualifications for judgeship.

It is submitted that if such a method is employed the objective above-stated will be realized for the following reasons:

1. Judges selected by the Bar and elected by the people on a non-partisan basis may assume office without political obligation. Lawyers themselves in exercising their privilege of selection will carefully minimize the candidate's political affiliations. Lawyers demand justice of the courts and a Republican lawyer does not decline the retainer of a Democratic client.
2. By reason of district representation, the Bench, in any case, will have one member who is conversant with the economic and social conditions of the area in which such case arose.
3. The Bench will be composed of men of judicial temperament. The good trial lawyer, the good after-dinner speaker or the good-time Charlie will not necessarily make a good judge. An appellate judge must be honest, must possess a sound, basic knowledge of the law, must be devoted thereto, must be studious and diligent, and must have courage to extend principles of law to new fact-situations tempered by enough caution not to destroy the predictability of the law. Who is better able to determine the existence of such qualifications in a proposed candidate than the lawyers themselves through their constant association with him in the practice of law?
4. Under the proposed method the maximum membership of the Bench would be nine justices. Independence from Executive or Legislative threats to pack the Bench with new members more kindly disposed towards current ideas of political expediency could thus be assured.

Respectfully submitted,


WILLIAM V. BOGGES

Kokhanok Bay, Alaska
November 25, 1955

*Permanently
Filed*

Hon. George McLaughlin,
Chairman, Judiciary Committee,
Alaska Constitutional Convention,
College, Alaska.

Dear Mr. McLaughlin;

I should like to respectfully invite the attention of your committee to a need in our judiciary which is, in my opinion and experience, both timely and pressing.

In my experience as U. S. Commissioner, and in the experiences of other Commissioners from other areas of the Third Division with whom I have conversed, all too frequently there is little actual justice meted out in the inferior courts.

This is particularly true in cases involving game violations where the defendant is Native - this being the most general type of case in my experience. The defendant often understands very little English. He is in trouble, and his only desire is to please the Court thereby hoping to reduce the punishment he expects.

Quite aside from the obvious fact that in such cases the defendant cannot be truly said to have had his day in court, such a system has a far more serious impact in a sociological sense. The Native is frightened of the White law. He doesn't understand it and cannot grasp the abstract notions behind the complex laws which he must obey - or be punished.

I respectfully submit that every such incident tends to drive a wedge between our 34,000 Native people and the eventual integration they will make into our, the dominant society. In my Court, I have made a practice of telling the Natives that the law is simply a set of rules by which we govern our own conduct. The game warden can no more violate those laws than can the defendant - this in the face of the fact that game wardens, particularly those zealous youngsters anxious to make a reputation, have been known to violate even the sacred rights we all enjoy under the U. S. Constitution.

Since this is a universal problem faced by every inferior (and District) Court, I submit that it would be wholly proper for the Committee to consider including the system of Public Defender within the Judicial section of the Alaska Constitution.

Since the Public Defender would act only in cases where indigent defendants were involved, there could be no question of "socialized law". But by providing a proper defence, the State, which has assumed the duty of prosecution, would be truly assuming a man innocent until proven guilty. I am not an attorney. And in isolated precincts where the new equivalent to the present Commissioner is not an attorney, there should be no need for that qualification to exist for the Defender.

I would appreciate it if you would also advise my Delegate, Mr. Emberg, as to the decision of your Committee.

Respectfully,

Denton R. Moore
Denton R. Moore

Walter H. Hodge
District Judge

United States District Court
Second Division, Territory of Alaska
Judge's Chambers
Nome

At Ketchikan
November 23, 1955

Mr. George M. McLaughlin
Chairman, Committee on
the Judiciary Branch
Constitutional Convention
College, Alaska

Dear George:

Received your circular letter welcoming the recommendations of the District Judges, amongst others, concerning the provisions of the judiciary article in the proposed new constitution for the State of Alaska.

I had discussed this subject at some length at Nome with Mr. Tom Stewart, Executive Secretary of the Alaska Statehood Committee, and with Mr. Schaffer, member of the Chicago firm engaged in making studies to submit to the convention, and I am in accord with the suggestion then made that the judiciary consist of a Supreme Court of not less than three judges, and Superior Courts to be established in not less than five judicial districts; also, that the maximum number of such districts be not expressly limited by the constitution so as to allow for possible expansion by action of the legislature as conditions may warrant. I had suggested not less than five, believing that there should be two such districts in what is now known as the Third Judicial Division, suggesting one with headquarters at Anchorage and another with headquarters at Seward, which latter district could include Kodiak, Bristol Bay and the Alaska Peninsula and Aleutian Chain.

The Superior Courts should have, in my opinion, original jurisdiction in all matters civil or criminal, except matters coming within the jurisdiction of the U. S. District Courts, that is such matters as Admiralty or involving any federal question, and expressly including probate jurisdiction, for I find that it is well known that the exercise of probate jurisdiction by the U. S. Commissioners as ex officio probate judges is a most

Page 2
Mr. George M. McLaughlin

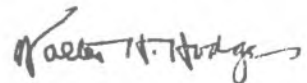
difficult task for them unless they are trained lawyers, and is not wholly satisfactory. It would be my opinion, however, that juvenile problems may be left with the Commissioners because of the local aspect of such problems and because the Commissioners, so far as I am aware, have been doing a very good job in that respect.

I do protest the suggestion of Mr. Schaffer that justice courts should be abolished, which would place the entire burden of all litigation, including petty criminal offenses and small claims in civil actions, upon the Superior Courts, which would be needlessly oppressive and would not give proper service to litigants in communities outside of the location of the Superior Courts. In fact I believe that such justice courts should be preserved and established by the constitution, setting up precincts as may be ordered by the District Judges as is now the practice. It may well be, however, that the jurisdiction of such justice courts may extend to municipalities thereby eliminating magistrates courts; but I have not made a study of this matter and do not wish to express an opinion thereon at this time.

As to the manner of election or appointment of judges, I believe that the system adopted by some states, as proposed, of nomination by attorneys in each district to the governor of a list of candidates and appointment by the governor from such list is a good one. I rather doubt, however, the advisability of any lifetime tour of duty, especially if there be no provision for compulsory retirement at a certain age, for I feel that there are certain abuses arising from such system and suggest that such appointment be for a specified term, but that four years is a rather brief time, as any attorney so elevated to the bench must give up his practice to accept such judicial appointment, and suggest that a term of six years such as now prevails in Hawaii would be more just.

Trusting that these suggestions may be helpful, I remain

Sincerely yours,



Walter H. Hodge
District Judge

TWENTY-SECOND SESSION
ALASKA TERRITORIAL LEGISLATURE
HOUSE OF REPRESENTATIVES

Sunday morning--

Dear Ed:

John Hughes gave me a copy of your Proposal No. 12 and asked me to give you my comments. I think the Proposal as a whole is very good. Could make the following personal suggestions:

Section II. Election of a Chief Justice by the other two might lead to some jealousy and ill-feeling on the Court. Illinois provided that the C.J. shall rotate each two years by seniority. Why not just say that "One member, selected ~~in~~ in such manner as the legislature shall provide, shall serve as Chief Justice of the Court".

Section II. Why should it take 2/3 of the legislature to change the Rules? In actual practice it is unlikely that the legislature would fiddle with the rules very often-- ;you have no idea what a struggle it is to get even a very meritorious bill through, because of the apathy of the lay members toward technical legal problems. However, if a change is really needed a simple majority should be sufficient. Generally, I think limitations of the majority in such instances are bad.

Section III. I think we are going to need five district judges right off the bat. We do now. Do you feel that the power of assignment as you have it is broad enough to cover assignment of a D.J. to the Sup. Trt. temporarily, and vice versa? If not, I think it should be.

Page 3, Line 12: change "is to" to "shall". Line 14: strike words "names of". Line 15: strike "is to" and substitute "shall". The last sentence of the section duplicates the second sentence and they could be easily combined.

Section XI: Personally I think it would be better to permit retirement rather than require it.

These are merely suggestions, and again, the general plan is very good. With best wishes--

W.

PS: Why get into a hassle over the unicameral legislature. Would seem better to go bicameral as a matter of general acceptance and let the unicameral come up later if there is popular demand.

Sincerely -
Wendell

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November 21, 1955

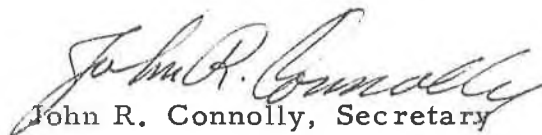
George M. McLaughlin, Chairman
Committee on the Judiciary Branch
Constitutional Convention
College, Alaska

Dear Mr. McLaughlin:

In response to your letter of November 16, 1955, with regard to recommendations concerning the provisions of the judiciary article in the proposed State Constitution, the Board of Governors of the Alaska Bar Association recommends the following:

"That a judicial system be created which consists of a supreme court, superior courts of general jurisdiction and inferior courts of limited jurisdiction; and that the Judges of all courts be selected according to the American Bar Association plan modified to meet local conditions."

Very truly yours,


John R. Connolly, Secretary
Board of Governors
Alaska Bar Association

ed
cc: M. E. Monagle

ROBERT A. PARRISH
ATTORNEY AT LAW
FAIRBANKS, ALASKA

November 18, 1955

Filed

Mr. George M. McLaughlin, Chairman
Committee on the Judiciary Branch
Constitutional Convention
College, Alaska

Dear Sir:

Respectfully submitted herein are the recommendations of the undersigned, relative to the establishment of the Judiciary for the State of Alaska.

a) Judges of the Supreme Court, and lesser judges, should be elected by the people for terms not exceeding a period of eight years, with provision for recall by the legislature for misfeasance, nonfeasance, malfeasance, or illness.

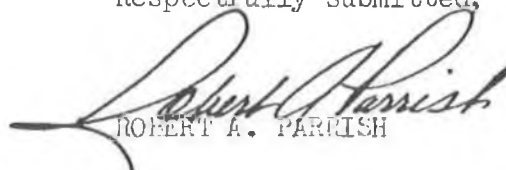
b) The right to elect the executive, the legislative, and the judiciary, in any state, should never be withdrawn from the hands of the people. All officers of the state stand in the same position - all are human beings, and subject to the frailties of all human beings, by reason of health or otherwise. One branch is equally as important as the others, and presumably, each has identical power; however, in dealing with the most intimate human affairs, it is never wise to permit control to be exercised by appointed officials who may, by reason of position or influence not commensurate with their ability, burrow their way into a position of high importance, where removal may only be obtained by impeachment.

c) Within recent weeks, there has been brought into sharp focus before the public in Alaska the feelings of the judiciary when criticized by the practicing members of the Bar Association. Yet, competent criticism may only be felt through the Bar Association, whose members deal practically with the judiciary, and are in constant intimate touch therewith.

d) There are various political theories which are reflected through the appointment of the judiciary. For these political theories to be directed through the hands of a few, whoever they may be, is unsound and unwise. The effects of feudal servitude have long been felt through the appointment of officials by financial groups, whose interests are only financial, and whose motives are selfish.

e) It is the unqualified opinion of the undersigned that the section of the judiciary of our sovereign state, as well as the executive and legislative, should at all times rest finally and irrevocably in the hands of the voters.

Respectfully submitted,


ROBERT A. PARRISH

RAP:PEW

November 16, 1955

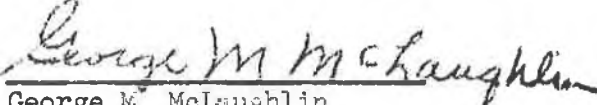
President,
Alaska Bar Association
Juneau, Alaska

Dear Sir:

The Committee on the Judiciary Branch of the Constitutional Convention now in session at College, Alaska welcomes recommendations from interested persons concerning the provisions of the judiciary article in the proposed State Constitution.

The Committee requests that recommendations be presented in person or in writing prior to the first day of December, 1955.

Very truly yours,



George M. McLaughlin
Chairman
Committee on the Judiciary
Branch
Constitutional Convention
College, Alaska

Copies: Each District Judge
Bar Associations of Anchorage,
Fairbanks, Juneau, Ketchikan
Each United States Attorney
Each Attorney at Law
Each U. S. Commissioner