C/P No. 7 - Preamble, Declaration of Rights; Health, Welfare, and Education

1.) Dec. 15, 1955

2.) Enrolled Jan. 9, 1956

3.) Style & drafting comm. 1/23/56

4.) Redraft of HEW 1/25/56
ALASKA CONSTITUTIONAL CONVENTION

REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Hon. William A. Egan, President
Alaska Constitutional Convention

Dear President Egan:

Your Committee on Style and Drafting herewith presents its redraft of the Article on Health, Education and Welfare for consideration by the Convention.

Respectfully submitted,

George Sundborg, Chairman
R. Rolland Armstrong
Edward V. Davis
Victor Fischer
Mildred R. Hermann
James J. Hurley
Maurice T. Johnson
George M. McLaughlin
Katherine D. Nordale
CONSTITUTIONAL CONVENTION OF ALASKA

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

ARTICLE VII

HEALTH, EDUCATION AND WELFARE

1. Section 1. The legislature shall by general law establish and maintain a system of public schools open to all children of the State and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

2. Section 2. The legislature shall provide for the promotion and protection of public health.

3. Section 3. The State may provide for public welfare for persons unable to maintain a standard of living compatible with health and human dignity.

Style and Drafting/Article VII
ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

Introduced by the Committee on the
Preamble and Bill of Rights

RESOLVED: That the following be agreed upon as part
of the Alaska State Constitution.

PREAMBLE, Article on Declaration of Rights,
and Article on Health, Education and Welfare.

We the people of Alaska, conscious of our heritage of
political, civil and religious liberty, grateful to God
and to those who founded the nation and pioneered this
great land, reaffirm our belief in government by consent
of the governed within the Union of States and do ordain
and establish this Constitution for the State of Alaska.

ARTICLE

DECLARATION OF RIGHTS

Section 1. This constitution is to promote the
general welfare of the people, and is dedicated to the
principle that all persons have a natural right to life,
liberty, the pursuit of happiness and the enjoyment of
the gains of their own industry; that all persons are
equal and entitled to equal rights, opportunities and
protection under the law. These rights carry with them
corresponding duties to the people and to the state.
Section 2. All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Section 3. No person is to be denied the enjoyment of any civil or political right because of race, color, creed, or national origin. The legislature shall provide appropriate legislation in accord herewith.

Section 4. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty. The right of the people peaceably to assemble and to petition the government shall never be abridged.

Section 5. No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof.

Section 6. No person shall be deprived of life, liberty or property without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

Section 7. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except when waived by the accused, in which event the prosecution
shall be by information, but this section shall not be applied to cases arising in the armed forces or in the militia when in actual service in time of war or public danger. The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return a true bill. The power of grand juries to investigate and make recommendations concerning conditions involving the public welfare or safety shall never be suspended.

Section 8. No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.

Section 9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Section 10. No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts, nor any law making any irrevocable grant of special privileges or immunities shall be passed, and no conviction shall work corruption of blood or forfeiture of estate. The administration of criminal justice shall be founded upon the principle of reformation as well as upon the need to protect the public.
Section 11. The right of the people to be secure
in their persons, houses and other property, papers,
and effects, against unreasonable searches and seiz­
ures, shall not be violated, and no warrants shall
issue, but on probable cause, supported by oath or
affirmation, and particularly describing the place to
be searched, and the persons or things to be seized.

Section 12. In all criminal prosecutions the
accused has the right to a speedy and public trial,
by an impartial jury of twelve, except that in courts
not of record the jury may consist of not more than
twelve nor less than six persons. The accused is also
entitled to be informed of the nature and cause of the
accusation; to be released on bail, except for capital
offenses when the proof is evident or the presumption
great; to be confronted with the witnesses against him;
to have compulsory process for obtaining witnesses' in
his favor, and to have the assistance of counsel for
his defense.

Section 13. In suits at common law, where the
amount in controversy exceeds two hundred and fifty
dollars, the right of trial by jury of twelve is pre­
served, except that the legislature may provide for a
jury of not less than six in courts not of record. The
legislature may provide for a verdict by not less than
Habeas Corpus

Section 14. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or actual or imminent invasion, the public safety requires it.

Militia, Right to Bear Arms

Section 15. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The military shall be in strict subordination to the civil power. No soldier, in time of peace shall be quartered in any house without the consent of the owner or occupant, nor in time of war, except as prescribed by law.

Treason

Section 16. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Eminent Domain

Section 17. Private property shall not be taken or damaged for public use without just compensation.

No Imprisonment For Debt

Section 18. There shall be no imprisonment for debt, except in case in absconding debtors.

Construction

Section 19. The enumeration of rights in this constitution shall not impair or deny others retained by the people.
ARTICLE

HEALTH, EDUCATION AND WELFARE

1. Section 1. The State shall establish and maintain by general law a system of public schools which shall be open to all children of the State and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

2. Section 2. The State shall provide for the promotion and protection of public health.

3. Section 3. The State may provide for public welfare for persons unable to maintain a standard of living compatible with health and human dignity.
ALASKA CONSTITUTIONAL CONVENTION

REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Hon. William A. Egan, President
Alaska Constitutional Convention

Dear President Egan:

Your Committee on Style and Drafting herewith presents its redraft of the Preamble and the Article on Bill of Rights for consideration by the Convention.

Respectfully submitted,

George Sundborg, Chairman
R. Rolland Armstrong
Edward V. Davis
Victor Fischer
Mildred R. Hermann
James J. Hurley
Maurice T. Johnson
George M. McLaughlin
Katherine D. Nordale
RESOLVED, that the following be agreed upon as part of the Alaska State Constitution:

PREAMBLE

We the people of Alaska, grateful to God and to those who founded our nation and pioneered this great land, in order to secure and transmit to succeeding generations our heritage of political, civil and religious liberty, do ordain and establish this constitution for the State of Alaska.

ARTICLE I

DECLARATION OF RIGHTS

Inherent Rights

1 Section 1. This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities and protection under the law; and that all persons have corresponding obligations to the people and to the State.

Source of Government

9 Section 2. All political power is inherent in the people. Government derives from the consent of the governed and exists solely for the common good.
Section 3. No person is to be denied any civil or political right because of race, color, creed, or national origin. The legislature shall implement this section.

Section 4. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

Section 5. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

Section 6. The right of the people peaceably to assemble, and to petition the government shall never be abridged.

Section 7. No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

Section 8. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of war or public danger. Indictment may be waived by the accused, in which case the prosecution shall be by information. The grand jury consists of at least twelve citizens,
Double Jeopardy; Self-Incrimination

Section 9. No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.

Treason

Section 10. Treason against the State consists only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Rights of Accused

Section 11. In all criminal prosecutions the accused has the right to a speedy and public trial, by an impartial jury of twelve, except that the legislature may provide for a jury of not more than twelve nor less than six in courts not of record. The accused is entitled to be informed of the nature and cause of the accusation; to be released on bail, except for capital offenses when the proof is evident or the presumption great; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.
Section 12. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Penal administration shall be based on the principle of reformation and the need for protecting the public.

Section 13. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or actual or imminent invasion, the public safety requires it.

Section 14. The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Section 15. No bill of attainder or ex post facto law shall be passed. No law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges or immunities shall be passed. No conviction shall work corruption of blood or forfeiture of estate.

Section 16. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.
Quartering Soldiers

Section 17. No member of the armed forces shall in time of peace be quartered in any house without the consent of the owner or occupant, or in time of war except as prescribed by law. The military shall be in strict subordination to the civil power.

Civil Suits; Trial by Jury

Section 18. In suits at common law, where the amount in controversy exceeds two hundred fifty dollars, the right of trial by a jury of twelve shall be preserved. The legislature may provide for a jury of not less than six in courts not of record. The legislature may provide for a verdict by not less than three-fourths of the members of any jury in a common law suit.

Imprisonment For Debt

Section 19. There shall be no imprisonment for debt, except in case of absconding debtors.

Eminent Domain

Section 20. Private property shall not be taken or damaged for public use without just compensation.

Construction

Section 21. The enumeration of rights in this constitution does not impair or deny others retained by the people.
Hon. William A. Egan  
President, Alaska Constitutional Convention

Dear Mr. President:

Your Committee on Preamble and Bill of Rights transmits herewith a proposed Preamble, an Article containing a Declaration of Rights, and an Article on Health, Education, and Welfare, and recommends their adoption by the convention. A commentary follows each of the proposed articles.

Two minority reports are attached, one by Delegates McNealy, Armstrong and Hellenthal suggesting an article to prohibit wiretapping and the other by Mr. Hellenthal suggesting an article on collective bargaining.

The Committee made the following disposition of the delegates' proposals referred to this Committee:

Proposal No. 2: Incorporated in part in the Declaration of Rights and the Article on Education.

Proposal No. 6: Sections 6, 10, 11, 12 and 13 have been referred back to the floor. This Committee felt it had no jurisdiction on these subjects. The remainder of the sections were considered. The Committee adopted sections 3 and 7 with some changes. The rest of the proposal was not considered to be constitutional material.
Proposal No. 9: Section five of this proposal was reported back to the floor as not being within the terms of reference of this committee. Other articles of this proposition were included in the committee report.

Proposal No. 13: This proposal was incorporated in the Declaration of Rights with some changes.

Proposal No. 16: This proposal was a suggested preamble. The text was considered and was incorporated in part in the report of the committee.

Proposal No. 17: Sections 1, 2, 3, and 5 were adopted in substance in the Proposal on Health, Welfare and Education. Section 4 was rejected as not proper constitutional material. Section 8 is a general provision that will be considered in another section of the Constitution.

Proposal No. 19: The article on the Distribution of Power was rejected as not being necessary in this Constitution. Such an article would attempt to limit the executive, judicial and legislative branches in an unrealistic way. Complete separation has never existed and would not exist under this provision.

Proposal No. 21: Mr. Harris asked that this proposal be amended by the exclusion of the phrase dealing with labor because he did
not intend it to be a right to work provision. The committee consid­
ered the proposal as amended and included some of the material in the Declaration of Rights.

Proposal No. 31: This proposal was considered and rejected on the basis that these matters were outside the terms of reference of this Committee.

Proposal No. 38: The committee considered this proposal and included sections 1 and 2 in substance in the Declaration of Rights. Section 3 was partly rejected as not being constitutional material and the balance was included in the Declaration of Rights.

Respectfully submitted,

Dorothy Awes, Chairman
Ada B. Wien
R. Rolland Armstrong
Seaborn J. Buckalew
James P. Doogan
John Hellenthal
Robert J. McNealy
ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

Introduced by the Committee on the
Preamble and Bill of Rights

RESOLVED: That the following be agreed upon as part of the
Alaska State Constitution.

PREAMBLE, Article on Declaration of Rights, and
Article on Health, Education and Welfare.

We, the people of the State of Alaska, grateful to Almighty
God for our civil and religious liberty, seeking His con-
continued blessing upon our endeavors to secure and transmit
these liberties unimpaired to posterity, do ordain and estab-
lish this Constitution.

ARTICLE

DECLARATION OF RIGHTS

Rights of Section 1. This constitution is to promote the gen-
Man eral welfare of the people, and is dedicated to the
principle that all persons have a natural right to
life, liberty, the pursuit of happiness and the en-
joyment of the gains of their own industry; that all
persons are equal and are entitled to equal rights and opportunities under the law. These rights carry with them corresponding duties to the people and to the state.

Section 2. All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

Section 3. No person is to be denied the enjoyment of any civil or political right because of race, color, creed or national origin. The legislature shall provide appropriate legislation in accord with.

Section 4. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty. The right of the people peaceably to assemble and to petition the government or any department thereof shall never be abridged.

Section 5. No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof.

Section 6. No person shall be deprived of life, liberty or property without due process of law.

Section 7. The grand jury shall consist of twelve citizens, any nine of whom concurring may find an
and Information

indictment or a true bill; Provided, that no grand jury shall be convened except upon an order of a judge of a court having the power to try and determine felonies; but when so assembled such grand jury shall have power to investigate and return indictments for all character and grades of crime; and that the power of grand juries to inquire into the willful misconduct in office of public officers, and to find indictments in connection therewith, shall never be suspended.

No person shall be prosecuted criminally for felony other than by indictment or information, which shall be concurrent remedies, but this shall not be applied to cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger.

Section 8. No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.

Section 9. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Section 10. No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts, nor any law making any irrevocable grant of
special privileges or immunities shall be passed, and
no conviction shall work corruption of blood or for­
feiture of estate. The administration of criminal
justice shall be founded on principles of reformation,
and not vindictiveness.

Section 11. The right of the people to be secure
in their persons, houses and other property, papers,
and effects, against unreasonable searches and seiz­
ures, shall not be violated, and no warrants shall
issue, but upon probable cause, supported by oath or
affirmation, and particularly describing the place to
be searched, and the persons or things to be seized.

Section 12. In all criminal prosecutions the ac­
cused has the right to a speedy and public trial, by
an impartial jury. In courts not of record the jury
may consist of not more than twelve nor less than six
persons. The accused is also entitled to be informed
of the nature and cause of the accusation; to be re­
leased on bail, except for capital offenses; to be
confronted with the witnesses against him; to have
compulsory process for obtaining witnesses in his favor,
and to have the assistance of counsel for his defense.

Section 13. In suits at common law, where the
amount in controversy exceeds two hundred and fifty
dollars, the right of trial by jury is preserved, ex-
except that the legislature may provide for a jury of
not less than six in courts not of record. The legis-
lature may provide for a verdict by not less than 
three-fourths of the members of the jury.

Section 14. The privilege of the writ of habeas 
corpus shall not be suspended, unless when, in cases 
of rebellion, invasion or imminent peril, the public 
safety requires it.

Section 15. A well-regulated militia being nec-
ecessary to the security of a free state, the right of 
the people to keep and bear arms shall not be in-
fringed. The military shall be in strict subordina-
tion to the civil power. No soldier, in time of peace 
shall be quartered in any house without the consent of 
the owner or occupant, nor in time of war, except as 
prescribed by law.

Section 16. Treason against the State shall con-
sist only in levying war against it, or in adhering to 
its enemies, giving them aid and comfort. No person 
shall be convicted of treason, unless on the testimony 
of two witnesses to the same overt act, or on confes-
sion in open court.

Section 17. Private property shall not be taken 
or damaged for public use without just compensation.
Section 18. There shall be no imprisonment for debt, except in cases where there is a strong presumption of fraud.

Section 19. The enumeration of rights in this constitution shall not impair or deny others retained by the people.
Section 1. The State shall establish and maintain by general law a system of public schools which shall be open to all children of the State and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private institution.

Section 2. The State shall provide for the promotion and protection of public health.

Section 3. The State may provide for public welfare for persons unable to maintain a standard of living compatible with health and human dignity.

Section 4. The State may provide for and assist in the clearance, development and rehabilitation of sub-standard areas and for public housing.
1. We believe that the following should be inserted as a sentence following the first sentence of Section 10, to-wit:

"Wire tapping or obtaining unauthorized information by other technical means or devices is prohibited. Evidence obtained in violation of this section shall be inadmissible in the courts."

2. We reach this conclusion because we believe that this practice is prohibited by implication by the 4th Amendment to the Federal Constitution. The United States Supreme Court has reached the same conclusion. We are of the opinion that had this practice been possible and prevalent in the days of the founding Fathers it would have been expressly prohibited by name.

R. J. McNealy
R. Rolland Armstrong
J. Hellenthal
MINORITY REPORT

1. Persons in society have the moral and legal right to organize and bargain collectively in democratic and peaceful manner.

2. The right of man to organize into free associations of his own choosing is necessitated by the common good and is a fundamental, civil, natural and philosophical right that strengthens the general welfare.

3. The right to bargain collectively carries with it the correlative right of the majority of the group to bind the minority by and to the provisions of security agreements fairly arrived at.

4. Therefore the following section should be included in the Declaration of Rights:

"Persons in private employment and those employed by the State or local governments, when engaged in proprietary and non-governmental activity, and groups of persons, shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing."

John Hellenthal
Commentary on the Preamble and the Declaration of Rights

(Sections 1 and 2 Rights of Man, Sources and Aim of Political Power)

These sections affirm the sovereignty of the people and the origin of government.

(Section 3 Civil Rights)

In this paragraph we have provided for the equal enjoyment of the rights of all people regardless of race, color or national origin. This section obligates the legislature to implement the provision by legislation. At present, we have Civil Rights Legislation in the Territorial statutes, which the legislature shall retain or improve. It is impossible and unwise to enumerate in this Constitution all of the places where and conditions under which civil rights must be guaranteed.

(Section 4 Freedom of Speech and Press; Assembly and Petition.)

This provision, like the provision in the Federal Constitution, guarantees the freedom of speech, press, assembly and the right to petition the government. This right to petition is broader than in the Federal Constitution, which limits the right to petition to grievances.
(Sections 5 and 6 Freedom of Religion, Due Process)

These sections are identical with the Federal Constitution. A statement on use of public funds for religious and other private schools is part of the article on Education.

(Section 7 Grand Jury)

The grand jury is preserved, for all purposes, particularly for investigation of public officials. A grand jury of twelve is provided as adequate for performance of its functions. The article provides for alternative procedure of indictment or information, and allows the judge to call the grand jury at any time. Many states have found the same or similar procedure to be most satisfactory.

(Section 8 Double Jeopardy; Self Incrimination)

This section is the same as the Federal Constitution with one exception. In the clause pertaining to self incrimination, the phrase "criminal proceeding" is used rather than the more limited phrase "criminal case" of the Federal Document.

(Section 9 Excessive Bail, Unusual Punishment)

This statement on excessive bail is identical with the United States Constitution.

(Section 10 Prohibited State Action)

In general the Federal Constitution is followed in this statement. In addition, the section prohibits any law granting any special privilege or immunity. Considerable time was spent on the matter
(Section 11 Searches and Seizures)

The general language of the Federal Constitution is used. A prohibition against wire tapping was reviewed, but was not considered to be constitutional material.

(Section 12 Criminal Matters: Trial by Jury, Rights of Accused)

This section protects the rights of the accused in criminal cases. The legislature may provide for a jury of not more than twelve and not less than six in courts not of record; experience has shown this to be adequate protection of the rights of the accused in such courts. It also gives the defendant the opportunity to be released on bail except in capital offences.

(Section 13 Civil Cases: Trial by Jury)

This section preserves the right to trial by jury in Civil suits where the amount in controversy exceeds two hundred fifty dollars. The legislature may provide for a jury of not less than six in courts not of record and that a verdict may be handed down by not less than 3/4 of the jury. These qualifications have proven satisfactory in other jurisdictions. Experience shows this to be a desirable provision.

(Section 14 Habeas Corpus)

This section is identical with the Federal Constitution, with the exception of the additional phrase "imminent peril." This addition brings this declaration into conformity with circumstances which may have to be met under modern warfare.
(Section 15 Militia. Right to Bear Arms.)

This section is identical with the Federal Constitution, except for the addition of the provision on the subordination of the military to the civil power, which appears in the majority of state documents.

(Section 16 Treason)

This is identical with Article III, Section 3 of the United States Constitution.

(Section 17 Eminent Domain)

This section is identical with the Federal Constitution, except for the addition of the words "or damaged." These words were added in recognition of the fact that property may be damaged or made worthless as an incident of the taking of other property for public use. It is our belief that the property owner should be compensated for such injury.

(Section 18 Imprisonment for Debt)

Many of the state constitutions provide a prohibition of imprisonment for debt. The qualifying phrase "where there is a strong presumption of fraud", is included to prevent persons having fraudulent intent from incurring debts and fleeing the State without making payment.
ALASKA CONSTITUTIONAL CONVENTION

Commentary on the Article of Health, Education and Welfare

(Section 1 Education)

This paragraph on Education provides for the establishment and maintenance of the system of public schools and other educational institutions. They will be free from sectarian control. These statements follow closely that of H. R. 2535.

This section prohibits the direct use of public funds for religious and other private institutions.

(Sections 2 and 3 Health and Welfare)

These sections authorize the legislature to provide for health and welfare as the need arises.

(Section 4 Substandard Areas and Public Housing)

It is necessary to have a statement relative to these subjects, so the legislature has necessary authority to act when action is desirable.