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### Minutes of the fifth meeting of the Judiciary Committee

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# MONTANA CONSTITUTIONAL CONVENTION

STATE CAPITOL • HELENA, MONTANA 59601 • TELEPHONE 406/449-3750

## JUDICIARY COMMITTEE

Place of Meeting: Senate Chambers, Capitol Building, Helena, Montana

Date Meeting Held: January 20, 1972

Hour Meeting Held: 3:00 P.M.

### MINUTES OF THE FIFTH MEETING OF JUDICIARY COMMITTEE

#### Roll Call:

David L. Holland, Chairman	- Present
Mrs. Catherine Pemberton, Vice-Chairman	- Present
Cedor B. Aronow	- Present
Ben E. Berg, Jr.	- Present
Mrs. Jean M. Bowman	- Present
Leslie "Joe" Eskildsen	- Present
Rod Hanson	- Present
J. Mason Melvin	- Present
John M. Schiltz	- Present

#### DISCUSSION:

The first individual to appear before the committee was David R. Mason, Professor at the Law School at Missoula, Montana. He strongly favored the Montana Plan as providing for a flexible, balanced and efficient system of justice. He spoke of administration of the judicial system at supreme and district court levels. He emphasized the following points of the Montana Plan: 1. The Supreme Court would have power of administrative control as well as present supervisory control. 2. The Supreme Court would appoint administrative staff and have power to make rules and regulations. 3. The Supreme Court may district the state and determine the number of judges in each district and district judges may provide for divisions within districts with approval of the Chief Justice of the Supreme Court. 4. The Plan provides for Research and Qualifications Committee composed of laymen, lawyers and judges which would continue studies of administration of justice in Montana. 5. The Supreme Court would have practice and procedural rule making powers which would include rules of evidence as matters of procedure. Questions and comments followed. A copy of his statement is attached and made a part of these minutes.

Dean Robert E. Sullivan of the University of Montana Law School then appeared as a proponent of the Montana Plan. He also submitted a statement which is attached hereto and made a part of these minutes. He favored selection and retention of judges on the basis of merit and listed attributes of judges and compared election by voters to appointment by governor to selection by a non-partisan judicial council which would consist of two committees. A lengthy discussion period followed after which Dean Sullivan presented the committee with a



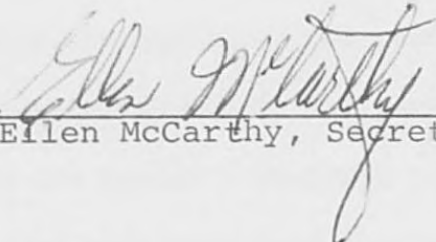
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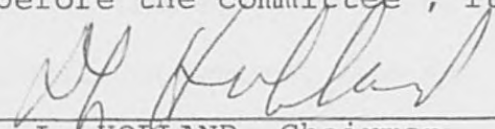
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copy of the report of Richard E. McCann, law assistant and Editor of the Montana Law Review. This report is attached hereto and made a part of these minutes.

There being no further business before the committee, it adjourned at 6:45 P.M.

  
Ellen McCarthy, Secretary

  
D. L. HOLLAND, Chairman