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INDIANA, 1851, ALASKA, 1956: A CENTURY OF DIFFERENCE IN STATE CONSTITUTIONS

P. ALLAN DIONISOPOULOS†

Despite America's traditional regard for constitutions and constitutionalism, serious students of government have frequently bemoaned our lack of an ideal state constitution. This is not to say that efforts have not been made to overcome this deficiency. With the adoption of the first Model State Constitution by the National Municipal League in 1921 the way was opened to a host of models, proposals, recommendations, and even modernized state constitutions—New York (1938), Georgia and Missouri (1945), and New Jersey (1947).

Those who demand constitutional revision generally point to the length of the typical state constitution and the inclusion of much detail which makes the fundamental law inflexible and acts as an obstruction to effective government. Although it was reported a decade ago that constitutional revision was "a live issue" in a third of the states, older states have not made noteworthy progress in that direction. Today's pioneer in constitution-building is Alaska, the newest American state.

Embodied in the Alaska Constitution¹ are 180 years of accumulated American experience in constitution-making, the advice of American political scientists,² and provisions which "fit the special needs and traditions of Alaska."³ While the constituent assembly did not lose sight of certain traditional assumptions underlying American constitutions (limited government, popular sovereignty, and power diffusion), it was also influenced by recent thought regarding government (*e.g.*, executive-

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1. In November 1955, fifty-five (reminiscent of the same number at the Philadelphia Convention in 1787) men and women met at the University of Alaska as the Territory's constituent assembly. Their work was completed on February 6, 1956, and, in a popular referendum on April 24, 1956, the draft received the approval of the people. Now that Congress has acted favorably on the Alaska statehood measure, the new Constitution will enter into force.

2. E. R. Bartley, University of Florida; J. E. Bebout, National Municipal League; Weldon Cooper, University of Virginia; Sheldon Elliot, New York University; D. D. McKean, University of Colorado; Vincent Ostrom, University of Oregon; Kimbrough Owen, Louisiana State University; and Emil Sady, Public Administration Service.

3. Statement of the convention quoted by J. E. Bebout in *Charter for the Last Frontier*, 45 NAT'L MUNIC. REV. 158 (1956). An example of "special needs and traditions" is found in the provisions on natural resources, ALASKA CONSR. art. VIII.

administrative, executive-legislative, and intergovernmental relationships).⁴

A study of the Alaska Constitution and the current Indiana Constitution, enacted in 1851, reveals some interesting developments in fundamental ideas. For purposes of comparison the following matters will be considered: (1) Civil Rights and Social Welfare; (2) Executive-Legislative Relationships; (3) Executive-Administrative Relations; (4) the Judiciary; (5) Popular Participation in the Political Processes; (6) Local Governmental Units and Powers; (7) Finance and Taxation; and (8) the Amending Processes.

I. Civil Rights and Social Welfare

The worldwide influence of ideas about "social" and "economic" democracy on post-war constituent assemblies is obvious. For example, in 1946 the French Constitutional Convention described certain political, social and economic principles as "most vital" in the present day. These principles included guarantees "to obtain employment," "to organize," "to strike," and to secure "protection of health, material security, rest and leisure."⁵ Another example of the trend toward "welfare state" constitutions is the American-sponsored Japanese Constitution of 1947. In it are found guarantees to "minimum standards of wholesome and cultured living,"⁶ to the maintenance by law of standards "for wages, hours, rest and other working conditions,"⁷ and for the right of workers to organize, bargain, and act collectively.⁸

Inclusion of "welfare state" concepts has not been a purely foreign development. The few American constituent assemblies, which have met in the last two decades, have "modernized" their state constitutions by including similar provisions. For instance, the Model State Constitution and the new Missouri and New Jersey constitutions include right to

4. The Constitution reflects the increasing use of federal grants-in-aid, federal-local cooperative endeavors, and interstate compacts. "The State and its political subdivisions may cooperate with the United States and its territories, and with other states and their political sub-divisions on matters of common interest. The respective legislative bodies may make appropriations for this purpose." ALASKA CONST. art. XII, § 2.

5. The French included the bill of rights in the preamble, a choice made necessary by extreme differences of opinion in the assembly. Since it was composed of a militantly collectivistic left and an equally militant individualistic right, the assembly could not agree on the statement of rights. To break the impasse the controversial "rights" were included in the preamble instead of the operative part of the text.

6. JAPANESE CONST. art. 25. It further states, "In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health."

7. JAPANESE CONST. art. 27.

8. JAPANESE CONST. art. 28.

organize clauses.⁹ And the modernized state constitutions have other provisions, subsumed under public welfare headings, which are far more elaborate than those found in state constitutions of a century ago. Thus, provisions for public health,¹⁰ public relief,¹¹ and public housing¹² are found in recently adopted or revised American constitutions.

This inclusion of social and economic rights in these several state constitutions meant that constituent assemblies were exercising legislative functions. The purpose was obvious: liberals did not want to lose the gains that they had made in the last quarter century. Knowing that a rightward swing was possible, even inevitable, and knowing further that constitutions are more difficult to change than statutes, the liberal-oriented constituent assemblies wove welfare state concepts into the constitutional fabric.

In view of the influence of newer ideas about social and economic democracy, the absence of social and economic "rights" from the Alaska Constitution is noteworthy. That recent social philosophies did not influence the Alaskans is one possible explanation for the absence of social and economic "rights." However, it is not the only plausible answer. The constituent assembly deliberated with the Congress in mind, and it may have regarded recent conservative trends as a warning not to create a document which would be unacceptable to Congress.¹³ There is yet another possible explanation: the constituent assembly may have decided that socio-economic ills cannot be removed by constitutional fiat; that these problems and their remedies are more suitably within the domain of the legislature.

9. That labor's historic struggle was considered is apparent in such provisions as "Citizens shall have the right to organize, except in military or semi-military organizations not under the supervision of the state, and except for purposes of resisting the duly constituted authority of this state or of the United States. Persons in private employment shall have the right to bargain collectively through representatives of their choosing." MODEL STATE CONST. art. I, § 103. The New Jersey Constitution has a similar clause which states that people "in private employment shall have the right to organize and bargain collectively." Art. I, § 19. See also Mo. CONST. art. I, § 29.

10. MODEL STATE CONST. art. X, § 1001; N.Y. CONST. art. XVII, § 3.

11. MASS. CONST. art. XLVII; MODEL STATE CONST. art. X, § 1002; N.Y. CONST. art. XVII, § 1.

12. MODEL STATE CONST. art. X, § 1004; N.Y. CONST. art. XVII, § 1.

13. That the assembly did deliberate with one eye on Congress is apparent in its consideration of unicameralism. Bebout notes that a proposal for a single chamber was defeated, at least partly, "by the feeling that the Congress might view a unicameral legislature with some misgivings." In regard to unicameralism Bebout attaches significance to "a number of provisions for action by the two houses sitting together as one body, as, for example, to consider vetoes by the governor." Bebout, *supra* note 3, at 162. The provision for joint sessions to reconsider vetoed measures is found in article II, section 16. If there is indeed strong sentiment for a single legislative chamber, Alaskans may take action in that direction now that the United States Congress is no longer an obstacle to statehood.

Thus the Alaska Constitution does not differ greatly from Indiana's in this matter of public welfare. The emphasis is not on additional functions for government but on changing the *locus* of responsibility. While poor relief and poor farms were historically the responsibility of local governmental units,¹⁴ the Alaska Constitution imposes this obligation on the state legislature.¹⁵ Responsibility for public health is similarly placed.¹⁶

The Bill of Rights¹⁷ in the Alaska Constitution restates traditional substantive and procedural rights. Except that Alaskans stated theirs in fewer provisions and less detail than did the Hoosiers of a century ago,¹⁸ there is no marked difference in content. The Alaska convention depended upon brief, generally worded provisions similar to those found in the Bill of Rights of the United States Constitution. For example, the provision for freedom of religion in the Alaska Constitution encompasses but one sentence in contrast to the more detailed sections in its Hoosier counterpart. This difference is apparent in the following comparison:

Freedom of Religion

Indiana Constitution, Article 1—

Sec. 2. All men shall be secured in the natural right to worship Almighty God, according to the dictates of their own consciences.

Sec. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

Sec. 4. No preference shall be given, by law, to any creed, reli-

Alaska Constitution, Article 1—

Sec. 4. No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

14. When society took over responsibility for relief from charitable agencies, local government administered the poor relief laws. This is still evident in Indiana where the Township Trustee administers poor relief in his area. And the Indiana Constitution lodged the power in county boards "to provide farms, as an asylum for those persons, who, by reason of age, infirmity, or other misfortune, have claims upon the sympathies and aid of society." Art. 9, § 3.

15. ALASKA CONST. art. VII, § 5.

16. ALASKA CONST. art. VII, § 4.

17. ALASKA CONST. art. I, §§ 1-21.

18. IND. CONST. art. 1, §§ 1-37.

gious society, or mode of worship; and no man shall be compelled to attend, erect, or support, any place of worship, or to maintain any ministry, against his consent.

Sec. 5. No religious test shall be required, as a qualification for any office of trust or profit.

Sec. 6. No money shall be drawn from the treasury, for the benefit of any religious or theological institution.

Sec. 7. No person shall be rendered incompetent as a witness, in consequence of his opinions on matters of religion.

While the provisions for substantive rights in the two constitutions are similar in meaning, if not in length, some differences can be noted in the procedural safeguards. For example, the Hoosier constituent assembly did not make provision in the Bill of Rights for indictment by grand jury, although, by implication, the grand jury system was retained. Reference was made to it in oblique fashion: the judiciary article authorized the general assembly to "modify, or abolish, the grand jury system."¹⁹ On the other hand, the Alaska Constitution, employing language similar to that of the fifth amendment of the United States Constitution, maintains the indictment as a procedural safeguard. It does, however, permit the accused to waive indictment, in which case prosecution will be by information.²⁰

That the Alaska constituent assembly would preserve the common law rule of trial by a jury of twelve in criminal cases was a foregone conclusion.²¹ That it would make exceptions in cases of petty offenses triable in courts not of record, where the minimum number of jurors may be set at six by statute,²² was to be expected in view of similar practices else-

19. IND. CONST. art. 7, § 17. The Indiana Constitution of 1816 in its statement on procedural safeguards called for "prosecutions by indictment, or presentment." Art. 1, § 13. And in the judiciary article there was additional reference to indictments. Art. 5, § 2.

20. ALASKA CONST. art. I, § 8.

21. ALASKA CONST. art. I, § 11.

22. *Ibid.*

where in the United States.²³ But, that the common law rule of trial by jury of twelve is retained in civil cases is perhaps surprising in view of the costs of jury trials in money and time. True, the Alaska assembly did set the "amount in controversy" at two hundred and fifty dollars,²⁴ a much higher requirement than that demanded in the seventh amendment of the United States Constitution. Yet even this amount is not great²⁵ and parties to relatively unimportant suits are permitted the luxury of a trial by jury. The Alaska constituent assembly did authorize the legislature to depart from the common law rule of unanimity in civil cases,²⁶ and to provide for a jury of not less than six in courts not of record.²⁷ While the jury trial in criminal cases is a safeguard that cannot be treated frivolously, the jury trial in civil suits may yet become a leading procedural problem.²⁸

In enumerating traditional rights and safeguards, and in excluding guarantees of a social or economic nature, the Alaska Constitution reveals no marked departure from the past. Perhaps, at most it offers a welcome conservation of words. However, in its organic features, and in its considerations of relationships between branches of government, differences rather than similarities must be noted.

II. Executive-Legislative Relationships

Because of colonial distrust of executives, early state constitutions established the legislature as the dominant branch. Legislative supremacy persisted until several other factors were introduced into the political picture: (1) the passage of time brought ever-increasing functions to government; (2) the limited annual or biennial legislative sessions made legislators part-time officials, whereas the governor was on the job year

23. See, *e.g.*, the Arizona Constitution which authorizes a jury of less than twelve in courts not of record, art. II, § 23; the California Constitution, which, as amended in 1928, provides for a jury of less than twelve if both parties agree in open court, art. I, § 7; the Colorado Constitution, which, as amended in 1944, permits a lesser number in courts not of record, art. II, § 23; and the Idaho Constitution which was amended in 1934 to provide that in cases of misdemeanor the jury shall consist of not more than six, art. I, § 7.

24. ALASKA CONST. art. I, § 16.

25. Idaho makes it possible for a jury of six to deal with civil suits in which the amount in controversy does not exceed five hundred dollars. IDAHO CONST. art. I, § 7.

26. ALASKA CONST. art. I, § 16. A future legislature may decree that a verdict be by three-fourths of the jury. IDAHO CONST. art. I, § 7; MONT. CONST. art. III, § 23.

27. ALASKA CONST. art. I, § 16.

28. David W. Peck, Presiding Justice of the Appellate Division of the New York State Supreme Court, First Department, offers expert testimony on the inherent slowness and costliness of jury trials in civil cases. He recommends that civil suits be tried by the judge. Peck, *Do Juries Delay Justice?*, N.Y. Times, Dec. 25, 1955, § 6 (Magazine), p. 8. See also Peck, *Court Organization and Procedures to Meet the Needs of Modern Society*, 33 IND. L.J. 182 (1958).

around; (3) the executive presented an integrated front, while the multi-member legislature represented diffusion of leadership; (4) unsuccessful economic ventures by states brought legislators under popular wrath; and (5) land speculation and legislative favoritism destroyed popular reliance on that branch. These factors contributed directly to the changing role of state executives.

The increasingly important political and administrative roles of the governor have also reflected developments in modern business. The latter had experimented with organizational ideas to increase the efficiency of complex industrial units, and these ideas were carried into government. The change as it affected state executives was slow in development, beginning with certain power accretions such as the veto power,²⁹ but was steady and reached its present high in this century. This changed emphasis is recognized in the Alaska Constitution. At present one can only speculate on the relative advantages that will be enjoyed by the branches of government and conclude that the governor of Alaska will probably occupy a position of superiority in his relations with the legislature. The legislative branch does have important constitutional checks on the executive, such as unlimited annual sessions,³⁰ and interim legislative committees,³¹ but the executive's counter-checks in six areas would seem to be more effective, especially in the hands of a strong governor. These are: (1) special sessions called and controlled by the governor; (2) the veto power; (3) the item veto; (4) time for consideration of legislative acts; (5) legislative reapportionment; and (6) administrative reorganization.

By referring to the following comparison, the relative power bases of the Indiana and Alaska chief executives with respect to special sessions can be noted:

Special Sessions

Indiana Constitution, Article 4— Sec. 9. . . . But if, in the opinion of the Governor, the public welfare shall require it, he	Alaska Constitution, Article II— Sec. 9. Special sessions may be called by the governor or by vote of two-thirds of the legislators.
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29. Some Americans may be of the opinion that the veto power has always been held by American state governors. Actually only two states, Georgia and New Hampshire, had veto provisions in their constitutions before 1789; by 1812 eight states made provision for veto power. For a historical study of the evolution of the veto, see Prescott, *The Executive Veto in American States*, 3 WESTERN POLITICAL QUARTERLY 98 (1950).

30. ALASKA CONST. art. II, § 8.

31. ALASKA CONST. art. II, § 11.

may, at any time, by proclamation, call a special session.

The vote may be conducted by the legislative council or as prescribed by law. At special sessions called by the governor, legislation shall be limited to subjects designated in his proclamation calling the session or the subjects presented by him. . . .

The key difference is found in the last sentence of the Alaska provision which limits discussion and action to the subjects designated in the governor's proclamation. This is not the case in Indiana. In 1911 the Supreme Court ruled, "The power of the General Assembly to legislate on any subject when convened in special session is not limited by the Constitution."³² And in 1951 former Governor Henry F. Schricker discovered the verity of this when he called the general assembly into special session to obtain the repeal of the "anti-secrecy" amendment³³ to the Public Welfare Act of 1936.³⁴ During that special session over sixty-five legislative proposals and resolutions were introduced by members of the general assembly.³⁵ It is doubtful that the legislature should have unrestrained freedom in discussion and action during a special session. If, as was indicated by the introduction of so great a number of proposals in the 1951 special session, additional time is necessary for consideration of needed legislation, then the Indiana Constitution should be amended to provide for unlimited, annual sessions.³⁶

Another area in which differences appear is the governor's veto power. Both constitutions require an affirmative vote of a majority

32. *Woesner v. Bullock*, 176 Ind. 166, 169, 93 N.E. 1057, 1058 (1911). The court found a constitutional basis for its ruling in article 4, section 9.

33. Ind. Acts 1951, ch. 321, § 1, at 1084-086. During the regular session that year the amendment had been adopted over the governor's veto. Since this amendment conflicted with provisions of federal law, grant-in-aid funds for Indiana were withheld by Oscar Ewing, the Federal Security Administrator. It was for the purpose of recovering these funds that Governor Schricker called the special session and sought the amendment's repeal. This provision was amended in 1955, Ind. Acts 1955, ch. 206, § 1, at 549-50 and now appears in IND. ANN. STAT. § 52-1260 (Burns Supp. 1957).

34. IND. ANN. STAT. §§ 52-1001 to -1418 (Burns 1951).

35. IND. S. JOUR. *passim* (1951 Spec. Sess.); IND. H.R. JOUR. *passim* (1951 Spec. Sess.)

36. In the 1957 session State Senator Bitz proposed two amendments to the Constitution, the one to provide for annual sessions of the general assembly, the other for sessions of one hundred and fifty days' duration. His two resolutions, Senate Joint Resolutions, Nos. 3 and 4, were considered by Judiciary B, the so-called "graveyard" committee, and were reported out without recommendations. The Indiana Constitution presently provides for biennial sessions limited in duration to sixty-one days. Art. 4, §§ 9, 29.

of the membership of each house to adopt legislative measures,³⁷ but different majorities to override a gubernatorial veto. Neither the Indiana nor the Alaska Constitution provides for a pocket veto.³⁸

Veto Procedure

Indiana Constitution, Article 5—

Sec. 14. [If the governor does not approve a bill] he shall return it, with his objections, to the House in which it shall have originated; which House shall enter the objections, at large, upon its journals, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that House shall agree to pass the bill, it shall be sent, with Governor's objections, to the other House, by which it shall likewise be reconsidered; and, if approved by a majority of all the members elected to that House, it shall be a law. . . .

Alaska Constitution, Article II—

Sec. 15. The governor may veto bills passed by the legislature. He may, by veto, strike or reduce items in appropriation bills. He shall return any vetoed bill, with a statement of his objections, to the house of origin.

Sec. 16. Upon receipt of a veto message, the legislature shall meet immediately in joint session and reconsider passage of the vetoed bill or item. Bills to raise revenue and appropriation bills or items, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature. Other vetoed bills become law by affirmative vote of two-thirds of the membership of the legislature. . . .

A superficial observation of the above provisions might lead one to assume that the governor of Indiana is left to the tender mercies of the

37. ALASKA CONST. art. II, § 14; IND. CONST. art. 4, § 25. In Alaska, the Senate and the House have twenty and forty members respectively. ALASKA CONST. art. II, § 1. In Indiana the Senate is limited to fifty members and the House to one hundred. IND. CONST. art. 4, § 2. In both states senators are elected to four year terms, one half at each general election, and representatives are elected for a two year term. ALASKA CONST. art. II, § 3; IND. CONST. art. 4, § 3.

38. Hoosiers label as a pocket-veto a practice by which the governor refuses to accept bills in the last two days of the general assembly's session. Both constitutions, of course, permit an affirmative veto after adjournment. The governor of Indiana has five days following the adjournment of the general assembly to act on bills. If he vetoes a bill during that period, he files his objections in the office of the secretary of state. The latter is instructed by the Constitution to "lay the same before the General Assembly at its next session, in like manner as if it had been returned by the Governor." IND. CONST. art. 5, § 14. The provision in the Alaska Constitution is not so detailed and leaves open the question whether bills vetoed after adjournment are reconsidered or must start again through the legislative process. ALASKA CONST. art. II, § 17.

legislators.³⁹ This has not been the case. The governor of Indiana has been sufficiently influential to win support for his vetoes. From 1947 to 1955 only one major proposal was enacted into law over the executive's veto.⁴⁰

Special note should be given to the matter of joint legislative action on vetoed measures under the Alaska Constitution. No doubt, as previously mentioned,⁴¹ this provision stems largely from a sub rosa desire for a single legislative chamber. Yet, another observation offers itself at this time; the arrangement could very well disturb the political balance which is most frequently weighted in behalf of the chief executive in the exercise of veto powers. In other words, it may prove less difficult to muster the necessary majorities to override vetoes in a joint session than when the houses meet and act separately.⁴²

In addition to the regular veto power, section 15 permits the governor of Alaska to strike items from appropriation bills. This means that the governor can force "riders," which are frequently attached to this type of measure, to stand on their own merits. Only the President of the United States, the governor of Indiana, and the chief executives in eight other states do not have the item veto.⁴³

Hoosiers must consider whether sufficient time is given to the governor for action on bills. The rush at legislative adjournment and the greater complexity of modern day statutes demands a reassessment of this matter. The governor has three days to study bills submitted to him while the legislature is still in session, and five days after adjournment.⁴⁴

39. The low plurality needed to override is one of the three criteria employed by Professor Frank W. Prescott in assigning Indiana to the group of "weak" states in terms of the relative strength of veto provisions. The other two criteria are the number of days which the governor has to consider bills (1) during a legislative session, and (2) after adjournment. Prescott, *supra* note 29, at 100.

40. The previously mentioned "anti-secrecy" amendment, note 33 *supra*.

41. See note 13 *supra*.

42. For purposes of bringing this point into sharper focus, assume the following situation should arise in Alaska:

The Republicans are in control of the executive branch. During an off-year election the Democrats win a landslide victory taking 34 of the 40 seats in the House and 8 of the 10 Senate seats up for election; the Democrats now control the Senate, 11 to 9. Suppose further a Democratic sponsored measure is vetoed by the Republican governor

Under the veto system obtaining in most states the governor's veto would be sustained, assuming partisan lines are followed, by virtue of the Republican block in the Senate. The usual two-thirds or three-fourths plurality necessary to override the governor could not be attained. However, in Alaska the joint session procedure permits the votes of the more populous chamber, the House, to defeat the veto.

43. The item veto is not included among the powers of the governors of Iowa, Maine, Nevada, New Hampshire, Rhode Island, Tennessee, Vermont and Wisconsin. 9 THE BOOK OF THE STATES, 1952-1953 103 (1952).

44. IND. CONST. art. 5, § 14.

By contrast, the governor of Alaska has fifteen days, Sundays excepted, to consider bills presented for his signature while the legislature is still in session; if the legislature has adjourned, he has twenty days, Sundays excepted.⁴⁵ Elsewhere the chief executive is given substantial time for consideration.⁴⁶

The Alaska constituent assembly adopted the newer concept of executive control of reapportionment. The failure of legislatures to reapportion in accordance with constitutional dictate⁴⁷ and population changes has led to denunciation of "rural-dominated" state legislatures.⁴⁸ Alaska faces the converse of the problem: the territorial legislature has been dominated by the several large cities. With a growth potential which could aggravate the situation in future years, the Alaska assembly decided upon automatic features for reapportionment and redistricting. The constituent assembly hoped to guarantee these things by (1) placing responsibility in the hands of the state executive and a five-man reapportionment board;⁴⁹ and (2) calling for reapportionment "immediately following the official reporting of each decennial census of the United States."⁵⁰ As a further safeguard the drafters included an enforcement clause, enabling any qualified voter to apply "to the superior court to compel the governor, by mandamus or otherwise, to perform his reapportionment duties or to correct any error in redistricting or reapportionment."⁵¹

Indiana has been aware of the reapportionment issue for some time.⁵² Earlier amendments affecting the enumeration and apportionment pro-

45. ALASKA CONST. art. II, § 17.

46. See Lambert and McPheron, *Modernizing Indiana's Constitution*, 26 IND. L.J. 185, 199 (1951).

47. A recent symposium explored the problem in detail, see *Legislative Reapportionment*, 17 LAW & CONTEMP. PROB. 253 (1952).

48. Mayors Philip L. Bayt (Indianapolis) and Peter Mandich (Gary) were critical of the "rural-dominated" Indiana general assembly which has not been reapportioned since 1921. See reports of their speeches to the Indiana Municipal League, October 2, 1957, in the Louisville Courier-Journal, October 3, 1957, § 2, p. 1, cols. 7 and 8. Interestingly enough the "rural-dominated" general assembly of 1955 liberalized the city annexation law. IND. ANN. STAT. §§ 48-701 to -710 (Burns 1950), as amended (Burns Supp. 1957).

For studies pertinent to the problem in Indiana, see Note, 32 IND. L.J. 489 (1957); SELTZER, *ROTTEN BOURGHOUSISM IN INDIANA* (unpublished thesis, Department of Government, Indiana University, 1952).

49. The five members are to be appointed by the governor on a non-partisan basis. The members may not be public officials nor employees, and each of the four districts must be represented. ALASKA CONST. art. VI, § 8.

50. ALASKA CONST. art. VI, § 3.

51. ALASKA CONST. art. VI, § 11. Evidently Alaskans do not want to depend solely upon "the fidelity of the executive and legislative action and, ultimately, on the vigilance of the people . . ." *Colegrove v. Green*, 328 U.S. 549, 556 (1946).

52. See note 48 *supra*.

vions in the Constitution⁵³ failed of ratification in popular referenda.⁵⁴ That Hoosiers will be faced with continuing demands for legislative reapportionment was apparent in a Senate resolution, favorably acted upon by committee in the 1957 session of the general assembly, and by intimations of Governor Handley and others that it will be an issue in 1959.⁵⁵

Any consideration of the reapportionment problem must of necessity be within the context of the emotive-connoting terms advanced by certain groups. For many political scientists and urban residents there is but one answer to the question of reapportionment: a representative government demands recognition of people, not territory; therefore reapportionment should keep pace with the farm to city movement. Recently serious scholars have looked beyond the theoretical questions to determine whether municipalities have suffered at the hands of the so-called rural-dominated legislatures. These studies indicate that careful consideration is given to urban problems and that representatives from municipalities are not without influence in legislative bodies.⁵⁶ But, while it seems evident that urban centers have not been rendered helpless by the absence of frequent reapportionment, there is another question which should be considered: can a clear evasion of constitutional dictate lead to continued reverence for constitutions and constitutionalism?⁵⁷

53. IND. CONST. art. 4, §§ 4, 5.

54. The first one was defeated in September 1921 by a vote of 76,963 for, and 117,890 against. In November 1926 the second amendment lost by a smaller margin, 183,828 to 189,928. INDIANA LEGISLATIVE BUREAU, CONSTITUTION OF THE STATE OF INDIANA AND OF THE UNITED STATES 39 (1954).

55. In 1957 State Senators Bontrager and Bítz introduced Senate Joint Resolution No. 1 to amend article 4, sections 2, 4, and 5 of the Indiana Constitution. Their resolution provided for (1) the retention of the fifty senate seats and the enumeration of the counties which would be combined into a single senatorial district; and (2) the substitution of the federal decennial census for the present enumeration by the general assembly. Further, while leaving primary responsibility for reapportionment in the legislature, the initiators sought additional guarantees by imposing a secondary responsibility on an executive committee composed of the governor, lieutenant-governor, secretary of state, treasurer, and auditor.

The failure of the legislature to act on the committee's recommendation postponed consideration on reapportionment until 1959. In the meantime, at the 1957 meeting of the Indiana Municipal League, Governor Harold W. Handley announced that he would ask the next assembly "to study the problem of a long-overdue reapportionment of legislative seats." Louisville Courier-Journal, October 3, 1957, § 2, p. 1, cols. 7 and 8. The Governor told newsmen that he favored a "federal" plan whereby both the rural and urban areas would be adequately represented. Under this plan the Senate would represent geographic areas, probably one seat for each two counties, and the House seats would be apportioned on a population basis.

56. Such are the conclusions of Professor David Derge, Indiana University, following exhaustive studies of legislative voting behavior in Missouri and Illinois. Unpublished papers presented at the Midwest Conference of Political Scientists, Ann Arbor, April 24-26, 1958, and at the American Political Science Association meeting, St. Louis, September 4-6, 1958.

57. This problem is discussed in the authorities collected in notes 47 and 48 *supra*.

III. *Executive-Administrative Relations*

Brevity best describes the executive branch under the Alaska Constitution. Only two state officers, the governor and secretary of state, are elected, and even this limited selection is further reduced by the constitutional stipulation that "the votes cast for a candidate for governor shall be considered as cast also for the candidate for secretary of state running jointly with him."⁵⁸ The intent of this limited selection is obvious: Alaskans wanted to eliminate problems of a "plural executive"⁵⁹ by placing all executive and administrative responsibilities in the hands of the governor. In line with this, the governor is empowered to appoint the heads of all principal departments, subject to confirmation by a majority of the members of the legislature meeting in joint session.⁶⁰

Both the historical change in the role of state executives and recent reports of the several "Little Hoover Commissions" have influenced the Alaska constituent assembly's decision on administrative organization. In keeping with the current emphasis on efficiency in government, the governor of Alaska is constitutionally empowered to reorganize the administrative branch, to assign functions among the several administrative units, and to issue executive orders with respect to administrative organization which are to have "the force of law."⁶¹ The legislature may reject these orders, but to do so the lawmakers must act within a stipulated period of time.⁶² This procedure may prove too restrictive to be a strong check upon the governor.

Comparable powers were exercised by the governor of Indiana for the brief span of eight years, 1933-1941. Under the leadership of Governor McNutt the Democratic general assembly in 1933 adopted a comprehensive reorganization act which enhanced the position of the chief executive as chief of the administrative department.⁶³ In November, 1940, Governor Schricker was the only Democratic statewide candidate to survive the Republican election victory. The general assembly in 1941 repealed the previous reorganization act, and passed in its place two statutes which reduced the governor to a minor role, depriving him

58. ALASKA CONST. art. III, § 8.

59. See generally Gravlin, *An Effective Chief Executive*, 36 NAT'L MUNIC. REV. 137 (1947).

60. ALASKA CONST. art. III, § 25. The appointees serve at the pleasure of the governor.

61. ALASKA CONST. art. III, § 23. This is not a new practice; it had been recommended by the Committee on State Government, and it is an established procedure in the national government.

62. ALASKA CONST. art. III, § 23.

63. Ind. Acts 1933, ch. 4, §§ 1-32, at 7-16.

even of his appointive and removal powers.⁶⁴ However, the Supreme Court invalidated the new statutes, declaring that "the acts here in question seek to absorb and usurp functions which are normally and generally understood to be the functions of a Governor, and vest them in minor administrative officers."⁶⁵ The initiators of the 1941 laws won a partial victory in that they had obtained the repeal of the McNutt reorganization act. However, the appointing powers of the governor were restored, and thus the situation which had prevailed before 1933 was re-established.

IV. *The Judiciary*

Like the older Indiana Constitution that of Alaska provides only for a Supreme Court and courts of general jurisdiction, leaving to the legislature the responsibility for creating additional ones, for prescribing jurisdictions, and for dividing the state into judicial districts.⁶⁶ The major difference between the two states is the means for selecting judges.

A politically independent judiciary has long been an objective of Americans. Some believe that the principle of judicial independence is so firmly established that judges may be chosen in partisan elections. Others contend that judicial independence is attainable only if judges are not answerable either to the governor or party leaders. For example, the Committee on State Government suggested that the chief justice be selected for an eight-year term in a non-partisan election;⁶⁷ and Missourians, believing that "sometimes judges had to depend more on the will of politicians than on their ability as judges to keep their positions,"⁶⁸ provided for gubernatorial appointments from among nominees chosen by a commission of lawyers and citizens.⁶⁹

Obviously the Alaska assembly was influenced by the "Missouri Plan" and the Model State Constitution, for it provided for appointment of judges by nonpartisan processes. There is to be a two-step procedure: (1) a seven-man judicial council⁷⁰ will nominate two or more qualified

64. The act which repealed the 1933 reorganization is found in Ind. Acts 1941, ch. 40, §§ 1-2, at 124-25; the administrative powers acts of 1941 are found at Ind. Acts 1941, ch. 13, §§ 1-27, at 31-48 and Ind. Acts 1941, ch. 182, §§ 1-2, at 552-54.

65. *Tucker v. State*, 218 Ind. 614, 674, 35 N.E.2d 270, 293 (1941).

66. IND. CONST. art. 7; ALASKA CONST. art. IV.

67. MODEL STATE CONST. art. VI, § 602; and see Mott, *The Judiciary*, MODEL STATE CONST. 37 (1948).

68. MISSOURI STATE TEACHERS ASS'N, CONSTITUTION MAKING IN MISSOURI 31 (1946).

69. Mo. CONST. art. V, § 29.

70. Three attorneys are to be chosen by the governing body of the state bar association, three non-attorneys are to be appointed by the governor and confirmed by the legislature in joint session, and the chief justice is to serve ex officio as the chairman. ALASKA CONST. art. IV, § 8. The first judicial council will appoint all justices, including the chief justice, who will then assume his seat on the council. Art. XV, § 16.

persons⁷¹ for each court vacancy; and (2) the governor will be restricted to a choice among those nominated.⁷² Still in keeping with the Missouri Plan, popular approval of judges is retained. Each judge is subject to popular approval or rejection on a non-contested ballot three years after his appointment and at regular intervals thereafter.⁷³ Indiana and a majority of the states choose their judges in partisan elections.⁷⁴

V. *Popular Participation in Political Processes*

By substantially adopting the Missouri Plan for selection of judges, the Alaska convention further emphasized a trend in mid-twentieth century political thought—the modification of Jacksonian ideas about popular sovereignty and the concomitant preoccupation with efficiency. This has occurred despite the movement for initiative, referendum, and recall within the past half-century.

A paradox is evident. On the one hand, there is a desire to extend democracy; on the other hand, a fear of democracy “gone wild.” An explanation of this apparent contradiction is possible: early twentieth century demands for reform or panaceas led to the extension of democracy through initiative, referendum, and recall; however, experiences with these devices in several states have led to the adoption of restrictions. The Committee on State Government, calling attention to prior abuses, warned against unlimited employment of initiative and referendum.⁷⁵

The Alaska constituent assembly was neither deaf to such warnings, nor blind to the experiences in older states. Accordingly, two limitations were imposed to keep these devices within bounds. First, bills to be initiated by popular action must follow a two-step process: (1) an application, containing the bill, must be signed by one hundred qualified voters;⁷⁶ and (2) after certifying the application the secretary of state is to prepare a petition which must be signed “by qualified voters, equal in number to ten per cent of those who voted in the preceding general

71. There are two constitutional stipulations regarding qualifications—United States citizenship and a license to practice law in Alaska. ALASKA CONST. art. IV, § 4.

72. ALASKA CONST. art. IV, § 5.

73. Superior court judges will be passed upon by the voters every six years, and supreme court justices every tenth year. ALASKA CONST. art. IV, § 6.

74. For current information regarding the selection and tenure of judges in the states and territories, see 12 THE BOOK OF THE STATES, 1958-1959 95, 101 (1958).

75. Certain groups have evoked criticism by initiating “controversial matters” which are economic in nature. Stewart, *The Initiative and Referendum*, MODEL STATE CONST. 29 (1948). Excellent examples of “controversial matters” initiated by interest groups are those dealing with pension plans and other forms of old-age assistance in California.

76. ALASKA CONST. art. XI, § 2.

election and resident in at least two-thirds of the election districts”⁷⁷ There is an obvious third step that possibly should be mentioned: the electorate must vote on the proposition in a statewide election.⁷⁸ The second limitation is that initiative cannot be used “to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation.”⁷⁹ Nor can referenda “be applied to dedications of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of public peace, health, or safety.”⁸⁰

Only in a narrow sense do Hoosiers participate directly in constituent or legislative functions. The Indiana Constitution established the electorate as a partner with the legislature in the exercise of the constituent function;⁸¹ and the lawmakers have employed advisory referenda to measure public opinion on urgent matters.⁸²

VI. Local Governmental Units and Powers

Although “states’ rights” have been vociferously defended throughout our history, local government, the creature of the states, was disregarded during America’s first hundred years. Not until 1875, when Missouri adopted constitutional home rule,⁸³ was the “federal” principle first introduced within the states. Since that date forty-two other states have provided for constitutional home rule, legislative home rule, or optional law charters. Of the remaining five states, four allow home rule in a very limited sense, granting privileges to either one city or a single

77. ALASKA CONST. art. XI, § 3. The provision does not stipulate what proportion of voters in each district must sign the petition.

78. Action on the proposition will be taken at “the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing” of the petitions. The stipulation regarding time is included so that it may be determined whether “substantially the same measure” had been enacted by the legislature. If so, the petition is void. ALASKA CONST. art. XI, § 4. The Constitution leaves open the question who will decide whether “substantially” the same measure has been enacted.

79. ALASKA CONST. art. XI, § 7.

80. *Ibid.*

81. A proposed amendment must win the support of a majority of the members of each legislative chamber in two successive general assembly sessions, and be ratified by a majority of the electors in a general election. IND. CONST. art. 16, § 1. In 1936 the Indiana Supreme Court overturned an earlier interpretation in ruling that a majority of electors meant a majority of those voting for the proposition, not a majority of the votes cast at the election. *In re Todd*, 208 Ind. 168, 193 N.E. 865 (1935). See also *Swank v. Tyndall*, 226 Ind. 204, 78 N.E.2d 535 (1948).

82. However, the intent of advisory referenda will be lost unless the propositions are framed clearly. Hoosier voters can attest to this following their experience in 1956, when they voted on four propositions regarding standard (slow) and daylight-savings (fast) time.

83. McCANDLESS, GOVERNMENT, POLITICS AND ADMINISTRATION IN MISSOURI 11 (1949).

class of cities. Only Indiana does not permit any degree of choice as to the form of local government.⁸⁴ The Alaska Constitution grants home rule to first class cities and boroughs,⁸⁵ and authorizes the legislature to extend this privilege to other classes.⁸⁶

Home rule for Indiana's cities and towns has been an issue in recent years. In 1953, a resolution to amend the Constitution to achieve home rule was supported by the General Assembly,⁸⁷ but upon reconsideration in 1955, the proposal was rejected.⁸⁸ Interested groups, notably the League of Women Voters, then tried to win support for constitutional home rule in 1957. That this attempt was unsuccessful may have been due to the failure of the League of Women Voters and the Indiana Municipal League to act in concert before the legislature. From recent observations, the writer would not anticipate an abatement in pressure.⁸⁹

Home rule is an example of Alaska's emphasis on maximizing local self-government; other provisions in the new constitution stress such things as (1) a minimum of local units;⁹⁰ (2) the avoidance of duplication of tax-levying jurisdictions,⁹¹ and (3) a provision for inter-governmental cooperation.⁹² Further, in regard to local government, it should be noted that (1) taxing powers may be delegated only to cities and organized boroughs;⁹³ and (2) service units may be created only if a new service cannot be provided "by an existing service area, by incorporation as a city, or by annexation to a city."⁹⁴

Apparently the framers of Alaska's fundamental law were prepared to break with an Anglo-American tradition—the county. Even the

84. Two political scientists, Edwin B. McPheron, Indiana University, and Clark Norton, DePauw University, who were interested in home rule for Indiana cities and towns, compiled the information herein cited.

85. ALASKA CONST. art. X, § 9.

86. ALASKA CONST. art. X, § 10.

87. The provision for home rule was introduced as Senate Joint Resolution No. 2 by State Senators Bontrager and Eichhorn. For action on this resolution, see IND. S. JOUR. 34, 153, 191, 218, 748, 756 (1953).

88. IND. H.R. JOUR. 628-29 (1955).

89. College students seem to have found this a challenging issue which demands urgent consideration. It was a matter of extreme interest on October 23, 1956, when students from a number of schools listened to a home rule panel at a meeting of the Indiana Citizenship Clearing House. And, on November 12, 1957, student "senators" from Indiana's state and private schools showed great concern at a Model Legislative Assembly at Indiana University. While the "senators" did not have time to act on a home rule proposal, the responsible committee did report it out with the recommendation that it be adopted.

90. ALASKA CONST. art. X, § 1.

91. *Ibid.*

92. ALASKA CONST. art. X, § 13.

93. ALASKA CONST. art. X, § 2.

94. ALASKA CONST. art. X, § 5.

name was changed to "borough."⁹⁵ Except for the express provision for a governing body in an organized borough,⁹⁶ the details regarding classification, powers, and functions are to be determined by a future legislature.⁹⁷ Only time can tell whether the break from the past is a reality or a fiction; only after the legislature acts can it be determined whether Alaska has made changes, or whether geographic units, parading under a new name, will be clothed with the powers and functions of traditional American counties.

VII. Finance and Taxation

Taxpayers might well wish that governments economized on spending money in the same fashion that the Philadelphia Convention economized on words. In a brief statement the framers of the United States Constitution described the taxing, spending, and borrowing powers of the national government, a brevity not emulated by drafters of state constitutions. The Hoosier and Alaska constitutions are not exceptions. Each imposes an obligation on the legislature to prescribe standards for assessments;⁹⁸ each prohibits payments from the treasury, except as authorized by law;⁹⁹ and each provides for state¹⁰⁰ and local debt limitation.¹⁰¹ In regard to debt limitations both states appear to have stringent provisions:

State Debt Limitations

Indiana Constitution, Article 10—

Sec. 5. No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for the public defense.

Alaska Constitution, Article IX—

Sec. 8. No state debt shall be contracted unless authorized by law for capital improvements and ratified by a majority of the qualified voters of the State who vote on the question. The State may, as provided by law and without ratification, contract debt for the purpose of repelling invasion, suppressing insurrection, defending the State in war, meeting

95. ALASKA CONST. art. X, § 3.

96. ALASKA CONST. art. X, § 4.

97. ALASKA CONST. art. X, § 3.

98. ALASKA CONST. art. IX, § 3; IND. CONST. art. 10, § 1.

99. ALASKA CONST. art. IV, § 13; IND. CONST. art. 10, § 3.

100. ALASKA CONST. art. IX, § 8; IND. CONST. art. 10, § 5.

101. ALASKA CONST. art. IX, § 9; IND. CONST. art. 13, § 1.

natural disasters, or redeeming indebtedness outstanding at the time this constitution becomes effective.

However, the Hoosier practice of creating quasi-public corporations, such as the Toll Road Commission, and a specific statement in the Alaska Constitution exempting public enterprises and corporations from the debt restrictions¹⁰² provide means to circumvent the constitutional prohibitions. A legislative post-audit is prescribed by the Alaska Constitution¹⁰³ in contrast to Indiana's use of the State Board of Accounts.¹⁰⁴ Each constitution provides for an auditor, although the means whereby he is held responsible differ. Hoosiers elect their auditor,¹⁰⁵ while in Alaska he is to be selected by the legislature and serves at its pleasure.¹⁰⁶ While this constitutional officer is not subservient to the governor in either state, the Alaska Constitution prescribes that he shall report to both the legislative body and the chief executive.¹⁰⁷ A further comparison of the finance and taxation articles reveals that no proceeds from taxes or licenses collected in Alaska may be earmarked for any special purpose.¹⁰⁸ This course is possible in Indiana, *e.g.*, the use of specified funds or specific portions for such matters as highway construction and maintenance, public schools, and veterans' bonuses.¹⁰⁹

Income taxes, whether gross or net, corporate or individual, have become such a fixed part of our lives that the absence of a provision comparable to the sixteenth amendment in the United States Constitution or the 1932 amendment to the Indiana Constitution¹¹⁰ makes the Alaska Constitution more noteworthy. In time, the people of the newest state may discover that the one provision on the taxing power¹¹¹ is more than adequate for income tax purposes. Further evidence of the greater

102. ALASKA CONST. art. IX, § 11.

103. ALASKA CONST. art. IX, § 14.

104. IND. ANN. STAT. §§ 60-201 to -251 (Burns 1951), as amended, (Burns Supp. 1957). See generally LAMBERT, THE STATE BOARD OF ACCOUNTS (unpublished thesis, Department of Government, Indiana University, 1950).

105. IND. CONST. art. 6, § 1.

106. ALASKA CONST. art. IX, § 14.

107. *Ibid.*

108. ALASKA CONST. art. IX, § 7. There is an exception: funds may be earmarked "when required by the federal government for state participation in federal programs."

109. An example of such dedicated funds is found in the act providing for a veterans' bonus. IND. ANN. STAT. § 59-1409 (Burns 1951).

110. IND. CONST. art. 10, § 8.

111. "The power of taxation shall never be surrendered. This power shall not be suspended or contracted away, except as provided in this article." ALASKA CONST. IX, § 1. At the moment, the provision must appear innocuous to the taxpayers of Alaska.

responsibility assumed by or granted to chief executives is visible in this provision of the Alaska Constitution:

The governor shall submit to the legislature, at a time fixed by law, a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State. The governor, at the same time, shall submit a general appropriation bill to authorize the proposed expenditures, and a bill or bills covering recommendations in the budget for new or additional revenues.¹¹²

While the governor of Indiana does not enjoy the privileged position of his counterpart in Alaska, he is not without influence in the matter of the budget. Indiana uses a legislative-executive budget committee composed of a director and four legislative members who are appointees of the governor.¹¹³

VIII. *The Amending Processes*

Perhaps the ideal constitution, when discovered, will answer the old question of achieving a balanced arrangement of political stability and change. The drafters of the United States Constitution placed the emphasis on stability by devising an amending process which was difficult of attainment. This difficulty is apparent from the fact that the United States Constitution has been amended only twenty-two times in 180 years. Moreover, the amendments appear in clusters.¹¹⁴ One may further emphasize the difficulty of amending the United States Constitution by pointing to the thousands of proposals made in the past 180 years. Even so important a question as presidential disability is left to chance, with only an occasional flurry of excitement—and rash of resolutions—occurring when the President becomes ill. Yet this difficulty has been overcome. The vitality of the United States Constitution is in the flexibility of its provisions which adjust to time and change without extensive

112. ALASKA CONST. art. IX, § 12.

113. IND. ANN. STAT. § 60-412 (Burns Supp. 1957). In practice the governor appoints one Republican and one Democrat from each house. Neither of the states have resolved the problem which faces a newly-inaugurated governor. He is not in a position to assist in the preparation of the budget after his November election and before the January meeting of the general assembly. This becomes a doubly important problem in Indiana where biennial budgets are prepared.

114. The first ten, the Bill of Rights, were in force in 1791, two years after the Constitution took effect. Amendments XI and XII were proclaimed in 1798 and 1804. Then a sixty-year gap occurs before the Civil War amendments, the thirteenth, fourteenth and fifteenth, were adopted. The sixteenth and seventeenth amendments were proclaimed in 1913; the eighteenth and nineteenth in 1919 and 1920; and the twentieth and twenty-first in 1933. The most recent one, the twenty-second, became a part of the Constitution in 1951.

amendment. Drafters of some state constitutions, notably the Californians and Louisianans, moved to the opposite extreme, placing emphasis on easily changed documents. The constitutions of California and Louisiana have each been amended over three hundred times.

The Hoosier amending process must be included among the more difficult ones. A resolution to amend the Constitution must have the support of a majority of the members of the general assembly in two successive sessions and win the approval of the people in the next general election.¹¹⁵ Amendments to the Alaska Constitution need the support of two-thirds of each legislative chamber and a majority of the votes cast in a referendum.¹¹⁶ In a related matter, revision, the Alaska constituent assembly went far beyond its Hoosier counterpart of the previous century. The drafters did not claim for themselves occult powers in writing a basic law. Taking seriously Jefferson's admonition that each generation should frame its own constitution, the assembly provided for the possibility of a constitutional convention every ten years: (1) the legislature is authorized to call conventions "at any time";¹¹⁷ (2) if no convention is called in any ten-year period, the secretary of state is instructed to "place on the ballot for the next general election the question: 'Shall there be a Constitutional Convention?'"¹¹⁸ Indiana does not have a similar constitutional mandate. However, if the people of Indiana believe that their present constitution does not provide a framework in which change and development can take place to meet the increasing demands for governmental services, they have, in the words of the Supreme Court of Indiana, "the right to amend or change their form of government."¹¹⁹

IX. Conclusion

The Alaska Constitution is the product of a rugged, frontier community; yet its content fits a modern day, complex, industrial society. It combines the experience of other states with contemporary ideas on constitution-making, tradition with innovation, and the classical with the modern. While certain of its provisions are peculiar to the special situations in Alaska, this basic law may well serve as a model for constitutional revision in older states. Perhaps the Alaska Constitution has most nearly approximated the ideal. This, of course, cannot be foretold from a mere survey of content. If the Alaska Constitution lends itself to change and

115. IND. CONST. art. 16, § 1; see note 80 *supra*.

116. ALASKA CONST. art. XIII, § 1.

117. ALASKA CONST. art. XIII, § 2.

118. ALASKA CONST. art. XIII, § 3.

119. *Bennett v. Jackson*, 186 Ind. 533, 539, 116 N.E. 921, 923 (1917).

development, if it does not become an obstruction to effective and responsible government, if it answers other questions posed by those who seek the ideal, then it may well become a model state constitution.

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