

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

797 SCOMM27: INT. COMM. CONSTITUTIONAL CONVENTION 1979-80

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PROPOSAL

Writing a Citizen's Guide to the Alaska Constitution

Submitted to

Joint Legislative Committee on the Constitutional Convention

by

Gordon Hamilton and Associates

January, 1963

PROPOSAL

Introduction

This proposal is submitted in response to the Request for Proposals from the Joint Legislative Committee on the Constitutional Convention for writing a citizens' guide to the Alaska constitution. My general approach to the task and my qualifications for undertaking it, as well as a proposed schedule and budget, are presented below.

Approach

As a layman's guide to the state constitution, this publication must be clearly and simply written. But it must do much more than paraphrase constitutional text in sentences that are simple, short, active and unadorned. The booklet must provide historical context for each constitutional section; it must point to major political issues; and it must explain controversy that has arisen over the interpretation of disputed provisions. Readers of this guide should learn what the constitutional convention delegates hoped to achieve with each section; why they chose the words they did; and how the legislature and courts have given form and substance to their language. For example, only when the reader knows what the delegates sought through borough government, how local areas have responded to the opportunity and

requirement to form boroughs, and how the Local Boundary Commission and Alaska Supreme Court have interpreted the constitutional mandates, will be fully acquainted with this important aspect of Article X.

That this guide should be easily readable does not require it to be artless. Nor does it require that complex and subtle issues be shunned. Complexity and subtlety animate the subject, and without them the guide would be flat, tedious, and little-used. Clearly, the challenge of this publication is to present a comprehensive view of Alaska's constitution in language that is uncomplicated yet legally precise, and in a style that is direct yet imaginative and resourceful.

Before writing anything for publication, an author should have a good idea of who his readers will be. I think the Committee should give careful consideration to the likely readers of this guide before writing begins. This effort will help define the content and characteristics of the final product. For example, it seems to me that important potential groups of readers are students at the high school and college level; in-coming legislators and their staff; and members of civic organizations such as the League of Women Voters. We can presume that the interest of this audience will be keen, and the level of intellectual sophistication high. Thus, these readers will be dissatisfied with a primer that is targeted for a less well educated readership and is overly superficial as a consequence.

Another potential group of users may be people other than lawyers who are interested in researching some aspect of the state constitution or constitutional history. Therefore it seems appropriate for the primer to

contain an annotated bibliography of material on Alaska statehood and the constitutional convention (including Proceedings of the Alaska Constitutional Convention), as well as opinions of attorneys general and the Alaska Supreme Court that address basic constitutional issues (the latter would be selective of the extensive annotations found in the constitution published with the Alaska Statutes).

I have read A Citizen's Guide to the Texas Constitution by George D. Braden, and I find it a useful example of a state constitutional primer. Especially valuable are the author's frequent contrasts and comparisons with other state practices, and his introductory discussion of constitutions and their functions. However, it seems to me that the main narrative of an Alaska version of this book would be altogether different because the constitutions of the two states are so fundamentally dissimilar. Indeed, it was the nightmare of a Texas constitution that the Alaska convention delegates sought to avoid. Alaska's constitution is much more like that of the United States in its brevity and resiliency. Mr. Braden's task was to bring a measure of coherence to a hopelessly fragmented, incomplete, scribbled, detailed, and unreadable document. The author of Alaska's guide begins with a short, concise, intelligible constitution, and his task is to explain the origin, intent, and implementation of these few deliberate words. Also, the tone of Mr. Braden's work is condemnatory. The author of Alaska's guide should not evaluate the constitution, either explicitly or implicitly.

It is my understanding that Mr. Braden will be a consultant to this project. I suggest it would be helpful to the author of this publication

to have the advice of others as well. I propose that the Joint Committee appoint a formal editorial advisory group. In addition to Mr. Braden and the Committee staff, the group might include one or more lawyers with knowledge of the constitution (perhaps assistant attorneys general in Juneau) and a local person or two outside state government representing potential user groups (a teacher, librarian, civic activist, etc.)

This editorial committee would be helpful to the author at the outset of the project in discussing such matters as outline, format, readership, etc. The members of this committee would later review the draft manuscript, and at that time they will be better able to evaluate the success of the product than had they not participated in discussions of what it aimed to accomplish, and how.

Schedule

I am proposing the schedule in Figure 1 to take advantage of the fact that my wife and I plan to reside in Juneau during April, 1981. If another schedule is more convenient for the committee I will attempt to accommodate it. However, to do so would not allow me as much time to work in the Alaska State Library, and it would require increased travel and per diem expenses.

According to the schedule I have proposed, work would begin on April 6 with a meeting of the editorial group. I would spend approximately three weeks immediately thereafter engaged in background reading and research. During this period I would work in the state historical and law libraries in Juneau where I would have access to the Proceedings and AG and Supreme Court opinions. Also, in Juneau I would have access to lawyers and other people familiar with the daily workings of the constitution.

SCHEDULE

ACTIVITY

APRIL

MAY

JUNE

JULY

6-10 13-17 20-24 27-1 4-8 11-15 18-22 25-29 1-5 8-12 15-19 22-26 29-3 6-10

1st meeting of editorial group (Juneau)

Background reading, research (Juneau)

Writing

Draft in typing

Submit draft

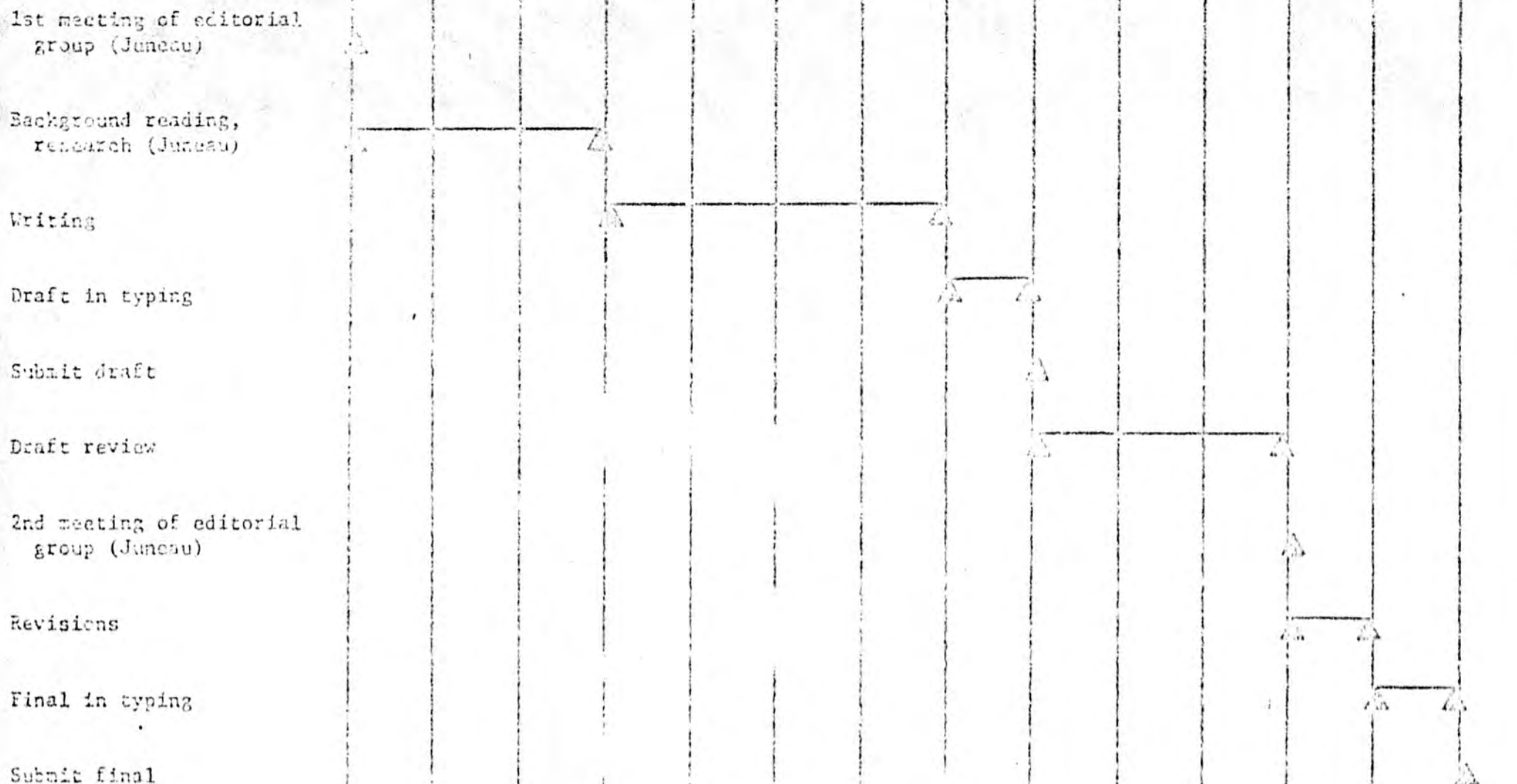
Draft review

2nd meeting of editorial group (Juneau)

Revisions

Final in typing

Submit final



A draft would be submitted for review on June 1, and a final product on July 6.

Qualifications

I hold advanced degrees in both journalism and political science; I have had substantial exposure to the state constitution and constitutional issues; and I have had extensive writing and editorial experience. My resume summarizes much of this experience. In addition, however, I have written several corporate annual reports and other publications. Currently I am assisting Northwest Alaskan Pipeline Company design and prepare a publication that is, in effect, a citizen's guide to the gasline project in all of its technical, organizational, and regulatory dimensions. While at the University of Alaska, I worked closely in an editorial role with Victor Fletcher while he was writing Alaska's Constitutional Convention.

During the past year I have been involved in a major effort with other consultants to prepare for the U.S. Fish and Wildlife Service Federal on-shore oil and gas leasing in Alaska and the environmental effects of on-shore petroleum production. I wrote major sections of the final technical report on the proposed project, highlighting and administrative issues. Also, I wrote and edited the final report on the final design and construction of the pipeline and the final design and construction of the pipeline and the final design and construction of the pipeline.

You may also wish to contact the Alaska Pipeline Construction Co., Inc., (601-5000) or the Alaska Pipeline Construction Co., Inc. (200-4100).

Mr. Peter Hanley, Dames and Moore, Anchorage (279-0673); Mr. Kent Wohl, U.S. Fish and Wildlife Service, Anchorage (276-3800, ex. 503); and Mr. Victor Fischer, Anchorage (272-2381).

Budget

Figure 2 presents a budget for the project of \$18,190. If the Committee provides typing from dictaphone tapes, the budget is \$17,190.

FIGURE 2

BUDGET

LABOR

Professional	320 hrs @ \$50/hr	\$16,000
Secretarial	40 hrs @ \$25/hr	1,000*

EXPENSES

Travel	2 RT Seattle-Juneau @ \$325	650
Per diem	4 days Juneau @ \$85/day	340
Xerox		100
Telephone, Postage		100

\$18,190

*This expense may be entered if the secretarial staff of the Committee types the Draft and Final Area diagraphs report. In this case, the budget is \$17,190.

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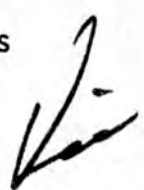
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VICTOR FISCHER ASSOCIATES CONSULTING
221 EAST 7TH AVENUE #204 • ANCHORAGE, ALASKA 99501 • (907) 272-2381

November 5, 1979

TO: Brian Rogers

FROM: Vic Fischer 

SUBJECT: Constitutional Convention issues

I ran across the enclosed March 25, 1970 letter to the State Senate in the process of rummaging through my papers. I assume the same thing went to the House.

Interesting to note that every item I suggested for Legislative action has been taken care of since 1970. At the same time, I was rather wrong in my expectation about the November referendum, though lack of support probably did characterize opinions of those I spoke to.



UNIVERSITY OF ALASKA

COLLEGE, ALASKA 99701

March 25, 1970.

Hon. President and Members of
the Senate
Alaska State Legislature
Juneau, Alaska 99801

Gentlemen,

I have recently been giving extensive attention to the Alaska State Constitution, its current adequacy and insufficiencies, and the need and alternatives for making changes. Having discussed some of these matters with individual members, I would like to take this opportunity to summarize a few pertinent conclusions. The views expressed are strictly my own and do not necessarily represent those of my employer or associates.

In general, the constitution does not require major overhaul or revision. Many troubles that are perceived by people actually do not have the basis in the constitution, but rather in state or local action or inaction. What problems exist are limited and can best be handled by amendment. Thus a constitutional convention, if held now, would be unnecessary and premature, could potentially cause more problems than it would solve, and would lead to a big waste of taxpayers money. Discussion with people around the state indicate that very few will at the November referendum support the holding of a new constitutional convention. *wrong!*

While there need not and should not be a constitutional convention, some amendments are needed and should be presented to the voters. A number of amendments are now pending before the legislature; a few of these have been acted on by the respective houses. I would like to comment on those amendments that I personally consider worthy of serious consideration.

One-house Legislature (CSHJR 63). As a member of the constitutional convention, I favored the bicameral legislative system. The U.S. Supreme Court's one man - one vote decision eliminated the principal argument in favor of the two-house system, since both houses now have the same basis of representation. The checks-and-balances argument has never been very impressive, since it reflects upon the inability of the legislature to manage its affairs properly. The legislative process in Canadian provinces and elsewhere has fairly well indicated that a single-house can legislate well, given well designed rules and procedures. Major arguments advanced for a one-house legislature are a better system of legislative representation, less waste and duplication, and provision of a better basis for legislative deliberation and action.

Hon. President and Members of
the Senate

- 2 -

March 25, 1970.

There is much interest in unicameralism among the state's knowledgeable citizens. However, few expect the legislature to put the amendment on the August ballot, since it is rather difficult to conceive of a legislature taking the initiative to change itself. Some people feel, as Ted Stevens concluded a few years ago, that the only way to resolve this matter is by constitutional convention not subject to legislative restriction. While I personally have not come around to a position favoring a single house legislature, I do believe that the legislature should put the proposed amendment on the ballot for the people to decide whether they prefer to have a bicameral or unicameral legislature.

The Executive. Changing the name of "Secretary of State" to the "Lieutenant Governor" is of course quite an innocuous proposal. On the other hand, election of the Attorney General is very basic to the concept of the constitutional approach to the exercise of executive power. It would change the function of the Attorney General from that of legal advisor to the Governor and the executive branch to that of public watchdog or state ombudsman. I believe that if the latter is the objective, then a new office should be created for this purpose, probably under legislative or joint executive-legislative jurisdiction. I do not, however, believe in the election of the Attorney General, just as I do not think the U.S. Attorney General or a city attorney should be elected.

Judiciary. Provision for selection of the Chief Justice certainly appears to be called for. Is it necessary, however, to amend the constitution for this purpose? There is nothing in the constitution that would require that the Chief Justice be appointed by the Governor. Article IV appears to be wide open for establishment of a rotation method or provision for selection of the Chief Justice by other justices of the Supreme Court. Could such a procedure not be established under rule-making power of the Supreme Court?

Suffrage and Elections. Lowering the voting age to 18 is, of course, an excellent step. We should also proceed to eliminate the requirement to read or write the English language as a prerequisite to voting (SJR 40 and HJR 51). While the existing constitutional provision may not affect too many people, those who are disenfranchised are Alaska Natives, and there is certainly no rationale or excuse for this.

Natural Resources Article. The only important amendment here concerns Section 15, prohibiting the creation of an exclusive right of fishery. In order to permit the legislature to deal effectively with the problem of unrestricted entry, and the resultant economic and social hardships, provision emphasizing fisheries development and permitting the establishment of certain fisheries rights needs to be made. (This would be similar to the manner in which Section 13 makes special provision regarding water rights, thus modifying Section 3 which deals with common use).

Hon. President and Members of
the Senate

- 3 -

March 25, 1970.

Permanent Fund. Constitutional amendments are proposed for both the natural resources and the finance and taxation articles for the establishment of permanent funds. There are many arguments for and against establishment of a permanent fund that is beyond the jurisdiction of the legislature. Aside from questioning the economic desirability of locking up these monies, I definitely do not favor putting any such monies beyond the reach of Alaska's people acting through their elected legislators. This issue was thoroughly analyzed by discussion groups during the Legislative Council's Conference on the Future of Alaska, and virtually everyone agreed that while special funds may have to be established, these should be subject to legislative jurisdiction and be administered within the executive branch.

Local Government. The only amendment proposed to the local government article would eliminate the requirement that assemblymen representing a city be members of the city council (HJR 30). While much has been said about the problems and ills of local government in Alaska, a study just concluded shows that these ills do not derive from the constitution, and this conclusion is borne out by the lack of other amendments. This study does point out that the one constitutional change worthy of consideration with respect to local government is the one proposed by HJR 30. I would suggest, however, that rather than changing the language of the second sentence, Section 4 be amended by deleting the second and third sentences altogether. There is no reason, now that boroughs and assemblies exist, for the constitution to specify the composition of the assembly; in this connection, note Section 8 dealing with the city council.

In summary, I believe that any significant problems we have with the state constitution would be taken care of by the legislature proposing amendments dealing with the voting age, elimination of the suffrage requirement of reading or writing English, revision of fisheries provisions, and elimination of the specifics as to representation on the borough assembly. In addition, I believe the voters should be given an opportunity to choose between a unicameral and a bicameral legislature.

I appreciate any consideration you may give to these opinions and suggestions. I would be happy to discuss them in greater detail if you so desire.

Sincerely,



Victor Fischer
Director, ISEGR

VF/scf

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MEMORANDUM 3/27/79

TO: George Hohman, Guy Van Dorn

FR: Vic Fischer

RE: Constitutional review

Here are some preliminary thoughts about followup to my February 19 letter to Bob Ziegler regarding possible legislative review of constitutional revision issues. Bob wrote me that you have the ball, and I would be most happy to work with you and pursue some possible courses. I appologize for not being able to respond sooner to Guy's call. Even now, my response is strictly preliminary; am typing this myself (as you will note!) so I can think as I write... Am going out of state today and will return April 6. After that will be glad to work on this further.

General purpose

A referendum will be held at the 1982 general election to decide whether to hold a constitutional convention. It is suggested that the legislature take a look at pending constitutional revision questions and determine what, if any, preparation should precede the 1982 referendum.

Background

The state constitution was written and approved by the voters prior to Alaska becoming a state in 1959. The constitution provides that voters have a chance to decide every ten years whether a convention should be held to revise the constitution. A convention call was approved by a slim margin in 1970; however, ^{in 1972} voters decided against a convention after the supreme court voided the first referendum on the basis of improper wording of the proposition.

Lack of a convention has not meant that the constitution remained unchanged. Many amendments have been considered, and quite a few have been presented to the electorate for ratification. Generally, voters have supported changes recommended by the legislature.

In 1982, the holding of a convention will again be on the ballot. The question is whether (1) voters should be afforded adequate information and discussion of the issues before making a decision and (2) any important pending issues of public concern could and should be resolved regardless of whether a convention call is approved.

There was relatively little discussion of issues prior to the 1970 referendum. The League of Women Voters and a few other groups mounted limited campaigns, but that was all. In view of the importance of the constitution and the powers of revision that a constitutional convention has, it is important that a decision be made by a well-informed electorate.

Possible strategies

Assuming that we agree that the question of calling a constitutional convention should be approached in a careful and intelligent manner, a variety of ways might be pursued:

- o Establishment of a constitutional study or preparatory commission. Many states have used this device to prepare for conventions or to study issues before a decision on holding one is made. Such commissions can take a variety of forms, usually including public members and frequently members of the legislative, judiciary, and executive branches of the state. While costs of this approach depend on the mission and size of a commission, I am sure they would amount to several hundred thousand dollars. May be way to go, later.
- o Contract with someone (eg, ISER) or assign someone (eg, Atty Gen'l, LAA) to research the issues. Fine, but would lack public involvement, might be questioned as to representativeness and objectivity.
- o Interim legislative committee. At this point, this is probably the most reasonable way to go. It would permit careful exploration and appropriate research, combined with the judgement of a representative group.

Questions and issues to be addressed

The current stage could be conceived as a preliminary exploration. It should be directed toward decisions as to direct legislative action to revise the constitution (via amendment or legislatively-called convention) prior to the 1982 referendum and initiation of any broader public education program. Time exists for both as a followup on the current effort. Here are some of the matters that might be addressed by a legislative group:

What issues is the public concerned about that might be subjected to constitutional action? (Aside from old ones like electing judges and the attorney general, they might include a number that have recently given rise to strong feelings and frustrations: right-to-life vs. abortion choice, capital move, getting land to the people, limiting legislative sessions and salaries, limiting taxes on certain industries or classes, etc.) (See attachment of 11-29-78 for some more potential items.)

Which of these issues are appropriate constitutional matter, which legislative? What should the legislature do about them, if anything? Which might be taken care of through better public understanding? Which require and justify constitutional change?

Can legitimate constitutional changes be taken care of through amendments initiated by the legislature?

Does a convention appear needed, desirable? If yes, what steps should be taken to prepare for it and the call that precedes it? If not, what should be done about that?

- (1) Research and analysis
(2) public involvement ^{steps}
(3) decisions about next steps, specific actions.

Research and analysis

This principally entails a look at the constitution as it has been amended, examination of newly arisen or foreseeable constitutional problems, analysis of issues raised during committee's work, etc., etc., and staff support for the legislative group.

Public involvement

This is the key. The decision about whether to have a convention will be made in '82 by the voters. The effort should see how the people view the issues, what they feel about the constitution and need for a convention, what type of informational or educational programs might be useful to defuse some of the more emotional issues, etc.

Ideally, the committee would combine this exploration with the giving of information to the people. I would not carry either too far. This should be viewed as an initial effort only.

I believe it important to take this exploration and analysis out of Juneau. The committee or some of its members should probably cover all parts of the state. Possibly the Alaska Public Forum could be enlisted to help with provision of information, organizing discussions, and obtaining feedback. Some polling might be appropriate.

Organization (am running out of time, so will just skim along ...)

You probably know better than I what would be most appropriate, but I'll whip out a few thoughts.

I'm not sure whether getting a committee with non-legislative membership would be useful or necessary at this stage. That might well slow organization. If one were to decide to have a full-fledged, out-front, public-oriented commission at a later time to spearhead an educational program, that would be the time for public members.

Who from within the legislature should be on it -- you better decide that.

The group would need some kind of staff. Possibly existing legislative staff can do the work, or someone could be put on for this purpose.

You might want to commission some specific papers and analyses: Tom Stewart, John Havelock, Tom Morehouse, Vic Fischer, etc.

The 1976 convention delegates reunion in Fairbanks was accompanied by a review of the various articles of the constitution. A transcript of the sessions dealing with each article could be invaluable as a point of departure. This might cost \$2,000-3,000.

PLEASE REPLY BY AIRMAIL

UNIVERSITY OF ALASKA

Tom Stewart is an invaluable resource. I have talked to him, and he is most willing to help put this all together. As you know, Tom authored the 1955 convention act, managed the preparatory studies, and served as secretary of the convention. He was in on the early discussion that led to my letter to Bob Ziegler. Do contact Tom if you need any help now or later.

I will be back in the office April 6. May be in Juneau following week; only problem is that I have to be in Anchorage Wednesday the 11th.

This, by the way, is not a project of ISER. We are not trying to promote anything. Strictly an individual undertaking.

I would personally be very interested in having a role in this whole thing; nothing specific in mind at this point. (I may be quitting the university this summer and would then be more available, though could work with you through institute as well.)

Am off... Best personal regards

A handwritten signature in dark ink, appearing to be 'Vic', written in a cursive style.

WHILE IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

REPRESENTATIVE
BRIAN ROGERS
Alaska State Legislature

HOME:
BOX K - COLLEGE
FAIRBANKS, ALASKA 99708
(907) 455-2037

June 25, 1980

Governor Jay S. Hammond
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

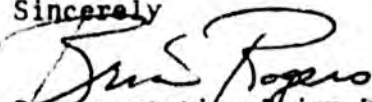
Yesterday I received word that you have vetoed CSHB 723 am S, the Constitutional Convention Procedures Act. I am disappointed that you chose to exercise your power of veto on this legislation at this time, since I expect the issues surrounding the possible convention to become more volatile and politicized as the 1982 ballot question draw near.

The June 16 memorandum from Attorney General Wilson Condon does point out several defects in the legislation, most of which could have been corrected by the revisor. I would like to take issue with his contention that preparations for the convention are an exercise of executive powers alone. A constitutional convention is unique to Alaska government in that neither the executive, legislative, nor judicial branches of government perform the functions -- a constitutional convention is a power of the people. It is most similar to, and replaces in part, the legislative power to submit constitutional amendments to the voters. As such, preparations for a convention are little different from preparations for a legislative session, which are a legislative and not an executive function.

The legislature is currently involved in preparations for a possible 1982 affirmative vote by the people calling a convention. In 1979, the legislative council established an interim committee to begin planning; HB 723 was one result of that committee (other reports on constitutional conventions of the 1970s, proposed Alaska constitutional amendments, the Hawaii convention of 1978, convention apportionment, and major Alaska constitutional issues are available from the committee). This session the legislature passed SCR-43am establishing a joint committee of the legislature to examine matters pertaining to the organization and conduct of constitutional conventions in Alaska. As the chairman of that committee, I would like to invite you or any person you may designate to join with the legislative joint committee to continue preparations for a possible convention. The committee will reintroduce the convention procedures act next year, and would appreciate advance notice of any problems you and your staff may have next time.

Thank you for your consideration.

Sincerely


Representative Brian Rogers

cc: Sens. Hohman, Ziegler, Sackett
Reps. Gardiner, Phillips, Parker

465-3600

June 16, 1980

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: CSHB 723 am S
(constitutional convention)
Our File: J-88-094-80

Dear Governor Hammond:

At your request, we have reviewed CSHB 723 am S, relating to a constitutional convention. It has several problems, and we recommend that you veto it.

The third section denies space in the election pamphlet to those in favor and to those opposed to holding a constitutional convention. It is the rule in Alaska that once there exists a government-controlled forum for the dissemination of ideas, the government cannot deny equal access to that forum based on content alone. Alaska Gay Coalition v. Sullivan, 578 P.2d 951 (Alaska 1978). This provision is unconstitutional, and therefore is invalid.

Second, section 5 (new AS 15.50.101) provides for an Alaska Constitutional Convention Commission and for six of its nine members to be appointed by and from the legislature, two to be appointed by the governor, and one by the chief justice.

The commission's function is to prepare for a constitutional convention should one be called. While it is not an everyday experience, it merely calls for the execution of a law. That putting on a convention is a rare event does

not make it an exercise of the law-making power or an exercise of the judicial power. Planning, preparing and setting up a convention does not involve the enactment of legislation or the adjudication of legal disputes. It is, as the division of governmental powers goes, an executive function.

Under the Alaska Constitution, it is the governor who is assigned to carry out the law. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). To that end, he is vested with the power to appoint subordinates to assist him in carrying out the law. This power of appointment is shared by the legislature solely to the extent prescribed by the constitution. Id. Accordingly, the bill's provisions for appointments to the commission by the legislature and the chief justice are unconstitutional. Cf., Buckley v. Valeo, 424 U.S. 1 (1976) (appointments to federal elections commission).

Moreover, article II, section 5 of the constitution prohibits legislators from holding any other office or position of profit. Employment by or election to a constitutional convention is expressly excluded from the prohibition. The existence of this narrow exclusion leads to the conclusion that all other offices and positions of profit are included within the prohibition. Begich v. Jefferson, 441 P.2d 27 (Alaska 1968). The commission is patently not within the terms of the exclusion. Accordingly, the bill's provisions for the appointment of legislators to the commission are also unconstitutional.

The provisions for filing for election to the convention do not prescribe with what office or official the declaration is to be filed. See proposed sections 15.50.170 and 15.50.180. They do require notices of withdrawal to be received by the lieutenant governor, and one may infer that the declarations are to be filed with him as well.

Section 15.50.180(c) makes a cross reference to subsection (a) when a reference to paragraph (a)(1) is really intended. One of the co-revisors of statutes advises that, if the bill becomes law, this error can be corrected editorially.

Section 15.50.200 provides for placing the names of persons "who have been properly nominated for delegate on the special election ballot." The problem with this is that there are no nominations. The name of any qualified person who files will go on the ballot. There is no nominating petition, no run-off election, and no primary election. Election is by plurality. The result is that the delegates

may represent a minority of the state's or district's electorate. While that is legal, it may not be very good policy.

Section 15.50.240 provides for filling vacancies with the candidate for the seat who got the next highest number of votes. The problem with this arrangement is that the person so elected could very easily be anathema to the majority of the voters in the district (or the state). Again, while this may not be illegal, it seems like bad public policy.

The authorization in proposed AS 15.50.290(a) for the lieutenant governor to make an appropriation for convention expenses if the legislature fails to do so is expressly provided for by article XIII, section 3, of the constitution. (Incidentally, sec. 290(a)'s reference to sec. 70(a) is in error since sec. 70 is not divided into subsections; this will be called to the attention of the co-revisors of statutes.)

There appear to be no other problems with the bill, but those mentioned more than suffice to require a veto. Enactment of a bill with the legal defects and policy shortcomings of this bill cannot be justified. The election on the question will not occur until November 1982. That leaves ample time in which to enact a better bill.

Yours very truly,

Wilson L. Condon
Attorney General

WLC/RWP/lm

cc: The Hon. Terry Miller
Lieutenant Governor

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

POUCH V
JUNEAU, ALASKA 99811



Senate

CHAIRMAN
SENATE JUDICIARY COMMITTEE
WESTERN CONFERENCE - COUNCIL OF
STATE GOVERNMENTS

VICE CHAIRMAN
SENATE RULES COMMITTEE

MEMBER
SENATE STATE AFFAIRS COMMITTEE
SENATE COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

June 21, 1980

Representative Brian Rogers
Box K College Branch
Fairbanks, Alaska 99708

Dear Brian:

For your planning and scheduling purposes, I will be unavailable for meetings between July 15th and July 22nd, the first 10 days of September and the last weekend of that month and the entire month of November.

It's quite likely we'll have a Legislative Council meeting in Anchorage on August 2nd and, if so, perhaps we can synchronize at that time.

Regards,

A handwritten signature, appearing to be "R. H. Ziegler", written in ink.

Robert H. Ziegler, Sr.

RHZ/pkz

GUY A. VAN DOREN

P.O. Box 41

Douglas, Alaska 99824

(907) 364-3442

June 23, 1980

Representative Brian Rogers
P.O. Box "K"
College Branch
Fairbanks, Alaska 99708

Dear Brian:

Since the Governor has vetoed the Constitutional Convention bill, I thought I would get a copy of the memo to you right away. Also enclosed is a copy of the reports from last year in case you do not have yours. I've sent a copy to Ziegler and will send copies to other members when they are appointed. I had 50 more copies made.

Although the committee has not been officially appointed or funded, I've been doing quite a bit of preparatory work including setting up the office, setting up a reference library, drafting letters to send to recognized constitutional revision authorities, and reading of source materials. Most of the work must be done in order that I will not be behind the power curve when the actual committee is formed.

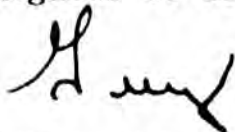
We've lost Land, at least until October, as she had to find a job. She has become the executive secretary to Ray Paddock, Tlingit-Haida President, until his term expires in October. She will be available after that to travel and do the committee work required. I can do the administrative work and typing unless you want to make other arrangements.

I don't know when Tillion, Gardiner, and Hohman are going to officially appoint the members, but hope it will be soon as I'm anxious to get started and am going to be financially hard-put if something doesn't happen pretty soon. I did not look for any other work since I thought everything on the committee was pretty much "go".

Hope you had a successful "Solstice". If you need to contact me, I'm at 465-3743 or 3745, during the day and 364-3442 during the evening.

Hope to hear from you soon.

Regards to all,



Guy A. Van Doren

Letter 6/23

GUY A. VAN DOREN
P. O. Box 41
Douglas, Alaska 99824

June 10. 1980

The Honorable Clem V. Tillion,
President of the Alaska Senate
P. O. Box 373
Homer, Alaska 99603

Dear Clem:

I met with Representative Brian Rogers on Saturday, June 7,
and Monday, June 9, following adjournment. We would appreciate your making appointments to the Constitutional Convention Committee as soon as possible.

As you are well aware, Senator Ziegler has agreed to serve on the committee and we contacted Senator Sackett, who would definitely like to be appointed to serve on the committee. As far as the third member, I guess we don't have any suggestions, but have discussed Senators Mulcahy and Sturgulewski.

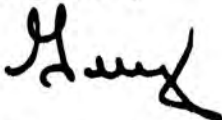
As far as we can determine, Representative Gardiner will be appointing Representatives Rogers, Parker and Phillips.

When you make your decision, please forward the names to Mert Charney, Brian Rogers and me.

Please use the above address for me; Brian Rogers' address is P. O. Box K, College Branch, Fairbanks, 99708.

Thanks, Clem! As soon as the appointments are made we can get started on our projects. Have a nice summer.

Regards,



Guy A. Van Doren

GAVD:lk

cc: Senator Ziegler
Senator Sackett
Senator Hohman
✓ Representative Rogers

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

POUCH V
JUNEAU, ALASKA 99811



Senate

CHAIRMAN
SENATE JUDICIARY COMMITTEE
IMMEDIATE PAST CHAIRMAN
WESTERN CONFERENCE - COUNCIL OF
STATE GOVERNMENTS

VICE CHAIRMAN
SENATE RULES COMMITTEE

MEMBER
SENATE STATE AFFAIRS COMMITTEE
SENATE COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

June 6, 1980

The Honorable Clem V. Tillion
Alaska State Senate President
Halibut Cove, Alaska 99603

Dear Clem:

With some reluctance, I promised Brian Rogers that I would serve on the Constitutional Convention Interim Committee, if appointed.

I probably know as much about it as most people, and I will endeavor to make as many meetings as I can, should you appoint me.

What time did the 8:00 p.m. plane leave?

Catch you later,

3-

Robert H. Ziegler, Sr.-

RHZ:lk

ALASKA
STATE LEGISLATURE
MEMORANDUM

12/18/79

TO: Glenda Straube

FROM: Deborah Gazaway, Juneau LTN

SUBJECT: Teleconf. on 12/10/79, Constitutional Convention, 'Internal
Committee Meeting'

Good morning. Enclosed you will find a list of the people who participated in the teleconference on 12/10. I am forwarding the list to you with the hope that it may be of some use. Have a merry Christmas!

Deborah

SIUOK FROM MAXINE

THE FOLLOWING ARE PRITICIPANTS OF THE CONST. CONV. TELE-CONF WORK SHOP:

on 12/10/79

REP. BRIAN ROGERS, CHAIRMAN, FAIRBANKS, PH 479-7692
GLENDA STRAUBE, AIDE, FAIRBANKS, PH 479-7692
DOUGLAS POPE, 912 W 6TH, ANCHORAGE, 99501 PH 272-6225
GUY VAN DOREN, BOX 41, DOUGLAS, AK 99801 PH ?
IRENE REED, CHAPMAN BLDG, U OF A, FBX 99701 PH 479-7874
VIC FISCHER, 221 E 7TH #204, ANCHORAGE 99501 PH. 272-2381
MICHAEL CAREY, BOX 1859, FBX 99707 PH 452-3446

OBSERVORS:

THOMAS B STEWART, SUPERIOR CT, POUCH U, JUNEAU, 99811 PH 465-3420
SUSAN FISHER, DAILY NEWS-MINER, BOX 710, FBX 99707, PH 456-6661
NATHAN SOURS, INTERN DAILY NEWS MINER, BOX 710, FBX 99707, PH 456-6661
IRENE PEYTON, BOX 80588, FBX. 99707, PH 479-2864
PATRICIA SHIELDS, LEAGUE OF WOMEN VOTERS, 4486 STANFORD DR. FBX 99701
PHONE 479-2507
SUE JONES, " " " " 318 SLATER DR, FBX 99701, PH452-5946

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UNIVERSITY OF ALASKA
Institute of Social and Economic Research
707 "A" St., Suite 206
Anchorage, Alaska 99501
Phone (907) 278-4621

February 19, 1979

Rep. Charlie Parr, Chairman
House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Charlie:

The purpose of this letter is to suggest that you and your committee undertake or sponsor a preparatory effort for the 1982 referendum on calling a constitutional convention.

As you remember, the voters approved a convention call in 1970 by a rather slim margin. That referendum was voided by the Supreme Court because of improper wording of the ballot. Voting on the issue again on November 7, 1972, voters rejected the proposition. In accordance with the constitution, Alaska voters will be asked at the November 1982 general election whether a convention should be held. (Unless, of course, the legislature earlier called a constitutional convention, in which case there would be no referendum in 1982).

A conference held in Fairbanks in October 1976 to review the state constitution 20 years after it was written and first approved concluded that a general revision of Alaska's constitution was not needed, although some issues were deemed to deserve further pursuit and possible change. Most convention delegates, legislators, and others who were present felt that a new convention was not to be desired as it would open the whole constitution to unnecessary tinkering and possible massive revision. In general, most conferees concluded that the constitution was adequate for our time and the foreseeable future.

Recently, however, concern has been expressed that frustrations and special interests could result in approval of a convention call in 1982. There is fear that this could be brought about by a variety of issues: moving the capital, right-to-life vs. abortion choice, limiting legislative salaries, getting free land to the people, establishing limitations on taxes and state expenditure, electing judges, electing the attorney general, and others. The concern is that agitation on such issues may bring about a convention oriented toward individual causes other than being concerned with general governmental structure and constitutional integrity.

Those who have thought about this potential problem feel that it is important to defuse possible single-issue pressures. This can be done at least in part by giving the voters an opportunity to be heard before frustrations and emotions overflow, dealing with such issues insofar as possible via the legislative process, and, as appropriately, giving the public a chance to vote on specific constitutional amendments proposed by the legislature. An overall key element, of course, is voter education on what the constitution is and is not, and what the implications might be of holding a convention. If, in the end, a constitutional convention is held, it would hopefully be the result of action by an informed electorate or, if deemed appropriate, by the legislature calling a convention.

Preliminary discussions have led to the conclusion that this matter needs to be approached slowly and carefully so as not to exacerbate the potential problem. An interim study undertaken jointly by the Senate and House Judiciary Committees could explore the situation further and possibly develop a strategy for dealing with the 1982 referendum. The committees might sponsor some specific studies and opinion surveys, hold some public hearings, and delve into both some of the real and the perceived problems that might be dealt with through constitutional change.

One question that such a joint investigation might deal with is whether to move toward a more visible and more active preparatory phase after the next legislative session. This could be accomplished through creating a constitutional study commission which might go through a broad public review and participation process. It might also propose that some specific constitutional amendments could be placed before the voters in 1980 or 1982 to take care of any real problems and, thus, demonstrate that necessary changes can be dealt with without constitutional convention. Or it might be concluded that the best thing is to let the whole business lie quietly on the premise that all will turn out all right without legislative initiative.

I would be glad to pursue all this further with you and your committee, should you so desire. You might also wish to discuss this with Judge Thomas B. Stewart, who was instrumental in preparing for and managing the 1955-56 convention and has participated in some of our recent discussions. I am addressing the same letter to Sen. Robert Ziegler of the Senate Judiciary Committee.

My very best personal regards.

Sincerely,

VF:la

Victor Fischer
Professor

cc: Rep. Hugh Malone
Rep. Brian Rogers

GUY A. VAN DOREN

P. O. Box 41

Douglas, Alaska 99824

(907) 364-3442

June 15, 1979

The Honorable Terry Miller
Lt. Governor, State of Alaska
Office of the Lt. Governor
Pouch AA
Juneau, Alaska 99811

Dear Lt. Governor Miller:

The Constitutional Convention Committee of the Alaska State Legislature respectfully invites you to attend a one hour televised community forum meeting in the town of Bethel on June 27, 1979. The meeting will begin at 6:00 P.M. and should finish at approximately 7:00 P.M.

The purpose of the meeting is to explain what the Constitutional Convention Committee functions will be, give a brief history of the constitution, its drafting and subsequent amendments, explain why the question of holding a convention must appear on the ballot, and to seek input from the people of the Kuskokwim area regarding constitutional questions as well as to answer their questions.

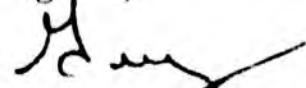
I would assume, you as Lt. Governor, would present a brief history on the first time the question of holding a convention appeared on the ballot and the resulting problems, as well as answering any questions regarding future balloting of the question.

Transportation: Anchorage-Bethel..Daily 7:25am and 7:00pm. Bethel-Anchorage Daily 9:20am and 8:55pm. I assume most of the people attending the meeting will travel to Bethel on the 7:25 a.m. flight on the 27th, and return on the 9:00a.m. flight on the 28th, however, since the meeting is due to be over around 7:00, I see no reason why a person couldn't plan to depart on the 8:55 p.m. flight on the night of the 27th.

Persons attending the meeting will be Senator George Hohman, Representative Brian Rogers, and perhaps Rep. Representative Jack Fuller. Staff and consultants will include Vic Fischer, Doug Pope, Mark Wittow, and myself. If you have any other questions you may contact me either at the above phone number or at 465-3743. Since you are going to Anchorage, you might try to contact Senator Hohman at the Legislative Information Office 238-3668 and discuss the forthcoming meeting with him.

Am looking forward to seeing you in the near future.

Regards,



Guy A. Van Doren
Consultant, Constitutional Convention Committee

MEMORANDUM

SUBJECT: September meeting of Constitutional Convention Committee

TO: Brian Rogers

FROM: Glenda Straube *g*

DATE: September 5, 1979

Guy Van Doren called yesterday. He stated that it doesn't look like George Hohman can come to Fairbanks between Sept. 10th and 14th. Also Hohman doesn't want public hearing at this time in his own district. (This is confidential). Guy is checking to see how much money is left in the budget, so that hearings in other parts of the state may be held if we have enough. Guy is available from the 10th to 14th, but prefers the 11th or 12th.

Guy will be calling me again Thursday morning to establish the date of your meeting with him, so let me know your answer ASAP. Any other messages to relay to him?

BRIAN ROGERS

Alaska State Legislature

June 19, 1979

Hon. Jay Rabinowitz
Chief Justice, Supreme Court
604 Barnette St.
Fairbanks, AK 99701

Dear Chief Justice Rabinowitz:

The Alaska State Legislature has established an interim committee to prepare for the 1982 Constitutional Convention referendum. The purpose of the committee is to develop a strategy for dealing with that referendum, including:

- a) Specific studies and research regarding the original Alaska Convention;
- b) Proposed amendments which have been before the legislature since statehood;
- c) Interviews with delegates to the original constitution;
- d) Holding public hearings throughout the state giving the public background on a constitutional convention, establishing pros and cons of calling a convention and soliciting their idea regarding either a convention or proposed constitutional amendments;
- e) Developing legislation for either the call to convention or constitutional amendments.

The committee has established a liason with the Executive branch through Lt. Governor Terry Miller and we feel judicial branch involvement is also essential. We would respectfully request that you authorize a member of the court system who is familiar with the constitution and the constitutional convention to act as a liason with the committee and to assist in interim work on a part-time basis.

Please feel free to contact me for more information about the committee, timing of work, or anything else you might need.

Thank you for your time.

Sincerely,

Representative Brian Rogers
Co-Chairman
Constitutional Convention Committee

CONSTITUTIONAL CONVENTION COMMITTEE

AGENDA December 10, 1979

CONSULTANT REPORTS:

Irene Reed: progress report on Yupik translation
Douglas Pope: constitutional issues - legal analysis
Guy van Doren: state constitutional conventions in the 1970's
Dr. Victor Fischer: preliminary considerations and arrangements
Glenda Straube: transcription of Constitutional Review

PUBLIC COMMENTS:

Fairbanks
Anchorage
Juneau
Other teleconference locations if necessary

COMMITTEE ACTION:

Requests for legislation and resolutions (if necessary)
Continuation of committee through session
Discussion of future projects

OTHER BUSINESS if necessary

1456 Turner
Fbks, Ak 99701

Hello Brian:

I heard the last few minutes of the Town Crier tonight, tried to call in but was unable to get through. I would like a Constitutional Convention as soon as possible.

I have always thought three branches of government was at least one too many. The problems we have with government are structural. The Executive Branch should be done away with. The legislature should serve full time and the bureaucracy moved into the legislative branch. Those who make the law should have to implement it. As the full time legislature breaks itself down into committees, the committee members replace the top bureaucrats in the former executive dept. For example if the Labor & Management committee had 7 members, they would replace the top 7 bureaucrats in the Dept of Labor and run the labor dept on a day to day basis, set policy, make regulations, etc. The legislature could come together every year or two years as a committee of the whole to consider passing or repealing laws. Terms of office could be staggered to insure that a majority of the committee was experienced. Terms of office limited to two terms of 2 to 4 years. This will make government more responsive, and more economical to operate. A part time legislature (bicameral or unicameral) simply cannot combat a full time executive branch as is supposed by the three branch system. Full time legislators who operated the bureaucratic machinery would need less staff, staff attorneys, fewer studies contracted out, etc etc. They would be the the policy makers in fact as well as in law. A two branch system easily meets the "republican form" requirement of Article 4 of the Constitution of the U.S.

There is always the Bill of Rights to protect the minority & individuals from the tyranny of the majority and the legislature.

A full time legislature can react to emergency as quickly as an executive consulting with his bureaucracy. The legislative committee system was adequate to free the thirteen colonies. The true republicans on the federal convention refused to sign the

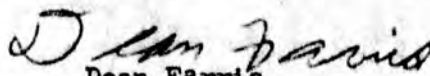
Constitution because it had no Bill of Rights. They realized that something intrinsically empty as dividing the governments power could not protect the individual. There is no need for an executive elected or appointed by the legislative, all that is needed is a chairman of the committee of the whole. No need for a judiciary committee since full time legislators will quickly learn what is and is not legal or constitutional and those issues are proper subjects for debate of the committee of the whole.

An equal and independant judiciary with judges elected OR appointed by hte jury to "referee" a particular case. This can be made practical.

I agree with very little in the Alaska Constitution and hope to see meaningful changes. The taxing power carries with it all other power, one of the major defects of the present constitution is that the limits of that power are not specified. The Bill of Rights must specify that it is superior to and operative against every clause in the body of the constitution or it is not a bill of rights at all.

My research indicates that as a practical matter most written constitutions amount to little more than 'rule from the grave.' There is enough talent in Alaska to do without the outside experts which attended the last one. I would rather trust the job to a dozen bar flys on 2nd avenue than to the Brookings Institute or any other group of experts. American Constitutions always purport to be made by the people but they never have been, and the ratifiers usually do not understand fully what they are voting on. The second defect is easy to rectify but what of the first?

I did'nt hear the whole program, if this was suggested, I loudly second it. I also question the commonwealth theroy. 'Things' are done for the 'good' of the whole and government, we are told, is founded on the will of the people. This is simply *might makes right* restated wherein the ballet replaces the bullet. There is no one more qualified to run government than the majority, but I do not consent to be governed by the majority or anyone else. And the majority has no business complicating my life with their laws however *good* it may be for them. Hope you can go public with these issues as much as possable between now and the convention.


Dean Farris

VICTOR FISCHER ASSOCIATES CONSULTING

221 EAST 7TH AVENUE #204 • ANCHORAGE, ALASKA 99501 • (907) 272-2381

November 5, 1979

TO: Glenda Straube, Interim Constitutional Convention
Fairbanks Office

FROM: Vic Fischer 

SUBJECT: 1955-56 Constitutional Convention Archives

Your August 31, list seems fairly comprehensive. The first item; Minutes of Convention, should cover two different items: The Six Volume Proceedings published by the Alaska Legislative Council in 1965 and the Journal. The proceedings are the verbatim record of what transpired on the floor of the convention. The Journal covers daily actions of the convention and consists, I believe, of two or three mimeographed volumes. Both items should be in the files. If not, they should be obtainable from the Legislative Affairs Agency in Juneau.

There should also be the Three Volume "Constitutional Studies" prepared on behalf of the Alaska Statehood Committee for the Alaska Constitutional Convention by Public Administration of Chicago.

There are a number of other items that are probably not too important, such as "The Handbook for Delegates to the Alaska Constitutional Convention" also prepared by PAC. You might check the foot-notes in my book for similar references. Quite likely, these items are already somewhere in the files of the archives or of the Skinner Collection on the main floor of the library.

I assume your item II. C. refers to the "A Handbook on Alaska Regionalism" prepared by George Rogers. It was not by, from, or for the Legislative Council, whatever credit needs to be should be cited to the office of the Governor.

Regarding your last foot-note, you might also take a look at Bartlett's Key-note Address in Volume Six of the Proceedings. It has some fabulous stuff about avoiding exploitation of Alaska's resources by outside interests. (Bartlett's, by the way, was The Key-note Address. Gruening gave some extemporaneous comments at the opening session of the convention, and these are in Volume One of the Proceedings; his speech on colonialism was presented subsequent to the opening of the conference. The issue of exploitation and Colonialism was of course of the really basic reasons behind the Statehood movement).

I look forward to seeing the transcriptions you are making.

REGIONAL AND COMMUNITY PLANNING • LAND AND RESOURCE MANAGEMENT
SOCIAL AND ECONOMIC DEVELOPMENT • GOVERNMENT AND PUBLIC POLICY • ETC

WHILE IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

HOME:
BOX K. COLLEGE
FAIRBANKS, ALASKA 99708
(907) 456-2037

BRIAN ROGERS
Alaska State Legislature

May 13, 1979

TO: Senator George Hohman
FROM: Representative Brian Rogers 
RE: Constitutional Convention Committee

Enclosed is a rough interim budget and proposed schedule for the interim committee on the constitutional convention. I think it's important that we meet in early June to work out the plans for the interim and to approve consultant contracts, etc.

I'd suggest we meet either in Anchorage the first week of June or in Fairbanks the second week, at your convenience. Please give me a call in Fairbanks (456-2037) after May 19th to work out details.

I look forward to working with you during this interim.

INTERIM COMMITTEE ON THE CONSTITUTIONAL CONVENTION

MAY Committee planning
 Arrange consultants
 Draft consultant contracts

JUNE First meeting:
 Work plan for interim
 Approve budget
 Approve consultant contracts
 Analysis of constitutional reunion
 Constitutional convention materials located

JULY No meeting
 Analysis of constitutional amendments offered in legislatures
 Interview constitutional leaders - Egan, etc.

AUGUST Second meeting:
 Review progress on contracts
 Review reunion, convention, interview materials
 Plan hearing schedule
 Draft call for convention
 Begin polling re convention vote

SEPTEMBER Hearings: Interior, Northwest, Yukon/Kuskokwim
 Consultant interim reports due

OCTOBER Hearings: Southeast, Southcentral
 Begin drafting legislation, report

NOVEMBER Meeting: review legislation in progress
 review committee report

DECEMBER Meeting: approve legislation for introduction
 approve final report
 final consultant reports due

JANUARY Present legislation, report to council & legislature

INTERIM COMMITTEE ON THE CONSTITUTIONAL CONVENTION

100 PERSONAL SERVICES

Administrative Assistant (Fbks, 7 mos.)	14700
Secretary (Fbks, 5 mos.)	7500
Secretary (Jnu, 2 mos.)	3000
	<u>25200</u>
+benefits 10%	2520

27720

200 TRAVEL & PER DIEM

Staff & consultant travel & per diem	8000
Legislators travel & per diem	7000

15000

300 CONTRACTUAL

Consultants	
-Convention, reunion analysis	20000
-Constitutional issues analysis	15000
-Legal analysis	10000
Contingency	5000
Office expenses	2000

52000

400 COMMODITIES

500

500

500 EQUIPMENT

0

97220

Constitutional Convention Committee
610F Gruening Building
University of Alaska
Fairbanks, Alaska 99701

December 11, 1979

Fairbanks Office Supply
320 2nd Avenue
Fairbanks, Alaska 99701

TO WHOM IT MAY CONCERN:

The Constitutional Convention Committee of the Alaska State Legislature has purchased items from your store and is now currently renting a Lanier transcribing machine.

There has been some mix-up in the billing situation. The Labor and Management Committee of the Legislature has been receiving our bills.

In the future, when billing for these expenses please check the invoice and if it has the name of the Constitutional Convention Committee or my personal name on it, please send the bill to: Legislative Affairs Agency, Accounting, Pouch Y, Juneau 99811. Be sure to let them know the name of the committee.

I hope that we can straighten out this problem. If you have any questions, please call me at 479-7692.

Sincerely,



Glenda J. Straube
Administrative Assistant

Constitutional Convention Committee
610F Gruening Building
University of Alaska
Fairbanks, Alaska 99701

Con Con

Leo Wheadon
Supply
Legislative Affairs Agency
Pouch V
Juneau, Alaska 99811

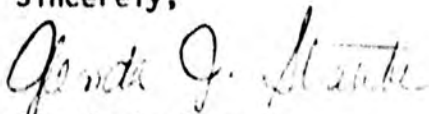
Dear Mr. Wheadon:

The following is a list of the inventory for our office here in Fairbanks. Rep. Rogers will be discussing the use of the office here with President Barton and quite possibly we will store this furniture here on campus.

(1) Hon. 30x60 double pedestal desk	31-05060
(1) Hon.. 30x60 secretarial desk	31-05061
(1) Hon. 30x60 secretarial return	31-05062
(1) Hon. 48" metal bookcase	31-05063
(1) Hon. 4-drawer file cabinet	31-05064
(1) Black plastic wastebasket	31-05065

If there are any questions regarding this inventory, I can be reached through Rep. Roger's Juneau office after January 8.

Sincerely,



Glenda J. Straube
Administrative Assistant

December 18, 1979

TO WHOMEVER:

RE: Review of "Issues of Constitutional Change"

You are one of a number of Alaskans selected to receive the enclosed draft paper which examines changes to Alaska's constitution that have been suggested in the past or might be considered in the near future. The paper is part of a study program sponsored by the Alaska Legislature's Interim Committee on the Constitutional Convention to provide preliminary background information for the convention question on the 1982 ballot. The other attached paper discusses the general questions related to constitutional revision. It is sent to you for background and informational purposes.

I would very much appreciate your review of the constitutional issues study. As you will note, the preface provides a brief description of the paper and its contents. Also mentioned there, this draft is strictly preliminary in nature; and all suggestions for revision, expansion, and deletion of material will be very welcome.

Sen. George Hohman and Rep. Brian Rogers, co-chair of the interim committee, contemplate the possibility of publishing this paper as well as other parts of the study series. Your assistance will help to provide a more complete and improved end product. By the way, the committee has not yet received this draft, and it does not purport to represent the views of the committee.

I need to receive your comments and suggestions by January 11, 1980. If you cannot provide them by that date but do intend to submit them later, please drop me a note to that effect or call me.

Many thanks for your assistance, and very best season's greetings.

Sincerely,

Vic fs
Vic Fischer

Constitutional Convention Committee
610F Gruening Building
University of Alaska
Fairbanks, Alaska 99701

December 20, 1979

Norman Cohen
P. O. Box 3-3908
Anchorage, Alaska 99501

Dear Mr. Cohen:

I'm sorry that it took me so long to get this information together for you, but I've been extremely busy in preparation for the upcoming legislative session.

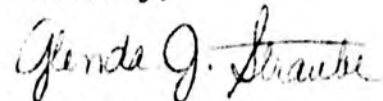
I searched through the minutes of the Constitutional Convention concerning natural resources. I have enclosed the pages that involved this article, other than those which only included changes in style and drafting.

Also enclosed are three student papers concerning the natural resources workshop during the Constitutional Review in 1976.

You had stated that you already had the material from Report 8 and 8A of Volume 6 of the Constitutional Convention procedures, so I have not included these.

I hope this will be helpful in your research.

Sincerely,



Glenda J. Straube
Administrative Assistant

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

BOX R - COLLEGE
FAIRBANKS, ALASKA 99708
(907) 456-2037

BRIAN ROGERS
Alaska State Legislature

Con Con

December 5, 1979

The Honorable Thomas B. Stewart
Presiding Judge, Superior Court
Alaska State Court System
Pouch U
Juneau, Alaska 99811

Dear Judge Stewart:

In response to our request, Chief Justice Rabinowitz has designated you to be the Court's liason to the Constitutional Convention Committee.

A meeting of the committee will be held on Monday, December 10 beginning at 10 A.M. We will meet at the Legislative Information Office at 101 College Road in Fairbanks. Oral reports will be given by Doug Pope, Vic Fischer, and Guy Van Doren. Senator George Hohman, co-chair of the committee, will be participating also.

Your attendance at this meeting would be helpful as we will be discussing the constitutional guidelines of the call to the convention and the convention itself. If you are unable to attend the Fairbanks meeting, you might participate via the Legislative Information Network in Juneau. For more information, you can reach me at 479-7692.

Sincerely,

Brian Rogers

Rep. Brian Rogers
Co-Chair, Constitutional
Convention Committee

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

POUCH V
JUNEAU, ALASKA 99811



Senate

Cor Cor
Corres
CHAIRMAN
SENATE JUDICIARY COMMITTEE
IMMEDIATE PAST CHAIRMAN
WESTERN CONFERENCE - COUNCIL OF
STATE GOVERNMENTS
VICE CHAIRMAN
SENATE RULES COMMITTEE
MEMBER
SENATE STATE AFFAIRS COMMITTEE
SENATE COMMITTEE ON COMMITTEES
LEGISLATIVE COUNCIL
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

July 25, 1980

The Honorable Clem Tillion
The Honorable Terry Gardiner
Alaska State Legislature

Gentlemen:

Legislative Resolve 48 calls for the appointment of a seven-person committee to delve into state constitutional convention matters. The President is to appoint three Senators; the Speaker is to appoint three Representatives. In addition, Senator Hohman, wearing his Legislative Council chairman hat, is to appoint the seventh member.

We are rapidly running out of time within which to do the type job we ought to do and want to have done. If these appointments were to be made immediately, we could have our organizational meeting in Anchorage on the afternoon of August 1st or in the morning of the 2nd. This would coincide with the Legislative Council meeting scheduled for the 1st.

Guy Van Doren, my administrative assistant, has indicated he is ready, willing and able to serve as administrative assistant for the interim constitutional convention committee. If we do organize in Anchorage, perhaps he should attend said meeting. If you concur, will one of you please notify Guy, perhaps through Myrt Charney, that he is on the payroll and to make plans accordingly. Also, Landa Krossa has been tentatively selected as committee secretary; she advises me she can make the Anchorage meeting if requested so to do.

It is my understanding that Clem will probably appoint Senator Sackett and myself as two of the three Senate members and that Terry has contemplated appointing Representatives Rogers and Parker as two of his appointees.

I fear that if we don't move with alacrity, we might as well abandon the project. That would be a shame, for I am of the positive opinion that the work we do in the next few months will stand us in good stead in the years to come.

Regards,

3

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

August 19, 1930

MEMORANDUM

TO : Representative Brian Rogers
Representative Joe L. Hayes

FROM : M. R. Charney, Executive Director

SUBJECT: Joint Interim Committee - Constitutional Convention

Speaker Gardiner has requested me to notify you that he has appointed each of you, as well as himself, as the House members to the Joint Committee examining matters pertaining to Constitutional Conventions, established by SCR 43 am (Legislative Resolve No. 48) in the last session.

At this time, I have yet to receive the three appointments from President Tillon or the one appointment from the Council Chairman.

Representative Rogers has been designated by the Speaker to serve as Chairman of the House members.

Funding for the joint committee was appropriated to the Legislative Council and will be made available by the Chairman when all appointments are made.

cc: Sen. George H. Hohman, Jr.
Sen. Clem V. Tillon
Rep. Terry Gardiner
Sen. Bill Ray
Richard G. Berg

President
Arthur M. Ross

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Cecil H. Underwood, Huntington, WV
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John C. Wyckoff III, Memphis

A Citizens' Organization for Better Government - Founded 1954

Sponsor of

86th Annual Conference - Houston - November 15-18, 1980

July 9, 1980

Mr. Guy A. Van Doren, Consultant
Interim Constitutional Convention Committee
Pouch Y Room 107 Capitol Building
Juneau, Alaska 99811

Dear Mr. Van Doren:

In reply to your letter of June 23, we are sending the names of several individuals with whom you may wish to correspond in connection with your work for the constitutional convention committee. This is by no means an exhaustive list, but all have played important parts in revision efforts as authors, consultants and/or delegates.

John E. Bebout, Box 441, Wellfleet, Massachusetts 02667, 617-349-3546, has been associated with revision efforts since the successful move to adopt a new constitution in New Jersey in the 1940s, and was a major consultant to the Alaska convention.

George D. Braden, 302 Hudson Avenue, Albany, New York 12210, 518-436-0145, has been involved in revision efforts in Connecticut, New York, Illinois and Texas, and has co-authored books on the Illinois and Texas constitutions.

George E. Campbell, Rose, Nash, Williamson, Carroll, Clay and Giroir, 720 West Third Street, Little Rock, Arkansas 72201, 501-375-9131, was a delegate to the 7th Arkansas Constitutional Convention and was executive secretary of the Constitutional Revision Study Commission.

Elmer E. Cornwell, Department of Political Science, Brown University, Providence, Rhode Island 02912, 401-863-2825, was co-author of The Politics of the Rhode Island Constitutional Convention and Constitutional Conventions: The Politics of Revision.

Samuel K. Gove, Director, Institute of Government and Public Affairs, University of Illinois, Urbana, Illinois 61801, 217-333-3340, was a member of the commissions preparing for and implementing the results of the 6th Illinois Con-

Carl H. Pforzheimer Building, 47 East 68th Street, New York, N. Y. 10021
Telephone: (212) 535-5700

William N. Cassella, Jr., Executive Director
William G. Andersen, Jr., Assistant Director
Joan A. Casey, Director, Library/Publications
Page Elizabeth Bigelow, Staff Associate
Marion A. Kelly, Administrative Assistant
Gerald N. Hardy, Field Consultant
Peter L. Shaw, Field Consultant
Troy R. Westmeyer, Field Consultant
William K. Woods, Field Consultant
Frank P. Grad, Counsel

Mr. Guy A. Van Doren

July 9, 1980

2

Con, and co authored Revision Success: The Sixth Illinois Constitutional Convention.

Richard Kosaki, Department of Political Science, University of Hawaii at Manoa, Porteus 640, 2424 Maile Way, Honolulu, Hawaii 96822, 808-948-8357, authored materials on the 1978 Hawaii Constitutional Convention.

Norman Meller (address and phone same as Kosaki) wrote With an Understanding Heart: Constitution Making in Hawaii and served as a consultant to the Pacific Trust Territories constitution making effort.

James F. Ray, 8834 Honeysuckle Trail, Austin, Texas 78759, 512- 345- 3108, was executive director of the Texas Constitutional Revision Commission and the Constitutional Convention.

Albert L. Sturm, Center for Public Administration and Policy, Virginia Polytechnic Institute and State University, Blacksburg, Virginia, 703-961-5133/5830, is author of a book on the Michigan Constitutional Convention, of numerous articles on revision, of Thirty Years of State Constitution Making, 1938-1968, and of the annual constitutional developments summary in the NATIONAL CIVIC REVIEW and the Book of the States. ✓

John P. Wheeler, Hollins College, Hollins, Virginia 24020, 703-362-6000, directed the League's State Constitutional Studies Project in the 1960s and authored The Constitutional Convention: A Manual on Its Planning, Organization and Operation, and co-authored Magnificent Failure: The Maryland Constitutional Convention of 1967-1968. ✓

The League's executive director, William N. Cassella, Jr., participated in the Alaska Constitutional Review Conference held in Fairbanks in 1976. He is also in close touch with Victor Fischer of Anchorage, who is the author of the League-sponsored study Alaska's Constitutional Convention. ✓

We will be grateful if you can send us copies of materials prepared by your committee to add to our extensive library collection on constitutional revision in all the states.

We trust this list will be useful to you, and please feel free to call on us if we may be of assistance to you.

Sincerely yours,

Joan A. Casey
Joan A. Casey
Director
Library/Publications

Chairman
Rep. Brian Rogers

INTERIM COMMITTEE
ON
THE CONSTITUTIONAL CONVENTION

Pouch Y, Rm. 107
Capitol Bldg.
Juneau, Alaska
99811
(907) 465-3743

Members
Sen. Hohman
Sen. Mulcahy
Sen. Sackett
Sen. Ziegler
Rep. Gardiner
Rep. Hayes

Staff
Guy Van Doren
Admin. Asst.

September 4, 1980

As required by the Alaska State Constitution, the question of whether or not there shall be a Constitutional Convention in Alaska, will be on the ballot in 1982.

In light of the fact that all students of constitutional revision emphasize pre-planning of a Constitutional Convention, the Alaska State Legislature has created a Special Interim Committee on the Constitutional Convention. As can be seen by the enclosed resolution, the Committee is charged with examining matters pertaining to the organization and conduct of Constitutional Conventions.

In 1954, Thomas B. Stewart, now Judge Stewart, spent over a month seeking information and advice from nationally recognized authorities in the field of government and constitution-making.

The current committee is contemplating the same type of information-gathering and has chosen me to carry out that task. Your name has been suggested by the National Municipal League.

The purpose of this letter is to furnish you with the draft work which has been completed to date and to solicit tentative dates on which you would be available for a meeting with me. I intend to be traveling during the month of October and possibly the first part of November. As soon as I have received the dates you will be available and the available dates of others recommended by the League, I will set up firm appointments by telephone.

Please advise me as soon as possible if you are interested in such a meeting and convenient dates.

I look forward to meeting with you in the near future.

Sincerely,

Guy A. Van Doren
Administrative Assistant,
Special Interim Committee on the Constitutional Convention

Copy to Com

August 30, 1980

Robert H. Wagstaff
912 West Sixth Ave.
Anchorage, Alaska 99401

Re: Contract with Joint Committee on a
Constitutional Convention.

Dear Bob:

The purpose of this letter is to state, on behalf of Rep. Rogers, the stages of work to be performed for the Joint Committee and to confirm the understanding on hiring an assistant.

Researching and preparing a memorandum on the issues surrounding cash distribution of state revenues to residents is the first item. It is the desire of Rep. Rogers that the time and expenses for this item not exceed \$8,000.00 without further approval. After the State Supreme Court rules in the tax and permanent fund dividend cases, Rep. Rogers will advise you whether to proceed with further research and preparation of memoranda. At present, it is his intent that any time and expenses incurred for researching that supreme court decision shall not exceed an additional \$8,000.00 without prior approval.

It is understood that you will hire a law clerk to assist you. Compensation for a clerk shall not exceed \$40.00 per hour.

Sincerely,

Douglas Pope

DP:mec

**STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY**

com. correct

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

September 5, 1980

MEMORANDUM

TO : Representative Brian Rogers

FROM : *for* *Mr. R. Hohman, Jr.* Senator George H. Hohman, Jr.
Chairman, Legislative Council

SUBJECT: Legislative Council 1980 Interim Committee -
"Joint Constitutional Convention Committee"

As Chairman of the Legislative Council, I am appointing you as the Project Chairman of the Joint Constitutional Convention Committee under the auspices of the Council. Members of your committee are Representatives Terry Gardiner, Joe L. Hayes and Senators Robert H. Ziegler, John Sackett, Bob Mulcahy and George H. Hohman, Jr.

In accordance with legislative action, your committee has been given a budget of \$143,000. Please coordinate with the Administrative Services Division in establishing criteria for proper control of State funds.

In addition, I have appointed Senator Ray as Chairman of an Interim Project Oversight Committee. Their task shall be to review the progress of all interim activities and to act on all funding requests.

I would also appreciate you keeping Mr. Charney informed with copies of your periodic reports to the Oversight Committee in order that public access may be maintained.

cc: Rep. Terry Gardiner
Rep. Joe L. Hayes
Sen. Robert H. Ziegler, Sr.
Sen. John Sackett
Sen. Bob Mulcahy
Sen. George H. Hohman, Jr.
Sen. Bill Ray

OFFICIAL TESTIMONY

of

Timothy Dove

to the

Interim Constitutional Convention Study Committee

an

Interim Committee of the Legislative Council

Before the Legislature takes any steps toward calling a constitutional convention, public inquiries should be made of the present constitution: "What's good about it?", "What's wrong with it?", "What changes are needed?", "Why should we have a constitutional convention, anyways?".

How many people are aware of the power of the state over the individual as imbedded by our present constitution? Did you know that the constitution compels the creation of borough governments in areas where boroughs were not wanted by the residents? Fairbanks twice voted down the formation of the borough, yet the courts still forced it down their throats. Did you know that even though a majority (59%) voted for the Beirne Homestead Act, the Supreme Court ruled that the people do not have the constitutional authority to dispose of state land? And did you know that the present constitution creates the most powerful, dictatorial governor in the country? His power to appoint is staggering: Supreme Court Justices, law enforcement officials, various regulatory department heads, Airport Managers, Commissions ad nauseam, etc, etc. He and his Commissioner of Natural Resources have deliberately strangled the economy of Alaska. His Supreme Court finds it "constitutional" if the government wants it (boroughs), and "unconstitutional" if the people want it (homesteading). The judges then claim "sovereign immunity" - they can't even be voted out!

I am for a constitutional convention which will take the power out of the hands of a few and give it back to the people. I am for a constitution which will abolish the centralized, state-planned economy in favor of a free market based on private ownership of land and resources.

However, I do not yet hear a hue and cry of the people for a constitutional convention. They have not yet deduced the relationship between our present economic stagnation and our constitution. Therefore, until and unless the people of Alaska call for a constitutional convention to get government off their backs, I must stand resolutely against a convention planned and organized by the Legislature. The power brokers at such a convention would only give themselves still more power. A constitution should be the will of the people, and until they are for it and involved in it, the plans of others to call a convention should be thwarted.

In the meantime let's put the question before the voters on the 1982 ballot, as required by the present constitution.

Timothy A. Dove
12-10-77

cc: Editor, Daily News-Miner
Rep. Dick Randolph

SCOMM

#27:5



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Wilson Condon, Attorney General

FROM: Sen. Vic Fischer

DATE: Feb. 26, 1981

SUBJ: Constitutional Convention

Your assistance is requested in clarifying how legal and policy issues on this subject can be resolved.

PREPARATORY COMMISSION

The Senate State Affairs Committee has considered SB 165, providing standby legislation in case Alaska voters approve a constitutional convention in the 1982 referendum or at a subsequent time. The bill is essentially the same as HB 723 approved by the Legislature last year but vetoed by the Governor.

The Governor's veto was based on the composition of the preparatory commission, which was to have included appointees of the Governor, Speaker of the House, President of the Senate, and Chief Justice of the Supreme Court. The appointive structure was seen as a violation of the separation of powers concept.

SB 165 does not include provision for a preparatory commission so as to avoid raising the appointment method issue. We now have the option of amending SB 165 to include provision for a preparatory commission, dealing with the matter in separate legislation to make SB 165 "veto proof", or making no provision for convention preparation. The latter course is to me extremely undesirable, as experience has shown that lack of adequate preparation can lead to disastrous constitutional conventions.

Based on the scheduling of a convention established by SB 165 in case of a positive convention vote by the people, a preparatory commission would have to be activated as soon as possible after the referendum to assure that preparatory work is carried out in timely fashion. Therefore, necessary legislation has

to be enacted by this Legislature, preferably during this session.

State Affairs Committee discussion brought out the opinion that a constitutional convention is the highest legislative process of the people of the state. Neither the executive, legislature, or judiciary can limit the scope of this law making process.

At the same time, someone has to provide for the constitutional convention preparatory process. Our question now is who should be involved in doing that.

It appears clear that the Legislature could establish a preparatory commission, with appointments made by the House Speaker, Senate President, or others within the Legislature.

The Legislature could also provide for a commission, the members of which would be appointed by the Governor.

My main question is whether you would find any kind of joint executive-legislative- appointment legally acceptable, particularly in view of the constitutional convention being essentially a legislative function. I pose the question because of my belief that a convention preparatory commission performs a crucial function and that its composition is most important to an effective preparatory process.

I would very much appreciate your comments and suggestions on this issue at the very earliest time.

Sen. Vic Fischer

/lf

cc: Sen. Rodey, Chair, Judiciary Committee

Rep. Rogers, Chair, Constitutional Convention Committee

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

ART & HARRISON, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 485-3800

April 10, 1981

Hon. Vic Fischer
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Constitutional convention
preparatory commission
Our file: J-66-557-81

Dear Senator Fischer:

You have asked whether we can find any kind of joint executive-legislative appointment of a commission to prepare for a constitutional convention to be legally acceptable. We regret to advise that we cannot.

There are at least two cases, each of which includes a compelling dissent, which hold that a legislator's serving as a delegate to a constitutional convention is not holding a dual office. Harvey v. Ridgeway, 450 S.W.2d 281 (Ark. 1970); Bd. of Supervisors of Elections v. Attorney General, 229 A.2d 388 (Md. 1967). Both cases ignore the case authority in their own and other states in arriving at their decisions. Accordingly, neither is persuasive. Our own court takes a broad view on what is an office. Larson v. State, 564 P.2d 356 (Alaska 1977). And the cases uniformly hold that an office is "a public charge or employment, the duties of which are prescribed by law, and he who performs the duties is an officer." State v. Dunn, 496 S.W.2d 480, 490 (Tenn. 1973), quoting from State v. Bratton, 253 S.W. 705 (Tenn. 1923). See also Warwick v. State ex rel. Chance, 548 P.2d 384 (Alaska 1976); Begich v. Jefferson, 441 P.2d 27 (Alaska 1968) (prohibition against dual-office holding literally applied). The Alaska Constitution expressly makes employment by or election to a constitutional convention an exception from the prohibition against legislators' holding dual office. Alaska Const., art. II, § 5. In Begich, the court stated that these (and other) express exceptions in the constitution necessarily result in the prohibition's extending to all other offices. 441 P.2d at 30-33.

It might be argued that legislative appointees to the preparatory commission are employees of the convention.

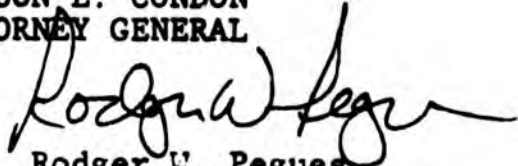
April 10, 1981

However, while the legislature is empowered to make provision for the convention, "by law," Alaska Const., art. XIII, § 3, the constitution does not make an exception for the legislature to appoint either its members or its agents to be the officers or employees of the convention or for either to serve on a commission appointed by the legislature in whole or in part. Absent constitutional provision to the contrary, the chief executive is the appointing authority for those charged with carrying out a law. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

Either on an informal basis or on a basis formalized by law, resolution, or interbranch agreement, the agencies of the two branches -- including duly established permanent or ad hoc interim committees -- can certainly cooperate in studies and gathering information to prepare for a convention. So too, the legislature, through existing or duly established interim committees can study the needs for constitutional reformation. But the legislature cannot write a public law and then appoint a commission of its own members or agents to carry it out. Book v. State Office Bldg. Comm'n, 149 N.E.2d 273 (Ind. 1958).

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Rodger W. Pegues
Assistant Attorney General

RWP/pjg



Alaska State Legislature

Senate

State Affairs Committee

Official Business

Vic Fischer, Chairman
Mike Colletta, Vice-Chairman
Brad Bradley
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Terry Stimson

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4954
(907) 465-4955

M E M O R A N D U M

TO: REP. BRIAN ROGERS
FROM: SENATOR VIC FISCHER *VF*
DATE: MARCH 4, 1981
RE: Constitutional Convention bill

Sec. 44.90.020(d) specifies that the convention shall meet for not more than 90 days but may recess for 15 days. It is not clear in the section whether the 15 days would come out of the 90 or could be in addition. You might wish to clarify this while the bill is in Senate Judiciary or on the House side.

cc: Sen. Pat Rodey



Alaska State Legislature

Senate

State Affairs Committee

Official Business

Vic Fischer, Chairman
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Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4954
(907) 465-4955

M E M O R A N D U M

TO: SENATOR PAT RODEY
FROM: SENATOR VIC FISCHER
DATE: MARCH 4, 1981
RE: SB 165, Constitutional Convention

The Judiciary Committee will shortly receive CSSB 165, providing for a Constitutional Convention in case voters approve a call at the 1982 or a subsequent referendum. I would like to bring several items to your attention.

Similar legislation was enacted last year but vetoed by the Governor due to composition of the proposed preparatory commission. Brian Rogers suggested we get the basic enabling legislation enacted and deal with the preparatory commission separately.

My preference is to include the commission as part of the basic convention legislation, though not at the expense of jeopardizing the measure. I have therefore requested the advice of the Attorney General on commission composition that might be acceptable to the Administration; see attached memo of February 26.

I would suggest that you proceed with CSSB 165 without the preparatory commission. If we get something back from Will Condon in time for inclusion by your committee, fine. Otherwise we can deal with the matter in the House, if we all conclude that we can attach the appropriate provisions to the bill. In lieu of that we will proceed with separate legislation after hearing from Condon.

The second issue I would like to bring to your attention pertains to a fiscal note. The Division of Elections provided us with a fiscal note that showed no expenditures in FY '81 and '82, with \$1.1 million in FY '83, \$1.2 million in FY '84. These amounts would cover costs of special elections for delegate selection and ratification of any amendments or revisions proposed by a

convention, if one were held. The fiscal note is predicated on a positive vote on issuing a convention call.

Both Brian and I feel very strongly that the Constitutional Convention bill now under consideration has no costs that would result from its enactment. Any costs would be ascribable to the convention referendum itself, but not CSSB 165. If the people approve a convention call total costs will be far in excess of \$2.6 million. If the people reject a convention, there is no cost whatsoever. In either case, it's the action of the people on the referendum and not legislative action on the current bill to which costs should be ascribed. Accordingly, CSSB 165 carries a zero fiscal note from the State Affairs Committee.

In view of the zero fiscal note, both Brian and I feel that referral to Finance Committee is unnecessary. We will deal with that when the bill comes out of your committee.

Third is an issue that just occurred to me. It might be good to add a provision to the bill that the lieutenant governor include a fiscal note for the convention in the election pamphlet for the election at which the constitutional convention question is put to the voters. The fiscal note should cover costs of delegate election, the convention itself, ratification election, and other expenses ascribable to a convention if one were held. Unless an authoritative figure is given, we are liable to have a big argument over potential expenses of a convention...If you concur, Judiciary might add such a provision.

Thanks for your consideration of these issues.

cc: Rep. Brian Rogers



Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Wilson Condon, Attorney General
FROM: Sen. Vic Fischer *VF*
DATE: Feb. 26, 1981
SUBJ: Constitutional Convention

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I would very much appreciate your comments and suggestions on this issue at the very earliest time.

Sen. Vic Fischer

/lf

cc: Sen. Rodey, Chair, Judiciary Committee

Rep. Rogers, Chair, Constitutional Convention Committee

TO: Senator Rodey, Chairman
and
All Members of the Judiciary Committee

FROM: Constitutional Convention Committee
Guy A. Van Doren, Administrative Assistant

SUBJECT: Information Packet Re: Joint Committee
on Constitutional Convention

HISTORICAL PERSPECTIVE:

Alaskans wrote and approved their state constitution two years before Congress granted statehood to Alaska. A constitutional convention with 55 (the number of members who drafted the United States Constitution in 1787) elected citizens met in what is now known as Constitution Hall on the campus of the University of Alaska a few miles west of Fairbanks, on November 8, 1955, and adjourned February 6, 1956. The voters ratified the work of the convention by a two-to-one margin in a special referendum April 24, 1956.

Article XIII, Section 3, provides, "If, during any ten-year period, a constitutional convention has not been held, the Lieutenant Governor shall place on the ballot for the next general election the question: 'shall there be a constitutional convention?' If a majority of the voters cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period. If a majority of the votes cast on the question are in the affirmative, dele-

gates to the convention shall be chosen at the next statewide election, unless the legislature provides for the election of the delegates at a special election. The Lieutenant Governor shall issue the call for the convention. Unless other provisions have been made by law, the call shall conform as nearly as possible to the act calling the Alaska Constitutional Convention of 1955, including, but not limited to, number of members, districts, election and certification of delegates, and submission and ratification of revisions and ordinances. The appropriate provisions of the call shall be self-executing and shall constitute a first claim on the State Treasury."

In 1970, the voters, by a slim margin, approved a convention call; however, that referendum was voided by the Supreme Court because of improper wording of the question on the ballot. Voting on the issue again on November 7, 1972, the voters rejected the proposition. In accordance with the constitution, Alaska voters will be asked at the November 1982 general election whether or not a convention should be held.

CURRENT STATUS:

A conference held in Fairbanks in October 1976 to review the state constitution twenty years after it was written and first approved, concluded that a general revision was not needed,

although some issues were deemed to deserve further study and possible change. Most delegates to the original convention -- legislators and others who attended the conference -- felt that a new convention was not necessary and, if there were to be a convention, it would open the whole constitution to unnecessary tinkering and possible massive revision since Article XIII, Section 4, Powers, states, "Constitutional Conventions shall have plenary power to amend or revise the constitution, subject only to ratification by the people. No call for a constitutional convention shall limit these powers of the convention." (Emphasis added).

In general, most conferees concluded that the constitution was adequate for our own time and in the foreseeable future.

Although there has not been a convention since statehood, the constitution has been changed over the years. Approximately 250 resolutions to amend the constitution have been introduced in the legislature since the first session of the first legislature. Of those 250, 23 have passed both houses of the legislature and have been placed before the public. Sixteen of those have been ratified by the voters and have become part of the constitution. Generally, voters have supported changes recommended by the legislature.

Recently, certain issues have surfaced which supporters feel can only be solved through changes in the constitution at a constitutional convention. These issues have been introduced many times in the legislature but have not passed both houses. Supporters feel they would receive fairer consideration by non-partisan convention delegates. These issues include:

- | | |
|---------------------------------|---------------------|
| 1. Election of judges | Introduced 5 times |
| 2. Election of Attorney General | Introduced 18 times |
| 3. Length of session | Introduced 23 times |
| 4. Unicameral Legislature | Introduced 13 times |

New issues have surfaced which supporters feel necessitate changes in the constitution. These issues include:

1. Right-to-live vs. abortion choice;
3. Capitol move;
4. Land distribution;
5. Limitations on taxes and expenditures.

Any of the above issues could bring about a convention oriented toward individual causes rather than one concerned with general governmental structure and constitutional integrity.

To:

1. Assure that the public will be given a chance to express their feelings on the above, and other issues, will be informed

on the pros and cons of calling a convention, and will be appraised of alternative methods of achieving the goals;

2. Provide a plan and develop material relating to the Alaska Constitution, Constitutional revision and a constitutional convention;

3. Insure successful and well planned convention should one be called.

The Joint Committee on the Constitutional Convention was formed during the interim period of 1979.

In 1979 the committee solicited work from various instate consultants relating to constitutional conventions, issues, proposed amendments, the calling of a constitutional convention.

In 1980, the Legislature felt that the work of the committee was important enough to continue the committee. During the 1980 interim, the committee decided to accomplish certain tasks. Unfortunately, the committee which was originally scheduled to begin its work in the month of June, was not even formed until August 29, 1980, three months late. Because of the delay, the committee was not able to accomplish all of the goals it had set for itself.

The major undertaking of the committee during the 1980 interim was to meet with recognized experts on constitutional conventions, revision and issues. From those meetings came invaluable advice on conventions, preparation for, holding of and post convention work. Changes and issues relating to the Alaska constitution were also discussed.

The transcripts of those meetings have been edited and reproduced and have led to various "occasional papers" being developed by staff to outline various provisions of constitutional convention planning and revision.

The committee has engaged the services of a person to write "A Citizen's Guide to the Alaska Constitution", which will be useful to both people in government and the public at large even if the voters do not approve the calling of a convention. This guide will be published during the 1981 interim. It has begun the work of translating the Alaska constitution into the Yupik language in order that some 15 to 20 thousand people can read the constitution in their "first" language.

The committee is planning on distributing a pamphlet to explain the Alaska constitution, constitutional revision, and the functions of a constitutional convention and has entered into a contract with the League of Women Voters to provide materials

and conduct meetings with the public to discuss issues of revision, the constitution and or a constitutional convention.

THE FUTURE:

As mentioned earlier, in 1980 the committee began its work three months late. There are only twenty months before the people of the state must decide on the very important question of whether or not to call a convention. The committee feels that it is imperative that as much information on the constitution and a convention, as possible, should be distributed to the public prior to the vote and that preparation for a convention should continue in the event the electorate votes for calling a convention. Every person involved with constitutional revision and conventions the committee met with, stressed the importance of preparatory work.

In the event the people do not approve the calling of a convention, the materials gathered will undoubtedly be useful in the future. Prior to the work of the committee, no work had been done relating to preparation for a convention.

You have all received a brief outline of the plans for the committee separate from this memo, but I am including the proposed schedule in order to refresh your memory.

1983 GOAL FOR WOMEN VOTERS
FOR JOINT COMMITTEE ON CONSTITUTIONAL CONVENTION

1981 Session

1. Adopt enabling and procedures act.
2. Continue Joint Committee (adopt resolution).
3. Complete Citizen's Guide.
4. Complete brochure.
5. Conduct public opinion survey.
6. Yupik translation (Phases I & II).
7. Possible pre-information work by League of Women Voters.

1981 Interim

1. Publish "Citizen's Guide" and brochure.
2. Public information begins - Committee and League of Women Voters.
3. Convention site survey.
4. Committee public hearings.
5. Prepare constitutional amendment package(?).
6. Solicit public papers and print same.
7. Yupik Translation completed (Phases II & III).

1982 Session

1. Contingent appropriations for convention.
(a) Planning and election
2. Adoption of amendment package (?).
3. Convention logistics planning begins.

1982 Interim

1. Convention logistics planning.
2. Public information program.
(a) begin drafting materials
(b) committee hearings.
3. If affirmative vote, begin choosing preparatory staff.

November 1982

Vote by the people.

1983

1. Appropriation for convention.
2. Convention drafting manual completed.
3. Temporary rules preparation.
4. Election of Delegates (May).
5. Delegate studies materials ready.
6. Convention logistics completed.
7. Solicit and prepare lists of staff and consultants available for convention to use.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

March 6, 1981

SUBJECT: Appointments to Constitutional Convention
Committee of the legislature which may be
established under SCR 9 (Work Order
Number 12-0980)

TO: Senator Vic Fischer
Representative Brian Rogers

FROM: Richard A. Bradley 
Legislative Counsel

You have asked my opinion as to the implications of the failure or refusal of the chief justice, the lieutenant governor, or the governor to make appointments authorized under SCR 9 to a joint committee of the legislature concerned with the organization and procedures of a constitutional convention.

In my view there will be no substantial effect. The committee would have whatever power the committee would otherwise have.

If any effect occurs at all, it will be because the vacancies may cause quorum or similar procedural questions.

RAB:ljb

February 14, 1981

224 Nerland Hall

Fairbanks, Alaska

99701

Representative Brian Rogers

Pouch V

Juneau, Alaska 99811

Dear Representative Rogers,

I am writing to commend you on your article in this week's All-Alaska Weekly, where you addressed the subject of Alaska's next Constitutional Convention. Speaking not only for myself but also for the members of the Farthest North Political Science Union at the University of Alaska, I would like to thank you for spurring some discussion and interest in this very important matter.

At this time the FNPSU is arranging for lectures and seminars to be held on the campus of UAF which will discuss such issues as the next Constitutional Convention. On behalf of FNPSU, I would like to invite you to be a guest speaker before our club and all interested persons on the subject of the next Constitutional Convention. We can arrange such a visit according to your schedule and upon very short notice. We of course realize that your time is very precious, and therefore we regard this invitation as an open one, to be accepted or refused as is convenient for you.

For your information, there are many students here who are interested in the idea of the Convention, but who are woefully ill-informed about both Alaska's Constitution and the first Convention. This fact bears upon your suggestion in your article that Alaska's citizens are in danger of having a second Convention without being even minimally prepared for it. Therefore, it seems not only reasonable but vital that there be increased publicity and governmental promotion of the pertinent law, issues, Legislative actions and circumstances under which our next Convention will be held. To help in this regard, the FNPSU of the University of Alaska-Fairbanks offers to provide such research, promotion, and manpower as we can which will help Alaskans prepare for the Convention.

Please contact me, Scott Sterling, care of the above address, for any further discussion and information which may help both you and us in our efforts regarding the next Convention. Your concern and attention is deeply appreciated.

Sincerely, Scott A. Sterling

REPRESENTATIVE
BRIAN ROGERS
Alaska State Legislature

23 February 1981

Scott A. Sterling
224 Nerland Hall
Fairbanks, Alaska 99701

Dear Mr. Sterling,

Thank you for your letter of February 14th regarding my work with the Constitutional Convention Committee.

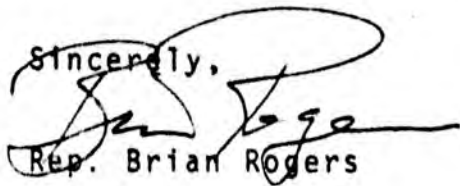
I would be happy to speak with your group on this subject whenever I am in Fairbanks. At this time, however, I do not know when that may be as we are still in the process of making the Legislative schedule and any time I may have to travel is still unknown to me.

I will keep your name handy, however, and contact you whenever I know I am coming to Fairbanks.

Thank you again for contacting me and for your interest in the subject. There is little else I can think of that will shape the future of our state more than the outcome of a Constitutional Convention if the voters should choose to have one. Now is the time to think about the situation and prepare ourselves. Your interest at this time is comforting.

Thanks again for writing. I'll be in touch.

Sincerely,


Rep. Brian Rogers

BR/vb

JOINT COMMITTEE ON
CONSTITUTIONAL CONVENTION

Minutes of Meeting of
February 7, 1981

The February 7, 1981 meeting of the Joint Committee on Constitutional Convention was held in the Butrovich Committee Room Capitol Building, Juneau, Alaska.

Members Present:

Representative Brian Rogers, Chairman
Representative Terry Gardiner
Senator Bob Mulcahy
Senator John Sackett
Senator Robert H. Ziegler, Sr.

Members Absent:

Senator George Hohman
Representative Joe Hayes

Also Present:

Gordon Harrison, Consultant
George Braden, Consultant
Guy A. Van Doren, Administrative Assistant
Landa Krossa, Secretary

Chairman Rogers called the meeting to order at 10:07 a.m.

The committee discussed the two proposals for the statewide survey. After general discussion, Representative Gardiner moved to renegotiate with both proposers to obtain a statewide survey that will be within the committee budget. There was no objection and the motion passed unanimously.

The committee discussed the two proposals submitted for the illustration of the brochure. After discussion and review of each proposer's work, there was a motion by Representative Terry Gardiner to accept the proposal for illustration of the brochure by Today's Graphics. The contract would stipulate one-third payment on signing of the contract, one-third after receipt of the draft, and the final third payment upon completion of the project. There being no objection, the motion passed unanimously.

Mr. Guy A. Van Doren, Administrative Assistant to the Committee, introduced Mr. George Braden and Mr. Gordon Harrison. Mr. Harrison will be the author of the "Citizen's Guide to the Alaska Constitution" and Mr. Braden will work with Mr. Harrison and will write an introduction to the "Guide". Mr. Braden discussed his several concepts and his philosophy regarding constitutions and constitutional conventions.

There was discussion regarding the advisory group to help with the "Citizen's Guide to the Alaska Constitution". After discussion, it was decided that the group would be only an advisory group, and would not dictate to Mr. Harrison or Mr. Braden in their endeavors.

Several persons were suggested by Mr. Van Doren in his memo to Chairman Rogers. These include:

The Attorney General or his designee;

A person chosen by the Alaska League of Women Voters;

Judge Tom Stewart;

Mr. Dick Engen, Director, Alaska State Libraries;

Staff of Joint Constitutional Convention Committee;

Mr. George Braden;

Chairman of the Joint Constitutional Convention Committee

Senator Vic Fischer.

Senator Ziegler suggested Mr. Joe LaRocca be included and Mr. LaRocca stated he would consider serving.

Chairman Rogers informed the committee members that the enabling legislation for the constitutional convention would be introduced on February 9, 1981, and the legislation to continue the committee would be introduced on February 10.

There being no further business, it was moved to adjourn the meeting. There was no objection and the meeting adjourned at 11:20 a.m.

Landa Krossa,
Secretary

EMORY UNIVERSITY SCHOOL OF LAW

GAMBRELL HALL ATLANTA, GEORGIA 30322

Law Library

January 26, 1981

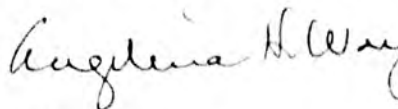
Alaska State Legislature
Interim Committee on the Constitutional Convention
State Capitol
Juneau, Alaska 99811

Gentlemen:

Please advise us of the availability and price of the
publication(s) listed below.

Thank you very much.

Yours truly,



Angelina H. Way
Reference Librarian

Fischer, Victor. A new constitutional convention for
Alaska? The lessons of Hawaii, 1978.

AHW/mb

Rep. Brian Rogers

Capitol Building
Juneau, Alaska

Members:

Sen. Rohman

Sen. Mulcahy

Sen. Sacketh

Sen. Ziegler

Rep. Cardinale

Rep. Hayes

99811

(907) 465-2763

Staff:

Guy Van Doren

Admin. Asst.

29 January 1981

Angelina H. Way

Reference Librarian

Emory University School of Law

Gambrell Hall

Atlanta, Georgia 30322

Dear Ms. Way,

Enclosed is a copy of the report, "A New Constitutional Convention for Alaska? The Lessons of Hawaii 1978".

There is no charge for this publication and you may feel free to make copies of it as you see fit.

Thank you for your letter and request. We are pleased to have been of help.

Sincerely,

Rep. Brian Rogers, Chair

Interim Committee on the Constitutional Convention



JUNEAU, ALASKA

Alaska State Legislature
Senate

Fischer

MEMORANDUM

Date: 1/20/81

To: Rep. Brian Rogers

From: Sen. Fischer

Attached is a comment from a member of Hawaii's Constitutional Convention about the report I did on their 1978 convention. I have not sent a copy of this to Bill Sumner, as I'm not sure he would really appreciate it, or even understand it.

A handwritten signature, likely of Sen. Fischer, written in dark ink.

Paul E. DiBianco

ATTORNEY AT LAW
A LAW CORPORATION

SUITE 904
HAWAII BUILDING
745 FORT STREET
HONOLULU, HAWAII 96813
(808) 536-4984

January 5, 1981

Victor Fischer
221 E. 7th Avenue
Anchorage, Alaska 99501

Dear Mr. Fischer:

Tom Dinell of the University of Hawaii forwarded to me your report for the Alaska State legislature on Hawaii's 1978 Constitutional Convention. I want to congratulate you on a fine job--and I understand that congratulations are also in order on account of your being elected to the Alaska State Senate!

Your report was, in my opinion, accurate and complete. I wish a lot of people in Hawaii (and in the Convention) had seen the issues as clearly as you did. I trust you learned from our mistakes and that Alaska will profit from your experience.

It was a pleasure to have met with you and I wish you success in your political career. I also want to take this opportunity to thank Tom Dinell for sending the material along to me.

Sincerely yours,


Paul E. DiBianco

PEDB:gw

GORDON HARRISON

social and economic research

1621 Wilton Road, Tacoma, WA 98465
(206) 565-6523

1/5/81

Guy,

will you return writing
samples when the selection
process is finished. I
don't want to take any
chances on FWS material
circulating before it is
released by them.

Thanks

Gordon