

FOLDER NO.

410.7

Constitutional Convention
Committee Proposal/7/Enrolled
Style and Drafting
January 25, 1956

ALASKA CONSTITUTIONAL CONVENTION
REPORT OF THE COMMITTEE ON STYLE AND DRAFTING

Hon. William A. Egan, President
Alaska Constitutional Convention

Dear President Egan:

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

Respectfully submitted,

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

REPORT OF COMMITTEE ON STYLE AND DRAFTING

Constitutional Convention
Article VII
Style and Drafting
January 25, 1956

CONSTITUTIONAL CONVENTION OF ALASKA

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

ARTICLE VII

HEALTH, EDUCATION AND WELFARE

Public
Education

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

Public
Health

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

Public
Welfare

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

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.

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

1 persons are equal and are entitled to equal rights
2 and opportunities 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 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 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

1 and Informa-- indictment or a true bill; Provided, that no grand
2 tion 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
17 Jeopardy twice for the same offense. No person shall be com-
18 No Self- Incrimina- pelled in any criminal proceeding to be a witness
19 tion against himself.

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

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

1 special privileges or immunities shall be passed, and
2 no conviction shall work corruption of blood or for-
3 feiture of estate. The administration of criminal
4 justice shall be founded on principles of reformation,
5 and not vindictiveness.

6 Searches and
7 Seizures

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

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

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

23 Civil Cases:
24 Trial by
25 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 is preserved, ex-

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...

5
6 Habeas Cor-
7 pus

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

10 Militia,
11 Right to
12 Bear Arms

 Section 15. A well-regulated militia being nec-
 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
25 Domain

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

1 No Imprison-
2 ment for Debt

Section 18. There shall be no imprisonment for
debt, except in cases where there is a strong pre-
3 sumption of fraud.

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
2 Educa-
tion
- 3 Section 1. The State shall establish and maintain
4 by general law a system of public schools which shall
5 be open to all children of the State and may provide
6 for other public educational institutions. Schools and
7 institutions so established shall be free from sectar-
8 ian control. No money shall be paid from public funds
9 for the direct benefit of any religious or other pri-
10 vate institution.
- 11 Public
12 Health
- 13 Section 2. The State shall provide for the promo-
14 tion and protection of public health.
- 15 Public
16 Welfare
- 17 Section 3. The State may provide for public wel-
18 fare for persons unable to maintain a standard of liv-
19 ing compatible with health and human dignity.
- 20 Substand-
21 ard Areas
22 and Public
23 Housing
- 24 Section 4. The State may provide for and assist in
25 the clearance, development and rehabilitation of sub-
26 standard areas and for public housing.

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

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.

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

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

(Section 7 Grand Jury)

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

(Section 8 Double Jeopardy: Self Incrimination)

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

(Section 9 Excessive Bail, Unusual Punishment)

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

(Section 10 Prohibited State Action)

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

(Section 11 Searches and Seizures)

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

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

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

(Section 13 Civil Cases: Trial by Jury)

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

(Section 14 Habeas Corpus)

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

(Section 15 Militia. Right to Bear Arms.)

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

(Section 16 Treason)

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

(Section 17 Eminent Domain)

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

(Section 18 Imprisonment for Debt)

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

ALASKA CONSTITUTIONAL CONVENTION

Commentary on the Article of Health, Education and Welfare

(Section 1 Education)

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

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

(Sections 2 and 3 Health and Welfare)

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

(Section 4 Substandard Areas and Public Housing)

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