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MONTANA CONSTITUTIONAL CONVENTION

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

JUDICIARY COMMITTEE

Place of Meeting: Room 413, Capitol Building, Helena, Montana

Date Meeting Held: February 10, 1972

Hour Meeting Held: 10:30 A.M.

MINUTES OF THE TWENTY-NINTH 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	-	Absent
John M. Schiltz	-	Present

DISCUSSION:

The committee was called to order and heard testimony on Delegate Proposals. Delegate Archie Wilson, Delegate A. W. Kamhoot, and Delegate Henry Siderius spoke on Proposal No. 155 which creates a public probate administrator in each county or judicial district, salaried by the state. The rationale behind the proposal, according to the witnesses, was to reduce the high probate fees now being paid for administration of estates. Tom Schneider, executive director of the Montana Public Employees Retirement Association, endorsed Proposal No. 145, which protects public employees accrued retirement benefits from being "diminished or impaired". Schneider asked for this type of constitutional protection to prevent statutory changes in retirement systems. Delegate Otto Habedank spoke on his proposal No. 174 which placed a condition precedent on the due process clause. This condition grants a superior right to establishing guilt or innocence over the right of an individual to bar otherwise credible evidence. Delegate Jerry Loendorf, who had introduced an entire judicial article (Delegate Proposal No. 44), analyzed the tentative majority and minority plans of the committee. Loendorf felt that the method of judicial selection should not be frozen into the constitution; however, if the method is put in the judicial article, he favors the minority position. He stressed that the judicial article should be flexible in relation to minor courts. Following the hearing on delegate proposals, the Committee voted to reject thirteen proposals, refer one to Bill of Rights



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Committee and Proposal No. 7 was adopted in part in the majority and minority reports of the committee.

The committee then adjourned.

David L. Holland, Chairman

Ellen McCarthy, Secretary