

CONSTITUTIONAL CONVENTION 320.7

Chief Clerks File - Com Proposal No 7

F I R S T E N R O L L E D C O P Y

Constitutional Convention
Committee Proposal/7/Enrolled
January 9, 1956

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

Introduced by the Committee on the

Preamble and Bill of Rights

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

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

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

7 ARTICLE

8 DECLARATION OF RIGHTS

Rights of
Man

9 Section 1. This constitution is to promote the
10 general welfare of the people, and is dedicated to the
11 principle that all persons have a natural right to life,
12 liberty, the pursuit of happiness and the enjoyment of
13 the gains of their own industry; that all persons are
14 equal and entitled to equal rights, opportunities and
15 protection under the law. These rights carry with them
16 corresponding duties to the people and to the state.

Source
and Aim
of Poli-
tical
Power

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

Civil
Rights

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

Freedom of
Speech and
Press;
Assembly
and Peti-
tion

9 Section 4. Every person may freely speak, write,
10 and publish on all subjects, being responsible for the
11 abuse of that liberty. The right of the people peace-
12 ably to assemble and to petition the government shall
13 never be abridged.

Freedom of
Religion

14 Section 5. No law shall be made respecting an
15 establishment of religion or prohibiting the free exer-
16 cise thereof.

Due
Process

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

Grand
Juries,
Indictments
and
Information

22 Section 7. No person shall be held to answer for
23 a capital or otherwise infamous crime, unless on a pre-
24 sentment or indictment of a grand jury, except when
25 waived by the accused, in which event the prosecution

1 shall be by information, but this section shall not be
2 applied to cases arising in the armed forces or in the
3 militia when in actual service in time of war or pub-
4 lic danger. The grand jury shall consist of at least
5 twelve citizens, a majority of whom concurring may re-
6 turn a true bill. The power of grand juries to inves-
7 tigate and make recommendations concerning conditions
8 involving the public welfare or safety shall never be
9 suspended.

No Double
Jeopardy
No Self-
Incrimination

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

Excessive
Bail,
Unusual
Punishment

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

Prohibited
State
Action

17 Section 10. No bill of attainder, ex post facto
18 law, nor any law impairing the obligation of contracts,
19 nor any law making any irrevocable grant of special
20 privileges or immunities shall be passed, and no con-
21 viction shall work corruption of blood or forfeiture of
22 estate. The administration of criminal justice shall
23 be founded upon the principle of reformation as well as
24 upon the need to protect the public.

Searches
and
Seizures

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

Criminal
Matters:
Trial by Jury,
Rights of
Accused

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

Civil Cases:
Trial by Jury

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

1 three-fourths of the members of any jury in civil
2 causes.

Habeas
Corpus

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

Militia,
Right to
Bear Arms

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

Treason

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

Eminent
Domain

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

No Imprisonment
For Debt

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

Construction

25 Section 19. The enumeration of rights in this con-
26 stitution shall not impair or deny others retained
27 by the people.

F I R S T E N R O L L E D C O P Y

Constitutional Convention
Committee Proposal/7/Enrolled
January 9, 1956

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

ARTICLE

HEALTH, EDUCATION AND WELFARE

Public
Education

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

Public Health

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

Public Welfare

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

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Constitutional Convention
Committee Proposal/7/Engrossed
January 9, 1956

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

Introduced by the Committee on the
Preamble and Bill of Rights

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

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

1 [WE, THE PEOPLE OF THE STATE OF ALASKA, GRATEFUL TO
2 ALMIGHTY GOD FOR OUR CIVIL AND RELIGIOUS LIBERTY,
3 SEEKING HIS CONTINUED BLESSING UPON OUR ENDEAVORS TO
4 SECURE AND TRANSMIT THESE LIBERTIES UNIMPAIRED TO
5 POSTERITY, DO ORDAIN AND ESTABLISH THIS CONSTITUTION.]
6 We the people of Alaska, conscious of our heritage of
7 political, civil and religious liberty, grateful to
8 God and to those who founded the nation and pioneered
9 this great land, reaffirm our belief in government by
10 consent of the governed within the Union of States and
11 do ordain and establish this Constitution for the State
12 of Alaska.

ARTICLE

DECLARATION OF RIGHTS

Rights of
Man

1 Section 1. This constitution is to promote the
2 general welfare of the people, and is dedicated to the
3 principle that all persons have a natural right to life,
4 liberty, the pursuit of happiness and the enjoyment of
5 the gains of their own industry; that all persons are
6 equal and [ARE] entitled to equal rights, [AND]
7 opportunities and protection under the law. These
8 rights carry with them corresponding duties to the
9 people and to the state.

Source and
Aim of Poli-
tical Power

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

Civil
Rights

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

Freedom of
Speech and
Press; Assem-
bly and
Petition

18 Section 4. Every person may freely speak, write,
19 and publish on all subjects, being responsible for the
20 abuse of that liberty. The right of the people peace-
21 ably to assemble and to petition the government [OR ANY
22 DEPARTMENT THEREOF] shall never be abridged.

Freedom of
Religion

23 Section 5. No law shall be made respecting an es-
24 tablishment of religion or prohibiting the free exercise
25 thereof.

Due
Process

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

Grand Juries,
Indictments
and
Information

6 Section 7. [THE GRAND JURY SHALL CONSIST OF
7 TWELVE CITIZENS, ANY NINE OF WHOM CONCURRING MAY FIND
8 AN INDICTMENT OR A TRUE BILL; PROVIDED, THAT NO GRAND
9 JURY SHALL BE CONVENED EXCEPT UPON AN ORDER OF A
10 JUDGE OF A COURT HAVING THE POWER TO TRY AND DETERMINE
11 FELONIES; BUT WHEN SO ASSEMBLED SUCH GRAND JURY SHALL
12 HAVE POWER TO INVESTIGATE AND RETURN INDICTMENTS FOR
13 ALL CHARACTER AND GRADES OF CRIME; AND THAT THE POWER
14 OF GRAND JURIES TO INQUIRE INTO THE WILLFUL MISCONDUCT
15 IN OFFICE OF PUBLIC OFFICERS, AND TO FIND INDICTMENTS
16 IN CONNECTION THEREWITH, SHALL NEVER BE SUSPENDED.

17 NO PERSON SHALL BE PROSECUTED CRIMINALLY FOR
18 FELONY OTHER THAN BY INDICTMENT OR INFORMATION, WHICH
19 SHALL BE CONCURRENT REMEDIES, BUT THIS SHALL NOT BE
20 APPLIED TO CASES ARISING IN THE LAND OR NAVAL FORCES
21 OR IN THE MILITIA WHEN IN ACTUAL SERVICE IN TIME OF
22 WAR OR PUBLIC DANGER.] No person shall be held to
23 answer for a capital or otherwise infamous crime, un-
24 less on a presentment or indictment of a grand jury.
25 except when waived by the accused, in which event the

1 prosecution shall be by information, but this section
2 shall not be applied to cases arising in the armed forces
3 or in the militia when in actual service in time of war
4 or public danger. The grand jury shall consist of at
5 least twelve citizens, a majority of whom concurring
6 may return a true bill. The power of grand juries to
7 investigate and make recommendations concerning con-
8 ditions involving the public welfare or safety shall
9 never be suspended.

No Double
Jeopardy
No Self-
Incrimination

10 Section 8. No person shall be put in jeopardy
11 twice for the same offense. No person shall be com-
12 pelled in any criminal proceeding to be a witness
13 against himself.

Excessive
Bail, Unusual
Punishments

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

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State
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17 Section 10. No bill of attainder, ex post facto
18 law, nor any law impairing the obligation of contracts,
19 nor any law making any irrevocable grant of special
20 privileges or immunities shall be passed, and no con-
21 viction shall work corruption of blood or forfeiture
22 of estate. [THE ADMINISTRATION OF CRIMINAL JUSTICE
23 SHALL BE FOUNDED ON PRINCIPLES OF REFORMATION, AND NOT
24 VINDICTIVENESS.] The administration of criminal justice
25 shall be founded upon the principle of reformation as
26 well as upon the need to protect the public.

Searches and
Seizures

1 Section 11. The right of the people to be secure
2 in their persons, houses and other property, papers,
3 and effects, against unreasonable searches and seiz-
4 ures, shall not be violated, and no warrants shall
5 issue, but upon probable cause, supported by oath or
6 affirmation, and particularly describing the place to
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Criminal
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Trial by
Jury, Rights
of Accused

8 Section 12. In all criminal prosecutions the
9 accused has the right to a speedy and public trial, by
10 an impartial jury [. IN] of twelve, except that in
11 courts not of record the jury may consist of not more
12 than twelve nor less than six persons. The accused is
13 also entitled to be informed of the nature and cause of
14 the accusation; to be released on bail, except for
15 capital offenses when the proof is evident or the pre-
16 sumption great; to be confronted with the witnesses
17 against him; to have compulsory process for obtaining
18 witnesses in his favor, and to have the assistance of
19 counsel for his defense.

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

1 than three-fourths of the members of [THE] any
2 jury in civil causes.

Habeas Corpus

3 Section 14. The privilege of the writ of habeas
4 corpus shall not be suspended, unless when, in cases
5 of rebellion [, INVASION OR IMMINENT PERIL] or actual
6 or imminent invasion. the public safety requires it.

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

Treason

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

Eminent
Domain

21 Section 17. Private property shall not be
22 taken or damaged for public use without just com-
23 pensation.

No Imprison-
ment for Debt

24 Section 18. There shall be no imprisonment for
25 debt, [EXCEPT IN CASES WHERE THERE IS A STRONG

1 PRESUMPTION OF FRAUD.] except in case of absconding
2 debtors.

Construction

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

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ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

ARTICLE

HEALTH, EDUCATION AND WELFARE

Public
Education

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

Public Health

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

Public Welfare

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

Substandard
Areas and
Public Housing

14 [SECTION 4. THE STATE MAY PROVIDE FOR AND
15 ASSIST IN THE CLEARANCE, DEVELOPMENT AND REHABILI-
16 TATION OF SUBSTANDARD AREAS AND FOR PUBLIC HOUSING.]

ALASKA CONSTITUTIONAL CONVENTION

Commentary on the Preamble and the Declaration of
Rights

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

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

(Section 3 Civil Rights)

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

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

This provision, like the provision in the Federal Constitution, guarantees the freedom of speech, press, assembly and the right to petition the government. This right to petition is broader than in the Federal Constitution, which limits the right to petition to grievances.

Constitutional Convention
Committee Proposal/7
December 15, 1955

ALASKA CONSTITUTIONAL CONVENTION

Commentary on the Article of Health, Education and Welfare

(Section 1 Education)

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

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

(Sections 2 and 3 Health and Welfare)

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

(Section 4 Substandard Areas and Public Housing)

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

(Sections 5 and 6 Freedom of Religion. Due Process)

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

(Section 7 Grand Jury)

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

(Section 8 Double Jeopardy: Self Incrimination)

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

(Section 9 Excessive Bail, Unusual Punishment)

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

(Section 10 Prohibited State Action)

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

(Section 11 Searches and Seizures)

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

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

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

(Section 13 Civil Cases: Trial by Jury)

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

(Section 14 Habeas Corpus)

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

(Section 15 Militia. Right to Bear Arms.)

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

(Section 16 Treason)

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

(Section 17 Eminent Domain)

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

(Section 18 Imprisonment for Debt)

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

adopted

Constitutional Convention of Alaska

Amendment of Article on Preamble and Bill of Rights

Proposed by Frank Barr

Mr. President:

I move that (Committee) Proposal No. 7 be amended as follows: At the end of Section 7, add the following paragraph:

"The power of grand juries to investigate and make recommendations concerning conditions ^{involving} ~~detrimental~~ to the public welfare or safety shall never be suspended."

Adopted

Constitutional Convention

Amendment to Committee Proposal No. 7

By Buckalew, Davis, Hellenthal, Taylor and McNealy

Amend Proposal No. 7, Section 7 as follows:

Strike Section 7, as amended and substitute the following section:

Section 7. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except when waived by the accused, in which event the prosecution shall be by information, but this^{action} shall not be applied to cases arising in the ~~land or naval~~^{armed} forces or in the militia when in actual service in time of war or public danger. ~~The grand jury may consist of not less than twelve citizens.~~ *The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return a true bill.*

Adopted Preamble

Constitutional Convention of Alaska

Amendment of Article on Preamble and Bill of Rights

Proposed by: Mr. V. Rivers, Mr. Sundborg, Mr. White,
Mr. V. Fischer, Mr. ~~Hilf~~ Fischer, Mr. R. Rivers,
Mrs. H. Fischer, Mr. Emberg, Mr. Poulsen,
Mr. King, Mr. Riley and Mr. Hellenthal

Strike lines 1 through 5 on page 1 and substitute the following:

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

Amendment No. _____

Constitutional Convention

By V. Rivers

Date June 7 55

AMENDMENT TO (COMMITTEE) PROPOSAL NO. _____

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended

as follows:

P2 Sec 6 Line 23 - Add to the section the following sentence

"The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed."

adopted
voice vote

Amendment No. _____

Constitutional Convention

By Kilcher

Date Jan 7, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. _____

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

Section 14

line 8

strike comma

strike: invasion or imminent peril

substitute: "or actual ^{or} ~~and~~ imminent invasion,"

adopted
unanimously
roll call

Amendment No. _____

Constitutional Convention

By M. Neely

Date 1-7-56

Amendment
AMENDMENT TO ~~(COMMITTEE)~~ PROPOSAL NO. _____

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

Page 4 - Sec. 11, Line 12

Line 6 mimics amendment

*delete word "incriminating"
and insert words "INFORMATION OR"*

*adopted
voice vote*

Amendment No. _____

Constitutional Convention

By R. E. Robertson

Date January 6 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended as follows:

Amendment to Amendment of Sec. 11

At end of amendment, delete period and insert ^{Comm.} ~~period~~ and then add "except, upon warrant issued upon ^{who obtained} probable cause, supported by oath or affirmation, and particularly describing the objections thereof."

R. E. Robertson

adopted
~~voice vote~~
roll call

Amendment No. 8

Constitutional Convention

By V. FISCHER

Date _____

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7-HEW

MR. PRESIDENT:

I move that (Committee) Proposal No. 7-HEW be amended
as follows:

*Strike Section 4 (Substandard
Areas and Public Housing)*

*adopted
voice vote*

Constitutional Convention

Amendment to Committee Proposal No. 7

By Buckalew, Davis, Hellenthal, Taylor and McNealy

Amend Proposal No. 7, Section 7 as follows:

Strike Section 7, as amended and substitute the following section:

Section 7. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except when waived by the accused, in which event the prosecution shall be by information, but this ^{section} shall not be applied to cases arising in the ^{armed} ~~land or naval~~ forces or in the militia when in actual service in time of war or public danger. ~~The grand jury may consist of not less than twelve citizens.~~ *The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return a true bill.*

Barr amendment

*adopted
unanimous vote*

Constitutional Convention of Alaska

Amendment of Article on Preamble and Bill of Rights

Proposed by Frank Barr

Mr. President:

I move that (Committee) Proposal No. 7 be amended as follows: At the end of Section 7, ^{as amended} add the following paragraph: *amended Sec. 7*

"The power of grand juries to investigate and make recommendations concerning conditions ^{involving} ~~detrimental to~~ the public welfare or safety shall never be suspended."

*adopted
voice vote*

Amendment No. _____

Constitutional Convention

By Maxine Johnson

Date 1/6/56

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

Section one page 2
Line 2

Strike word "and" insert "comma"
after word rights. ^{online!} after word
opportunities add "and equal protection"

*adopted
voice vote*

Amendment No. _____

Constitutional Convention

By Taylor

Date Jan 6, 1958

AMENDMENT TO (COMMITTEE) PROPOSAL NO. _____

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

~~amend the amendment by inserting after
word except insert "in case of absconding
debtors"~~
Change the period to a comma
~~Amend the amendment by inserting after
the comma following the word debt
the line 2, of Page 6 the following
words, except in case of absconding
debtors".~~

adopted
roll call
voice vote

Amendment No. 1

Constitutional Convention

By Maxwell Johnson

Date 1/6/56

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

Section 18

*Page 6 - Line 2 strike comma after
debt and insert period. Strike balance
of line 2 and all of line 3.*

*~~voice vote~~
adopted
roll call*

Amendment No. _____

Constitutional Convention

By R. Robertson

Date January 6 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

*Section 13, R. 25, p. 4, insert:
"of twelve" after word "jury."
R. Robertson*

*adopted
voice vote*

Amendment No. _____

Constitutional Convention

By V. FISHER

Date _____

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended

as follows:

Section 12

lines 19, page 4,

after the word "offenses" insert:

*"where the proof is evident
or the presumption great;"*

*adopted
voice vote*

Amendment No. 7

Constitutional Convention

By E. V. Davis

Date 1-5-56

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended as follows: Section 7, page 3, lines 11¹² & 13, strike the words "or information, which shall be concurrent remedies" and insert the following in lieu thereof:

after the word indictment in line 11
"unless indictment be waived by the accused. If right to indictment be waived proceedings may be by information."

adopted
roll call
held - Jan. 5, 1957
Jan 6, 1956

Amendment No. _____

Constitutional Convention

By Raymond J. Davis

Date _____

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

P4, Sec 10, Line 3,

*Delete Last sentence commencing
on line 3 and substitute*

*"The administration of criminal
Justice shall be founded upon
the principles of reformation as well
as upon the need to protect the public."*

*adopted
voice vote*

Amendment No. _____

Constitutional Convention

By R. E. Johnston

Date January 5 1857

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 7

MR. PRESIDENT:

I move that (Committee) Proposal No. 7 be amended
as follows:

Sec. 12, line 15 p 4 remove period. and
insert " of twelve, except " x Change
word ⁱⁿ to ~~subscriptals~~ small i
R. E. Johnston

adopted
M/C

Constitutional Convention
Committee Proposal/7
December 15, 1955

ALASKA CONSTITUTIONAL CONVENTION
REPORT OF THE COMMITTEE ON
PREAMBLE AND BILL OF RIGHTS

Hon. William A. Egan
President, Alaska Constitutional Convention

Dear Mr. President:

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

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

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

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

Proposal No. 6: Sections 6, 10, 11, 12 and 13 have been referred back to the floor, This Committee felt it had no jurisdiction on these subjects. The remainder of the sections were considered. The Committee adopted sections 3 and 7 with some changes. The rest of the proposal was not considered to be constitutional material.

Proposal No. 9: Section five of this proposal was reported back to the floor as not being within the terms of reference of this committee. Other articles of this proposition were included in the committee report.

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

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

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

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

Proposal No. 21: Mr. Harris asked that this proposal be amended by the exclusion of the phrase dealing with labor because he did

not intend it to be a right to work provision. The committee considered the proposal as amended and included some of the material in the Declaration of Rights.

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

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

Respectfully submitted,

Dorothy Awes, Chairman

Ada B. Wien

R. Rolland Armstrong

Seaborn J. Buckalew

James P. Doogan

John Hellenthal

Robert J. McNealy

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

Introduced by the Committee on the
Preamble and Bill of Rights

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

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

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

6 ARTICLE

7 DECLARATION OF RIGHTS

8 Rights of Section 1. This constitution is to promote the gen-
9 Man eral welfare of the people, and is dedicated to the
10 principle that all persons have a natural right to
11 life, liberty, the pursuit of happiness and the en-
12 joyment of the gains of their own industry; that all

pg. 16, 44th day

pg 10, 45th day

1 persons are equal and [are] entitled to equal rights,
2 [and] opportunities, ^{and protection} under the law. These rights carry
3 with them corresponding duties to the people and to
4 the state.

5 Source and Section 2. All political power is inherent in the
6 Aim of Poli- people. All government originates with the people,
7 tical Power is founded upon their will only, and is instituted
8 solely for the good of the people as a whole.

9 Civil Section 3. No person is to be denied the enjoy-
10 Rights ment of any civil or political right because of race,
11 color, creed or national origin. The legislature
12 shall provide appropriate legislation in accord here-
13 with.

14 Freedom of Section 4. Every person may freely speak, write,
15 Speech and and publish on all subjects, being responsible for
16 Press; Assem- the abuse of that liberty. The right of the people
17 bly and peaceably to assemble and to petition the government
18 Petition ^{pg 17, 44th day} [or any department thereof] shall never be abridged.

19 Freedom of Section 5. No law shall be made respecting an
20 Religion establishment of religion or prohibiting the free ex-
21 ercise thereof.

22 Due ^{pg 10, 46th day} Section 6. No person shall be deprived of life,
23 Process liberty or property without due process of law. *

24 Grand Juries, Section 7. [The grand jury shall consist of twelve
25 Indictments citizens, any nine of whom concurring may find an

The right of all persons to fair and just treatment in the course of legal proceedings shall not be infringed.

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

10 No person shall be prosecuted criminally for felony
11 other than by indictment or information, which shall
12 be concurrent remedies, but this shall not be applied
13 to cases arising in the land or naval forces or in the
14 militia when in actual service in time of war or pub-
15 lic danger.]

16 No Double Section 8. No person shall be put in jeopardy
Jeopardy
17 No Self- twice for the same offense. No person shall be com-
Incrimina-
18 tion pelled in any criminal proceeding to be a witness
19 against himself.

20 Excessive Section 9. Excessive bail shall not be required,
Bail, Unusual
21 Punishments nor excessive fines imposed, nor cruel and unusual
22 punishments inflicted.

23 Prohibited Section 10. No bill of attainder, ex post facto
State
24 Action law, nor any law impairing the obligation of con-
25 tracts, nor any law making any irrevocable grant of

special privileges or immunities shall be passed, and no conviction shall work corruption of blood or forfeiture of estate. [The administration of criminal justice shall be founded on principles of reformation, and not vindictiveness.]

*pg. 18
44th day*

The administration of criminal justice shall be founded upon the principle of reformation as well as upon the need

to preserve the peace

6 Searches and Seizures

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

13 Criminal Matters:
14 Trial by Jury, Rights
15 of Accused

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

*pg 18
44th day*

*pg 3
45th day*

when the proof is within or the presumption

23 Civil Cases:
24 Trial by Jury

Section 13. In suits at common law, where the amount in controversy exceeds two hundred and fifty dollars, the right of trial by jury ^{*of twelve*} is preserved, ex-

*pg 3
45th day*

1 cept that the legislature may provide for a jury of
 2 not less than six in courts not of record. The legis-
 3 lature may provide for a verdict by not less than
 4 three-fourths of the members of [the] jury. *any in civil cases*

*pg 4
45*

6 Habeas Cor- Section 14. The privilege of the writ of habeas
 pus
 7 corpus shall not be suspended, unless when, in cases
 8 of rebellion *or actual or imminent invasion* [invasion or imminent peril], the public
 9 safety requires it.

*pg 7
46*

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

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

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

pg 5 + 6
of 57E day

1 No Imprison-
ment for Debt

Section 18. There shall be no imprisonment for

2

debt [except in cases where there is a strong pre-

3

sumption of fraud.] *except in case of absconding debtors*

4 Construction

Section 19. The enumeration of rights in this

5

constitution shall not impair or deny others retained

6

by the people.

ALASKA CONSTITUTIONAL CONVENTION

COMMITTEE PROPOSAL NO. 7

ARTICLE

HEALTH, EDUCATION AND WELFARE

1 Public Education
2 tion
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4
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Section 1. The State shall establish and maintain by general law a system of public schools which shall be open to all children of the State and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private ^{educational} institution.

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

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

[Section 4. The State may provide for and assist in the clearance, development and rehabilitation of substandard areas and for public housing.]

*47th day
V. F. Fischer
amendment.*

ALASKA CONSTITUTIONAL CONVENTION

MINORITY REPORT

BILL OF RIGHTS

1 1. We believe that the following should be inserted as a
2 sentence following the first sentence of Section 10, to-wit:

3 "Wire tapping or obtaining unauthorized informa-
4 tion by other technical means or devices is pro-
5 hibited. Evidence obtained in violation of this
6 section shall be inadmissable in the courts."
7

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

R. J. McNealy

R. Rolland Armstrong

J. Hellenthal

MINORITY REPORT

1 1. Persons in society have the moral and legal right to organ-
2 ize and bargain collectively in democratic and peaceful manner.

3 2. The right of man to organize into free associations of his
4 own choosing is necessitated by the common good and is a funda-
5 mental, civil, natural and philosophical right that strengthens
6 the general welfare.

7 3. The right to bargain collectively carries with it the cor-
8 relative right of the majority of the group to bind the minority
9 by and to the provisions of security agreements fairly arrived at.

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

12 "Persons in private employment and those employed
13 by the State or local governments, when engaged in
14 proprietary and non-governmental activity, and
15 groups of persons, shall have the right to organize
16 and bargain collectively. Persons in public employ-
17 ment shall have the right to organize, present to
18 and make known to the State, or any of its political
19 subdivisions or agencies, their grievances and pro-
20 posals through representatives of their own choosing."

John Hellenthal