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MONTANA CONSTITUTIONAL CONVENTION

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

JUDICIARY COMMITTEE

Place of Meeting: House Chambers, Capitol, Helena, Montana

Date Meeting Held: February 9, 1971

Hour Meeting Held: 1:30 P.M.

MINUTES OF THE TWENTY-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:

Chairman David L. Holland introduced members of the committee. Delegate Catherine Pemberton explained the "Montana Plan" and gave background information on Citizens for Court Improvement. Mrs. Pemberton stated that she joined with the minority report of the committee with the exception of method of selection and retention of supreme court judges. Mrs. Pemberton favors merit selection of judges which involves elements of nomination, appointment by governor and review of appointment by voters. Chairman Holland thanked and complimented the group of citizens who worked on the Montana Plan.

Delegate Cedor Aronow then presented the majority position which includes election of judges and a disciplinary commission. A copy of his comments is attached hereto and made a part of these minutes.

Delegate Ben Berg explained the minority report, stating it is a concise, short, brief judicial article leaving as much as possible to legislative implementation. The minority position views merit selection of vacancy appointments; however, it allows contested elections of judges after the first term served but a retention election thereafter.

Delegate Mason Melvin stated that he is tentatively supporting the minority report with the exception of selection of judges. (Section 6). His alternative proposal allows for contested



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elections after appointment with no retention elections. He stated the main difference is what constitutes a vacancy.

Delegate John Schiltz explained his proposal which allows for campaign expenses for judges.

Francis Mitchell, representing Montana Common Cause, spoke regarding the proposed committee drafts. He stated that we should dispense with the fiction of non-political candidates and retain election of supreme court justices as called for in the majority plan. He favored the provision in the tentative minority plan which provides for legislative review and control of procedure, but wished it provided for partisan election. Mr. Mitchell supported campaign proposal as the answer to election of judges. He summarized his opinions by stating that a good legislative system must be established; an elective process in court system provided; and a flexible, without detailed longevity, judicial article needed.

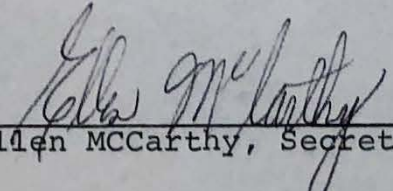
Delegate Robert L. Kelleher favors partisan judges, a strong legislature and an independent judiciary.

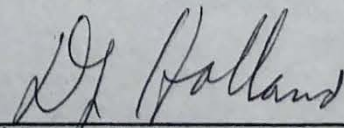
Delegate Daphne Bugbee told the committee she didn't know the qualities required to be a judge and therefore did not know how to vote for judges.

Delegate Miles Romney expressed concern over salary increases for judges and pointed out the inequality between salaries of judges and the average citizen.

Ray Gulick of Joplin, Montana, appeared in support of the minority report, advocating appointment of judges and commented on court procedures.

There being no further business before the committee, members adjourned the meeting.


Ellen McCarthy, Secretary


David L. Holland, Chairman