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### The Consensus of the Citizens' Conference on the Montana Judicial System

Montana Citizens for Court Improvement

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EX 7

THE CONSENSUS OF THE CITIZENS' CONFERENCE ON THE MONTANA JUDICIAL SYSTEM'

Great Falls, Montana

September 1966

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MONTANA TODAY

Montana generally enjoys in its District and Supreme Courts a dedicated and efficient judiciary which has historically been, and now is devoted to the effective administration of justice. Nevertheless, it is obvious that the Montana judicial system should be improved and that certain conditions not conducive to a good judicial system must be corrected. Foremost among these are inadequate compensation, insufficient retirement provisions and insecurity of tenure.

The Montana courts of limited and special jurisdiction in existence, that is, the Justice of the Peace and Police Courts, on the other hand, with some exceptions, are generally not satisfactory in that they are not uniformly providing the quality of justice desired by Montana citizens. This inability to provide a satisfactory quality of justice is directly related to the following conditions: (1) the failure of our laws to require adequate qualifications for the judges of these courts, (2) the use of the fee system in the compensation of many of the judges, (3) inadequate salaries, (4) the political and commercial pressures to which these judges are sometimes subjected by virtue of the method of their selection, (5) the failure to restrict their extra-judicial activities, and (6) the lack of adequate courtroom facilities. It is recognized that owing to the sparse population and remote location of many Montana communities, these problems are difficult of solution.

JUDICIAL SELECTION AND TENURE

X The non-partisan election system of selecting the judges has not succeeded in removing the Montana judiciary from political pressures and uncertainties. To succeed in bringing the lawyers best qualified for judicial office to the bench of this state, selection of judges should be made by a system based entirely upon merit.

The selection system should include nomination of candidates by a commission composed of lay citizens as well as members of the bar. Appointment of the judges should be made by the Governor, reserving to the people the right to vote at reasonable intervals upon the issue of whether a particular judge should or should not be continued in office.

JUDICIAL COMPENSATION, RETIREMENT AND REMOVAL

The integrity and independence of the Montana judiciary cannot be improved or even maintained without providing an effective retirement system for state judges. Present provisions are wholly inadequate. It will become increasingly difficult to find qualified lawyers that will accept appointment to the Montana judiciary if these prospective judges must accept substantial reductions in pay.

It is our recommendation that salaries be increased and consideration given to combining this salary increase with an adequate retirement plan.

HAS NOT WORKED  
B-135

Impeachment as a means of removing judges from office has proven unworkable. A system must be adopted in Montana to provide a means whereby judges may be censured without removal, investigated without publicity, yet removed if necessary without the cumbersome, costly and time consuming process of impeachment by the legislature. To this end it is our recommendation that study be given to the various plans now in effect in other states to determine which will be most adequate for Montana. Any plan to be adopted should contain provisions for the appointment of an investigative committee composed of judges appointed by the Supreme Court, lawyers appointed by the Montana Bar Association and laymen appointed by the Governor. The work of this committee will be to receive and confidentially investigate complaints, reporting, if necessary, to the Montana Supreme Court which will act as final arbiter. The standards for removal should be sufficiently broad so as to leave discretion in the hands of the committee and the Supreme Court.

There should be an age of mandatory retirement in Montana. Provision should nevertheless be made for a retired, consenting judge to be called upon for special work only.

#### COURT ORGANIZATION AND ADMINISTRATION

In theory a unified court system is more desirable than the present autonomous system of courts in Montana today. Any unified system of courts to be capable of working practically in Montana must take into account our sparsely populated and remote areas, yet avoid sacrificing ready accessibility of a forum to litigants.

Judicial business ought to be conducted in an efficient manner utilizing up-to-date techniques of administration, including analysis and assignment of judges to equalize case loads. The performance of minor non-judicial administrative details should not be left to the judges.

The chief administrative officer in a unified court system should be a judicial person, probably the Chief Justice of the Supreme Court, and he should have an administrative assistant. The powers and duties of the chief administrative officer should include the assignment of judges from one district to another, delegation of administrative authority, formulation of uniform procedures, and requirement of uniform and periodic reporting by all judges concerning the volume and status of cases in their respective courts. He should have assistance in such matters as preparation and presentation of budgets and compilation of statistical data.

The cost of operating the court system should be funded through the state legislature and budgeting should be taken from the hands of the county commissioners.

#### COURTS OF LIMITED AND SPECIAL JURISDICTION

The type and quality of justice presently being provided in these courts could be materially improved by adoption of a unified court system which would provide a district court level of judicial quality for all legal proceedings. This unified court system might be materially implemented by incorporating within it a provision whereby, where needed, district court judges might select persons to act as deputy judges or magistrates to assist the district court in supplying continuous court representation in remote areas of this state.

## CONCLUSION

A permanent citizens' steering committee should immediately be established to coordinate further study or action. This committee should be large enough to be representative of all areas and walks of life in Montana, yet small enough to be effective.

Copies of the speeches and this consensus report should be sent to each conferee.

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Twelve persons from Great Falls attended the conference:

Mrs. Wyman Roberts  
Harry Davidson  
Fergus Mitchell  
Ward Junkermier  
Joseph C. Odell  
William D. James

Dan Snyder  
Pat M. Goodover  
Clyde Jarvis  
John E. Hamrell  
Mrs. J. S. Wolff  
Mr. J. P. Mooney

After the conference, nine persons were appointed to a 9-man steering committee:

Mr. Claude Erickson, Livingston, Chairman  
Mr. Oakley Coffee, Missoula  
Mr. W. L. Holter, Glasgow  
Mr. Elmer Ladwig, Billings  
Mrs. L. A. Pemberton, Broadus  
Mr. George B. Schotte, Butte  
Mr. James Umber, Helena  
Mr. A. O. Wilson, Hysham  
Mrs. J. S. Wolff, Great Falls

The name chosen for the continuing organization:

MONTANA CITIZENS FOR COURT IMPROVEMENT