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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, Mt.

Date Meeting Held: January 25, 1971

Hour Meeting Held: 1:00 P.M.

MINUTES OF THE EIGHTH MEETING OF JUDICIARY COMMITTEE

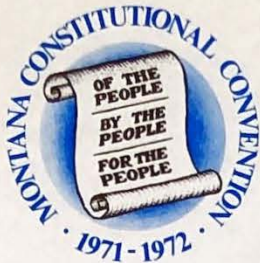
Roll Call:

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 William H. Bellingham, Billings lawyer and President of the Montana Bar Association. He gave a general outline of his thoughts to the committee, which outline is attached hereto and made a part of these minutes. Mr. Bellingham advised the committee that the Montana Plan was adopted by the Montana Bar Association Executive Board in 1971. He stated that the merit selection arises above all other aspects of the Plan as it safeguards against bad judges. Since there are very few contested judicial elections today, he felt that in final analysis the merit selection system gives voters better opportunity to be heard. He listed as objections to justice of peace court system the fee system and lack of education of the justice of peace. He termed the Montana Plan as excellent as it was not based on desire of a few men but based upon plans of other states. He pointed out the new provision of redistricting and pointed out that the administration lies with the Supreme Court. He also felt the magistrate system is a good system. Mr. Bellingham termed the Montana Plan as an advancement out of ignorance and darkness and stated that while no plan is perfect, the Montana Plan is a large step towards justice. Many questions were directed to him.

Mr. Earl Berthelson, Delegate from District 15, then appeared in support of Proposal No. 7, the Montana Plan. A copy of his statement is attached hereto and made a part of these minutes. No questions were directed to Mr. Berthelson.



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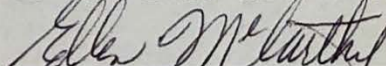
January 25, 1972

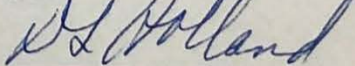
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Geoffrey L. Brazier, Delegate from Helena, Montana, next appeared before the committee. On the subject of inferior courts, he felt that there was a definite need to strengthen these courts, but felt that a receptive image would not be created by abolishing justice of peace courts. He felt that the legislature should have certain powers and that flexibility would be assured then. He stated there was merit in judges running against their records so people could read and identify against the record. On rule making authority, Mr. Brazier stressed need of a checks and balance system. While discussing appointment of judges by a governor, he stated, we have a balance of liberal and conservative attitudes on the court because of the party system. Friendly utilities may influence the appointive system, he felt. He offered alternatives to the Montana Plan as follows: 1. Offer higher pay to obtain higher caliber of court judges. 2. Disqualification of judges should be in record that can be submitted to the people. 3. Limit number of times a public official can succeed himself, thereby creating a system to get rid of unpopular public officials. Questions and answers followed his testimony.

George Schotte, of Small Business Administration, Helena, Montana, next appeared before the committee. He stated that he was President of the Citizens for Court Improvement and presented materials to the committee for its record. He explained the composition of the Citizens for Court Improvement and its purpose to promote efficient administration of justice. He stated that justice delayed is justice denied and felt there was need of justice of peace improvement for the following reasons: 1. State there was no sense to use of a fee system based on commission basis. 2. Felt these courts are too commercial. 3. Stated political pressures of selection exist. 4. Felt Justices of Peace fail to restrict their activities. 5. There is a lack of adequate courtroom facilities. Mr. Schotte stated that the so-called Montana Plan offered a unified system, merit selection and improvement in administration which he favored. Questions were posed to Mr. Schotte by committee members and they discussed method of choosing nominating committee members at great length. Many suggestions were made.

John Lane from Cascade County and the INTERlocal Cooperation Committee and also member of Citizens Commission for State Legislature, gave a general background of his group and stated that no lawyers were members of said group. He stated that the Montana Plan will bring better quality of judges by appointment rather than elected and provides more flexibility at lower level so as to meet changing needs of the state at the local level. A few questions were directed to Mr. Lane and then the committee adjourned.


Ellen McCarthy, Secretary


D.L. Holland, Chairman