

CONSTITUTIONAL CONVENTION 320.8  
Chief Clerks File - Com Proposal No 8

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Constitutional Convention  
X/Resources/8/A/Engrossed  
January 19, 1956

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 8/A

Introduced by Committee on Resources

STATE LANDS AND NATURAL RESOURCES

RESOLVED, that the following be agreed upon as part of  
the Alaska State Constitution:

ARTICLE ON STATE LANDS AND NATURAL RESOURCES

Statement  
of Purpose

1 It is the policy of the State to foster and  
2 encourage settlement and development through the  
3 maximum use and availability of its natural resources  
4 consistent with the public interest. [ AND THE AVOID-  
5 ANCE OF WASTE. TO THAT END IT IS THE INTENT OF THIS  
6 ARTICLE TO EXTEND TO ALL PEOPLES THE OPPORTUNITY OF  
7 PARTICIPATION IN ALASKA'S HERITAGE. ]

State  
Boundaries

8 Section 1. The State of Alaska shall consist of  
9 all the territory, together with the territorial waters  
10 appurtenant thereto, now included in the territory of  
11 Alaska.

[ STATE'S  
PROPRIETARY  
INTEREST ]

12 Section 2. The State of Alaska shall provide for  
13 the utilization, conservation and development of all  
14 of the natural resources belonging to the State.

General  
Authority

Committee Proposal No. 8/A Engrossed

Note:-

Void - Prematurely engrossed.

1 including land and waters [BELONGING TO THE STATE,]  
2 in accordance with provisions of applicable acts of  
3 Congress, including the act admitting Alaska to the  
4 Union, this Constitution, and the laws of the State,  
5 for the maximum benefit of its people.

Sustained  
Yield

6 Section 3. Forests, fish, wildlife, grasslands  
7 and other replenishable resources belonging to the  
8 State shall be administered, utilized and maintained  
9 on the sustained yield principle.

General  
Reservations

10 Section 4. Fish, wildlife, and waters[,]  
11 as defined by the Legislature, wherever occurring in  
12 their natural states, are reserved to the people for  
13 common use.

Fish and  
Game  
Management

14 [SECTION 5. REGULATION AND ADMINISTRATION OF  
15 THE COMMERCIAL FISHERIES AND OF THE WILDLIFE, INCLUD-  
16 ING GAME FISH, SHALL BE DELEGATED TO A COMMISSION, OR  
17 TO SEPARATE COMMISSIONS, UNDER SUCH TERMS AS THE  
18 LEGISLATURE SHALL PRESCRIBE.]

General  
Authorization  
for Facili-  
ties,  
Improvements  
and Services

19 Section [6] 5. Facilities, improvements and  
20 services may be provided to assure greater utilization,  
21 development, reclamation and settlement of lands, and  
22 fuller utilization and development of the fisheries,  
23 wildlife and waters.

Uniform  
Application

24 Section [7] 6. Laws and regulations governing  
25 the use or disposal of natural resources shall apply

1 equally to all persons similarly situated with  
2 reference to the subject matter and purpose to be  
3 served by the law or regulation.

Special  
Acquisitions  
and Purposes

4 Section [8] 7. Sites, objects, and areas of  
5 natural beauty or of historic, cultural, recreational  
6 or scientific interest may be acquired, preserved, and  
7 administered for the use, enjoyment and welfare of the  
8 people, under the laws of the State, and may be  
9 reserved from the State public domain.

State Public  
Domain

10 Section [9] 8. Lands and interests therein,  
11 including submerged and tidal lands, possessed or  
12 acquired by the State, and not used or intended ex-  
13 clusively for governmental purposes, constitute the  
14 State public domain.

15 The Legislature shall make provision for the  
16 [SELECTION AND ADMINISTRATION OF LANDS IN THE STATE  
17 PUBLIC DOMAIN.] selection of lands granted to the  
18 State by the United States, and for the administration  
19 of the State public domain.

Leases

20 Section [10] 9. The Legislature may provide for  
21 the leasing of and the issuance of exploration permits  
22 on any part of the public domain, or interests therein,  
23 subject to reasonable concurrent uses.

24 Leases shall provide, among other conditions, for  
25 payment by the party at fault for damage or injury

1 arising from noncompliance with terms governing con-  
2 current use and for forfeiture in the event of breach  
3 of conditions.

Sales and  
Grants

4 Section [11] 10. The Legislature may provide  
5 for the sale or grant of State lands or interests  
6 therein, and establish sales procedures subject to the  
7 following conditions:

8 All sales or grants of State land or interests  
9 therein shall contain such reservations to the State  
10 of all [MINERAL OR WATER] resources as are required  
11 by the Congress, or the State, and shall provide for  
12 access thereto [AND TO ALL OTHER RESOURCES RESERVED  
13 TO THE PEOPLE] ; except that the reservation of access  
14 shall not impair the owners' [BENEFICIAL] use,  
15 prevent the control of trespass, nor preclude com-  
16 pensation for damage.

Public Notice  
and Other  
Safeguards

17 Section [12] 11. Disposals or leases of state  
18 lands or interests therein shall be preceded by such  
19 public notice and other appropriate safeguards of the  
20 public interest as the Legislature shall prescribe.

Mineral  
Rights

21 Section [13] 12. Discovery and appropriation  
22 shall be the basis for establishing a right in those  
23 minerals subject to location under the Federal mining  
24 laws in force [DURING THE YEAR 1955] upon the date  
25 of ratification of this Constitution by the people of

1 Alaska and [NOW] thereafter reserved to the State,  
2 as well as in all other metallic minerals reserved  
3 to the State. Prior discovery, location and filing  
4 shall, as prescribed by law, give prior right to such  
5 minerals and to issuance of permits, and transferable  
6 licenses, leaseholds, deeds, or patents if authorized  
7 by the Congress, and by the State, for the extraction  
8 thereof. Except as title to mineral lands shall have  
9 been conveyed by the State, continuance of such right  
10 shall depend upon performance of annual labor, on  
11 payment of fees, rents, or royalties, or such other  
12 requirements as may be prescribed by the Legislature.

13 Surface use of such lands, by the mineral claim-  
14 ant, shall be limited to those necessary to either the  
15 extraction or basic processing of mineral deposits.

16 The Legislature shall provide for the issuance,  
17 type, and terms of leases for coal, oil, gas, oil &  
18 shale, sodium, phosphate, potash, sulfur, pumice, and  
19 other minerals as may be prescribed by law.

20 Leases and [PROSPECTING] permits giving ex-  
21 clusive right of exploration for specific periods and  
22 areas, subject to reasonable concurrent exploration  
23 as to different classes of minerals, may be authorized  
24 for exploration conducted for coal, oil, gas, oil shale,  
25 sodium, phosphate, potash, sulfur, pumice, and other

1 [NON-METALLIC] minerals as may be prescribed by law  
2 [; AND]. Like permits and leases may also be  
3 authorized by law for the use of geophysical, geo-  
4 chemical and similar methods of prospecting for all  
5 minerals.

Water  
Rights

6 Section [14] 13. All surface and subsurface  
7 waters reserved to the people for common use, except  
8 mineral and medicinal waters shall be subject to  
9 appropriation. Priority of appropriation shall give  
10 prior right. An appropriation of water, except for  
11 public water supply, shall be limited to stated purposes  
12 and subject to preferences of beneficial uses, con-  
13 current or otherwise, as prescribed by the Legislature.  
14 [; AND TO THE GENERAL RESERVATION OF FISH AND WILD LIFE.]

Access to  
Navigable  
Waters

15 Section [15] 14. Free access to the navigable  
16 or public waters of the State shall not be denied any  
17 resident of Alaska or citizen of the United States,  
18 except that the State may by general law regulate and  
19 limit such access for other beneficial or public purposes.

No Exclusive  
Right of  
Fishery

20 Section [16] 15. There shall be no exclusive  
21 right or special privilege of fishery created or authorized  
22 in the natural waters of the State.

Divestment  
of Rights

23 Section [17] 16. No person shall be involuntarily  
24 divested of his right to use of waters, his interests in  
25 lands, or improvements affecting either, except for a

1 superior beneficial or public use and then only with  
2 just compensation and by operation of law.

Private  
Ways of  
Necessity

3 Section [18] ~~17~~. Proceedings in eminent domain  
4 may be undertaken for private ways of necessity to  
5 permit essential access for extraction or utilization  
6 of resources [ . ] , and just compensation for such  
7 taking, as well as for the taking of or damages to  
8 inferior property rights, shall be made.

Residual  
Powers

9 Section [19] ~~18~~. The enumeration of specified  
10 powers shall not be construed as limitations on other  
11 implied powers of the State in relation to the  
12 utilization, development and conservation of natural  
13 resources, except as specifically provided herein.



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Constitutional Convention  
X/Resources/8/A/Enrolled  
January 19, 1956

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 8/A

Introduced by Committee on Resources

STATE LANDS AND NATURAL RESOURCES

*This date  
should have  
been Jan. 25.  
(see Journal)*

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3 maximum use and availability of its natural re-  
4 sources consistent with the public interest.

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5 Section 1. The State of Alaska shall consist  
6 of all the territory, together with the terri-  
7 torial waters appurtenant thereto, included in  
8 the territory of Alaska upon the date of ratifica-  
9 tion of this constitution by the people of Alaska.

General  
Authority

10 Section 2. The State of Alaska shall provide  
11 for the utilization, conservation and development  
12 of all of the natural resources belonging to the  
13 State, including land and waters for the maximum  
14 benefit of its people.

Committee Proposal No. 8/A Enrolled

Sustained  
Yield

1           Section 3. Forests, fish, wildlife, grass-  
2 lands and other replenishable resources belonging  
3 to the State shall be administered, utilized and  
4 maintained on the sustained yield principle,  
5 subject to preferences among beneficial uses.

General  
Reservations

6           Section 4. Fish, wildlife, and waters  
7 wherever occurring in their natural states, are  
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9           Section 5. Facilities, improvements and  
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11 utilization, development, reclamation and settle-  
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13 ment of the fisheries, wildlife and waters.

Uniform  
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14           Section 6. Laws and regulations governing  
15 the use or disposal of natural resources shall  
16 apply equally to all persons similarly situated  
17 with reference to the subject matter and purpose  
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19           Section 7. Sites, objects and areas of  
20 natural beauty or of historic, cultural,  
21 recreational or scientific interest may be  
22 acquired, preserved, and administered for the  
23 use, enjoyment and welfare of the people,  
24 under the laws of the State, and may be reserved  
25 from the State public domain.

State  
Public  
Domain

1           Section 8. Lands and interests therein,  
2 including submerged and tidal lands, possessed  
3 or acquired by the State, and not used or in-  
4 tended exclusively for governmental purposes,  
5 constitute the State public domain.

6           The Legislature shall make provision for  
7 the selection of lands granted to the State by  
8 the United States, and for the administration  
9 of the State public domain.

Leases

10           Section 9. The Legislature may provide for  
11 the leasing of and the issuance of exploration  
12 permits on any part of the public domain, or  
13 interests therein, subject to reasonable con-  
14 current uses.

15           Leases shall provide, among other conditions,  
16 for payment by the party at fault for damage or  
17 injury arising from noncompliance with terms  
18 governing concurrent use and for forfeiture in  
19 the event of breach of conditions.

Sales and  
Grants

20           Section 10. The Legislature may provide  
21 for the sale or grant of State lands or interests  
22 therein, and establish sales procedures subject  
23 to the following conditions:

24           All sales or grants of State land shall  
25 contain such reservations to the State of all

1 resources as are required by the Congress, or  
2 the State, and shall provide for access thereto;  
3 except that the reservation of access shall not  
4 impair the owners' use, prevent the control of  
5 trespass, nor preclude compensation for damage.

Public  
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6 Section 11. Disposals or leases of state  
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Mineral  
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11 Section 12. Discovery and appropriation  
12 shall be the basis for establishing a right in  
13 those minerals subject to location under the  
14 Federal mining laws in force upon the date of  
15 ratification of this Constitution by the people  
16 of Alaska and thereafter reserved to the State,  
17 as well as in all other metallic minerals re-  
18 served to the State. Prior discovery, location  
19 and filing shall, as prescribed by law, give  
20 prior right to such minerals and to issuance of  
21 permits, and transferable licenses, leaseholds,  
22 deeds, or patents if authorized by the Congress,  
23 and by the State, for the extraction thereof.  
24 Except as title to mineral lands shall have been  
25 conveyed by the State, continuance of such right

1 shall depend upon performance of annual labor, on  
2 payment of fees, rents, or royalties, or such  
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5 Surface use of such lands, by the mineral  
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11 oil, gas, oil shale, sodium, phosphate, potash,  
12 sulfur, pumice, and other minerals as may be  
13 prescribed by law.

14 Leases and permits giving exclusive right  
15 of exploration for specific periods and areas,  
16 subject to reasonable concurrent exploration as  
17 to different classes of minerals, may be  
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1           Section 17. Proceedings in eminent domain  
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8           Section 18. The enumeration of specified  
9           powers shall not be construed as limitations on  
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21 velopment, reclamation and settlement of lands, and fuller  
22 utilization and development of the fisheries, wildlife  
23 and waters.

Uniform  
Application

24 Section [ 7 ] 6. Laws and regulations governing  
25 the use or disposal of natural resources shall apply



1 equally to all persons similarly situated with reference  
2 to the subject matter and purpose to be served by the  
3 law or regulation.

Special Acqui-  
sitions and  
Purposes

4 Section [8] 7. Sites, objects, and areas of  
5 natural beauty or of historic, cultural, recreational or  
6 scientific interest may be acquired, preserved, and ad-  
7 ministered for the use, enjoyment and welfare of the  
8 people, under the laws of the State, and may be reserved  
9 from the State public domain.

State Public  
Domain

10 Section [9] 8. Lands and interests therein, in-  
11 cluding submerged and tidal lands, possessed or acquired  
12 by the State, and not used or intended exclusively for  
13 governmental purposes, constitute the State public domain.

14 The Legislature shall make provision for the [SELEC-  
15 TION AND ADMINISTRATION OF LANDS IN THE STATE PUBLIC  
16 DOMAIN.] selection of lands granted to the State by the  
17 United States, and for the administration of the State  
18 public domain.

Leases

19 Section [10] 9. The Legislature may provide for  
20 the leasing of and the issuance of exploration permits on  
21 any part of the public domain, or interests therein, sub-  
22 ject to reasonable concurrent uses.

23 Leases shall provide, among other conditions, for  
24 payment by the party at fault for damage or injury arising  
25 from noncompliance with terms governing concurrent use and

1 for forfeiture in the event of breach of conditions.

Sales and  
Grants

2 Section [11] 10. The Legislature may provide for  
3 the sale or grant of State lands or interests therein, and  
4 establish sales procedures subject to the following condi-  
5 tions:

6 All sales or grants of State land [OR INTERESTS THERE-  
7 IN] shall contain such reservations to the State of all  
8 [MINERAL OR WATER] resources as are required by the  
9 Congress, or the State, and shall provide for access  
10 thereto [AND TO ALL OTHER RESOURCES RESERVED TO THE  
11 PEOPLE] ; except that the reservation of access shall not  
12 impair the owners' [BENEFICIAL] use, prevent the control  
13 of trespass, nor preclude compensation for damage.

Public Notice  
and Other  
Safeguards

14 Section [12] 11. Disposals or leases of state lands  
15 or interests therein shall be preceded by such public  
16 notice and other appropriate safeguards of the public in-  
17 terest as the Legislature shall prescribe.

Mineral  
Rights

18 Section [13] 12. Discovery and appropriation shall  
19 be the basis for establishing a right in those minerals  
20 subject to location under the Federal mining laws in  
21 force [DURING THE YEAR 1955] upon the date of ratifica-  
22 tion of this Constitution by the people of Alaska and  
23 [NOW] thereafter reserved to the State, as well as in  
24 all other metallic minerals reserved to the State. Prior  
25 discovery, location and filing shall, as prescribed by

1 law, give prior right to such minerals and to issuance of  
2 permits, and transferable licenses, leaseholds, deeds, or  
3 patents if authorized by the Congress, and by the State,  
4 for the extraction thereof. Except as title to mineral lands  
5 shall have been conveyed by the State, continuance of such  
6 right shall depend upon performance of annual labor, on  
7 payment of fees, rents, or royalties, or such other require-  
8 ments as may be prescribed by the Legislature.

9 Surface use of such lands, by the mineral claimant,  
10 shall be limited to those necessary to either the extrac-  
11 tion or basic processing of mineral deposits.

12 The Legislature shall provide for the issuance, type,  
13 and terms of leases for coal, oil, gas, oil shale, sodium,  
14 phosphate, potash, sulfur, pumice, and other minerals as  
15 may be prescribed by law.

16 Leases and [PROSPECTING] permits giving exclusive  
17 right of exploration for specific periods and areas, sub-  
18 ject to reasonable concurrent exploration as to different  
19 classes of minerals, may be authorized for exploration  
20 conducted for coal, oil, gas, oil shale, sodium, phosphate,  
21 potash, sulfur, pumice, and other [NON-METALLIC] minerals  
22 as may be prescribed by law [; AND]. Like permits and  
23 leases may also be authorized by law for the use of geo-  
24 physical, geochemical and similar methods of prospecting  
25 for all minerals.

Water Rights

1 Section [14] 13. All surface and subsurface  
2 waters reserved to the people for common use, except  
3 mineral and medicinal waters, shall be subject to ap-  
4 propriation. Priority of appropriation shall give prior  
5 right. An appropriation of water, except for public water  
6 supply, shall be limited to stated purposes and subject  
7 to preferences [of] among beneficial uses, concurrent  
8 or otherwise, as prescribed by the Legislature, [; AND  
9 TO THE GENERAL RESERVATION OF FISH AND WILD LIFE.]

Access to  
Navigable  
Waters

10 Section [15] 14. Free access to the navigable or  
11 public waters of the State as defined by the Legislature  
12 shall not be denied any resident of Alaska or citizen of  
13 the United States, except that the State may by general law  
14 regulate and limit such access for other beneficial or  
15 public purposes.

No Exclusive  
Right of  
Fishery

16 Section [16] 15. There shall be no exclusive  
17 right or special privilege of fishery created or authorized  
18 in the natural waters of the State.

Divestment  
of Rights

19 Section [17] 16. No person shall be involuntarily  
20 divested of his right to use of waters, his interests in  
21 lands, or improvements affecting either, except for a  
22 superior beneficial or public use and then only with just  
23 compensation and by operation of law.

Private Ways  
of Necessity

24 Section [18] 17. Proceedings in eminent domain  
25 may be undertaken for private ways of necessity to permit

1 essential access for extraction or utilization of re-  
2 sources [.] , and just compensation for such taking,  
3 as well as for the taking of or damages to inferior  
4 property rights, shall be made.

Residual Powers

5 Section [19] 18. The enumeration of specified  
6 powers shall not be construed as limitations on other  
7 implied powers of the State in relation to the utilisa-  
8 tion, development and conservation of natural resources,  
9 except as specifically provided herein.

COMMITTEE PROPOSAL 8a AMENDMENTS

Line 8	page 1	✓	Correct transposition of spelling of "Alaska"
Line 21	page 3	✓	Strike comma after "use" and insert "and"
Line 22	page 3	✓	Place period after "conditions" and strike rest of sentence.
Line 26	"	✓	Substitute colon for semi-colon
Line 16	page 4	✓	After last word on line add "force during"
Line 18	"	✓	Change first word on line to "in"
<del>Line 18</del>	<del>"</del>	<del>✓</del>	<del>Following the word "minerals", "and building stone"</del>
Line 21	"	✓	After "permits", insert "and transferable"
Line 8	page 5	✓	"sulfur" instead of "sulphur"
Line 5	page 5	✓	Change "and" to "or"

Amendment No. 1

Constitutional Convention

By Com

Date Jun. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8A

MR. PRESIDENT:

I move that (Committee) Proposal No. \_\_\_\_\_ be amended

as follows:

P. 1 line + place period  
after "interest."  
Strike rest of #

approved  
4/12

Amendment No. 2

Constitutional Convention

By [Signature]

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. \_\_\_\_\_

MR. PRESIDENT:

I move that (Committee) Proposal No. 8A be amended

as follows:

Sec 4

P 2 Line 7

Strike comma after  
waters & insert

" as defined by the  
Legislature"

accepted  
M/C

revised  
1-25-56  
#4



Amendment No. 3

Constitutional Convention

By Com

Date Jun. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 89

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

Sec 11  
 P 4 Line 3  
 strike "mineral or water"  
 and strike on Lines  
 5 and 6 " and to all other  
 resources reserved to the  
 people" retain pericolon

approved  
M/C



Amendment No. 4

Constitutional Convention

By Com

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 89

MR. PRESIDENT:

I move that (Committee) Proposal No. 89a be amended

as follows:

Sec 11  
P 4

Line 7 \* strike

"beneficial"

accepted  
u/c

✓

Amendment No. 5

Constitutional Convention

By Committee

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

Section 13: page 4

lines 16 and 17 strike the words

"during the year 1955" and insert  
"upon the date of ratification of this  
constitution by the people of Alaska"

adopted  
u/c

Amendment No. 6

Constitutional Convention

By Committee

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

Section 13: page 5

line 10 - strike "prospecting"

accepted  
voice vote

Amendment No. 7

Constitutional Convention

By Committee

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 84

MR. PRESIDENT:

I move that (Committee) Proposal No. 84 be amended  
as follows:

*Section 14: page 5, line 25  
insert a period ~~be placed~~ after the  
word "Legislature" and strike the  
balance of the section*

*adopted  
M e*

Amendment No. 8

Constitutional Convention

By Davis

Date Jan. 18

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended as follows:

*Section 2: lines 14 & 15  
that the  
the words "belonging to the  
state" <sup>on line 15</sup> be placed after the word  
"resources" on line 14*

*adopted  
M/C*

Amendment No. 11

Constitutional Convention

By Duylor

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

*Strike Section "5"*

*adopted  
roll call*

✓

Amendment No. 14

Constitutional Convention  
By Com

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

Page 5  
Sec. 12

Line 15 insert period after  
"laws" and insert "Like permits  
and leases may also be  
authorized by law"  
strike word "and"

adopted  
voice vote



Amendment No. 16

Constitutional Convention

By Comm

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. \_\_\_\_\_

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows: Page 5

Sec. 13

Line 18

After the word "all"  
insert "surface and subsurface"

*adopted  
M/C*

✓

Amendment No. 17

Constitutional Convention  
By Com

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. \_\_\_\_\_ be amended  
as follows: Page 4

Sec 12

Line ~~17~~ 17

strike "now"

and substitute "thereafter"

W. J. C.

Amendment No. 18

Constitutional Convention

By Com

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 5a

MR. PRESIDENT:

I move that (Committee) Proposal No. \_\_\_\_\_ be amended

as follows:

P. 6

Sec. 187

Line 17

change period

to comma and add " and  
just compensation for such  
taking, as well as for the  
the taking of or damage to  
inferior property rights, shall  
be made

approved  
a/c

Amendment No. 20

Constitutional Convention

By Committee

Date Jan. 18, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

Sec. 16 - line 12 after word  
"only" insert the following  
"with just compensation and"

*adopted  
w/c*

Amendment No. 27

Constitutional Convention

By Com

Date Jan 18 02 19

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 9a

MR. PRESIDENT:

I move that (Committee) Proposal No. 9a be amended

as follows:

page 1  
Section two

Strike marginal title  
and substitute therefor:

" General  
Authority "

✓  
adopted  
M/C

Amendment No. 28

Constitutional Convention

By Com

Date \_\_\_\_\_

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows: P. 5

Sec 12  
line 4

insert "either" before "the"

✓

adopted  
M/C

Amendment No. 29

Constitutional Convention

By Com

Date \_\_\_\_\_

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. \_\_\_\_\_ be amended

as follows:

P 5

Sec. 12

Line 14

~~strike~~ "non-metallic"

adopted  
y/c

Amendment No. 30

Constitutional Convention

By Com

Date \_\_\_\_\_

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

Page 3

Line 8

Line 13

Strike lines 13 & 14 and  
insert in lieu thereof

"selection of lands ~~to be~~ <sup>granted</sup>  
~~to~~ ~~the~~ ~~State~~ ~~by~~  
the United States, and for the  
administration of the State  
public domain."

adopted  
4/10



Amendment No. 31

Constitutional Convention

By Com

Date \_\_\_\_\_

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

Page 5

Sec 13

Line 20

add after word "use", insert comma and  
"except mineral and medicinal waters"

*adopted  
voice vote*

*✓  
Approved  
and table  
amendment.*

Amendment No. 25

Constitutional Convention

By J. Committee

Date Jan. 19

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

~~Section 9 and Section 12~~

✓ page 3, line 16 after <sup>third</sup> word "of" <sup>on line</sup> add  
the words "and the issuance of  
exploration permits on"

Section 12, page 5 line 11 after the  
word "areas" insert a comma

✓ and add "subject to reasonable  
concurrent exploration as to  
different classes of minerals,"

adopted  
w/c

Amendment No. 1

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

Page 1

Line 10

✓ Strike "Now"

Line 11

Strike period and add "upon the date of ratification of  
✓ this Constitution by the people of Alaska".

✓

*adopted  
voice vote*

Amendment No. 2

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

Page 1 and 2

Section 2

Strike lines 15, 16 and 17 of page 1 and strike through  
"state," on line 1 of page 2.

*Adopted  
voice vote*

Amendment No. 3

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

Page 2

Line 6

Change period to comma and add:

"subject to preferences among beneficial uses"

✓

*Adopted  
voice vote*

Amendment No. 4

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

Page 2

Line ~~8~~ 7

strike "as defined by the Legislature" and insert same  
language on page 6, line 2 following word "State"

*adopted  
office note*

✓

Amendment No. 5

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

Page 4

Lines 1 and 2

strike "~~of~~ interests therein"

*adopted  
voice vote*

Amendment No. 6

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

Page 5

Line 20

*The* Insert follows "shall" instead of "use" and is set off by  
commas

*adopted  
voice vote*



Amendment No. 7

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended

as follows:

Page 5

Line 24

strike "of" and substitute "among"

*no effect  
voice vote*

Amendment No. 8

Constitutional Convention

By Committee

Date January 25, 1956

AMENDMENT TO (COMMITTEE) PROPOSAL NO. 8a

MR. PRESIDENT:

I move that (Committee) Proposal No. 8a be amended  
as follows:

*Page 3*

Transpose sections 7 and 8

*called to  
style +  
dropping  
etc.*

*Said copy*

ENGROSSED COPY

Constitutional Convention  
X/Resources/8/A/Engrossed  
January 19, 1956

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 8/A

Introduced by Committee on Resources

STATE LANDS AND NATURAL RESOURCES

RESOLVED, that the following be agreed upon as part of  
the Alaska State Constitution:

ARTICLE ON STATE LANDS AND NATURAL RESOURCES

Statement  
of Purpose

1 It is the policy of the State to foster and  
2 encourage settlement and development through the  
3 maximum use and availability of its natural resources  
4 consistent with the public interest. [AND THE AVOID-  
5 ANCE OF WASTE. TO THAT END IT IS THE INTENT OF THIS  
6 ARTICLE TO EXTEND TO ALL PEOPLES THE OPPORTUNITY OF  
7 PARTICIPATION IN ALASKA'S HERITAGE.]

State  
Boundaries

8 Section 1. The State of Alaska shall consist of  
9 all the territory, together with the territorial waters  
10 appurtenant thereto, [now] included in the territory of

11 Alaska. *[upon the date of ratification of this Constitution  
by the people of Alaska.]*

[STATE'S  
PROPRIETARY  
INTEREST]

12 Section 2 The State of Alaska shall provide for  
13 the utilization, conservation and development of all

General  
Authority

14 of the natural resources belonging to the State,

*leave unen-  
sured*

Committee Proposal No. 8/A Engrossed

*Note: - This was apparently engrossed after consideration on Jan. 19,  
altho it had not been referred to the Committee. It remained in  
second reading until Jan 25, when, after further amendment, it was referred to  
the Committee for agreement.*

1 including land and waters [ BELONGING TO THE STATE, ]  
2 [ in accordance with provisions of applicable acts of  
3 Congress, including the act admitting Alaska to the  
4 Union, this Constitution, and the laws of the State, ]  
5 for the maximum benefit of its people.

Sustained  
Yield

6 Section 3. Forests, fish, wildlife, grasslands  
7 and other replenishable resources belonging to the  
8 State shall be administered, utilized and maintained  
9 on the sustained yield principle [ ], *subject to preferences*

General  
Reservations

10 Section 4. Fish, wildlife, and waters ~~IV, II~~  
11 ~~as defined by the Legislature,~~ wherever occurring in  
12 their natural states. are reserved to the people for  
13 common use.

Fish and  
Game  
Management

14 [ SECTION 5. REGULATION AND ADMINISTRATION OF  
15 THE COMMERCIAL FISHERIES AND OF THE WILDLIFE, INCLUD-  
16 ING GAME FISH, SHALL BE DELEGATED TO A COMMISSION, OR  
17 TO SEPARATE COMMISSIONS, UNDER SUCH TERMS AS THE  
18 LEGISLATURE SHALL PRESCRIBE. ]

General  
Authorization  
for Facili-  
ties,  
Improvements  
and Services

19 Section [ 6 ] 5. Facilities, improvements and  
20 services may be provided to assure greater utilization,  
21 development, reclamation and settlement of lands, and  
22 fuller utilization and development of the fisheries,  
23 wildlife and waters.

Uniform  
Application

24 Section [ 7 ] 6. Laws and regulations governing  
25 the use or disposal of natural resources shall apply

*among beneficial uses.*

1 equally to all persons similarly situated with  
2 reference to the subject matter and purpose to be  
3 served by the law or regulation.

Special  
Acquisitions  
and Purposes

4 Section [8] 7. Sites, objects, and areas of  
5 natural beauty or of historic, cultural, recreational  
6 or scientific interest may be acquired, preserved, and  
7 administered for the use, enjoyment and welfare of the  
8 people, under the laws of the State, and may be  
9 reserved from the State public domain.

State Public  
Domain

10 Section [9] 8. Lands and interests therein,  
11 including submerged and tidal lands, possessed or  
12 acquired by the State, and not used or intended ex-  
13 clusively for governmental purposes, constitute the  
14 State public domain.

15 The Legislature shall make provision for the  
16 [SELECTION AND ADMINISTRATION OF LANDS IN THE STATE  
17 PUBLIC DOMAIN.] selection of lands granted to the  
18 State by the United States, and for the administration  
19 of the State public domain.

Leases

20 Section [10] 9. The Legislature may provide for  
21 the leasing of and the issuance of exploration permits  
22 on any part of the public domain, for interests therein,  
23 subject to reasonable concurrent uses.

24 Leases shall provide, among other conditions, for  
25 payment by the party at fault for damage or injury

1 arising from noncompliance with terms governing con--  
2 current use and for forfeiture in the event of breach  
3 of conditions.

Sales and  
Grants

4 Section [11] 10. The Legislature may provide  
5 for the sale or grant of State lands ~~or~~ interests  
6 therein ~~and~~ and establish sales procedures subject to the  
7 following conditions:

8 All sales or grants of State land [or interests  
9 therein] shall contain such reservations to the State  
10 of all [MINERAL OR WATER] resources as are required  
11 by the Congress, or the State, and shall provide for  
12 access thereto [AND TO ALL OTHER RESOURCES RESERVED  
13 TO THE PEOPLE] ; except that the reservation of access  
14 shall not impair the owners' [BENEFICIAL] use,  
15 prevent the control of trespass, nor preclude com-  
16 pensation for damage.

Public Notice  
and Other  
Safeguards

17 Section [12] 11. Disposals or leases of state  
18 lands or interests therein shall be preceded by such  
19 public notice and other appropriate safeguards of the  
20 public interest as the Legislature shall prescribe.

Mineral  
Rights

21 Section [13] 12. Discovery and appropriation  
22 shall be the basis for establishing a right in those  
23 minerals subject to location under the Federal mining  
24 laws in force [DURING THE YEAR 1955] upon the date  
25 of ratification of this Constitution by the people of

1 Alaska and [NOW] thereafter reserved to the State,  
2 as well as in all other metallic minerals reserved  
3 to the State. Prior discovery, location and filing  
4 shall, as prescribed by law, give prior right to such  
5 minerals and to issuance of permits, and transferable  
6 licenses, leaseholds, deeds, or patents if authorized  
7 by the Congress, and by the State, for the extraction  
8 thereof. Except as title to mineral lands shall have  
9 been conveyed by the State, continuance of such right  
10 shall depend upon performance of annual labor, on  
11 payment of fees, rents, or royalties, or such other  
12 requirements as may be prescribed by the Legislature.

13 Surface use of such lands, by the mineral claim-  
14 ant, shall be limited to those necessary to either the  
15 extraction or basic processing of mineral deposits.

16 The Legislature shall provide for the issuance,  
17 type, and terms of leases for coal, oil, gas, oil  
18 shale, sodium, phosphate, potash, sulfur, pumice, and  
19 other minerals as may be prescribed by law.

20 Leases and [PROSPECTING] permits giving ex-  
21 clusive right of exploration for specific periods and  
22 areas, subject to reasonable concurrent exploration  
23 as to different classes of minerals, may be authorized  
24 for exploration conducted for coal, oil, gas, oil shale,  
25 sodium, phosphate, potash, sulfur, pumice, and other

1 [NON-METALLIC] minerals as may be prescribed by law  
2 [; AND]. Like permits and leases may also be  
3 authorized by law for the use of geophysical, geo-  
4 chemical and similar methods of prospecting for all  
5 minerals.

Water  
Rights

6 Section [14] 13. All surface and subsurface  
7 waters reserved to the people for common use, except  
8 mineral and medicinal waters, shall be subject to  
9 appropriation. Priority of appropriation shall give  
10 prior right. An appropriation of water, except for  
11 public water supply, shall be limited to stated purposes  
12 and subject to preferences <sup>among</sup> [of] beneficial uses, con-  
13 current or otherwise, as prescribed by the Legislature.  
14 [; AND TO THE GENERAL RESERVATION OF FISH AND WILD LIFE.]

Access to  
Navigable  
Waters

15 Section [15] 14. Free access to the navigable  
16 or public waters of the State, <sup>as defined by the Legislature</sup> shall not be denied any  
17 resident of Alaska or citizen of the United States,  
18 except that the State may by general law regulate and  
19 limit such access for other beneficial or public purposes.

No Exclusive  
Right of  
Fishery

20 Section [16] 15. There shall be no exclusive  
21 right or special privilege of fishery created or authorized  
22 in the natural waters of the State.

Divestment  
of Rights

23 Section [17] 16. No person shall be involuntarily  
24 divested of his right to use of waters, his interests in  
25 lands, or improvements affecting either, except for a



1 superior beneficial or public use and then only with  
2 just compensation and by operation of law.

Private  
Ways of  
Necessity

3 Section [18] ~~17~~. Proceedings in eminent domain  
4 may be undertaken for private ways of necessity to  
5 permit essential access for extraction or utilization  
6 of resources [ . 7 ], and just compensation for such  
7 taking, as well as for the taking of or damages to  
8 inferior property rights, shall be made.

Residual  
Powers

9 Section [19] 18. The enumeration of specified  
10 powers shall not be construed as limitations on other  
11 implied powers of the State in relation to the  
12 utilization, development and conservation of natural  
13 resources, except as specifically provided herein.

Constitutional Convention  
Committee Proposal 8/a  
Date: January 16, 1956

ALASKA CONSTITUTIONAL CONVENTION  
REPORT OF THE COMMITTEE ON RESOURCES

Hon. William A. Egan, President  
Alaska Constitutional Convention

Your Committee on Natural Resources submits for consideration of the Convention the attached proposed Article No. 8, as a Committee Substitute for tentative committee Proposal No. 8 earlier submitted. Accompanying said Proposal is a revised Commentary.

The Committee has considered the following Delegate Proposals and reports on them as follows:

Sections 1 & 2 of Proposal 5 have been incorporated in part in the Committee Proposal.

Section 3 was not incorporated in the Committee Proposal and, in the Committee's opinion, might properly be considered by the Committee on Resolutions.

Section 13, Proposal No. 6 is believed to be more properly the concern of Finance, Ordinances and Transitional Matters.

In the Committee proposal matters proposed in delegate Proposal No. 7 are touched upon in part and the way left clear for such future Legislative action as may be desired.

The Committee recommends for reference to the Resolutions

Committee and to the next Territorial Legislature the proposition that the Territorial Legislature put in motion, through its Legislative Council or otherwise, a comprehensive study of necessary legislation in the resources field to implement this proposed Article. It is recognized that in most respects Legislation based on such study will be the province of the State Legislature, yet the Committee feels that the undertaking will be of such scope and magnitude that early attention should be given it.

Sections 5 & 6 of Proposal No. 9 are in part incorporated in Section 6 of the Committee Proposal.

Sections 6 & 7 of Proposal 17 are in substance incorporated in this Proposal.

Proposal 18 is in part incorporated in Section 10 of this Proposal.

Proposal 26 was considered beyond the province of the Committee and without the scope of the Constitution. However, the Committee recommends that the Convention adopt a suitable resolution addressed to appropriate Federal agencies now in position to remedy the situation which Proposal 26 seeks to reach.

Sections 1, 3, 4, and 5 of Proposal 30 are covered generally in this Proposal, while Sections 2 and 6 are not.

Proposal 32 is merged in this proposal.

Both before and since the submission of Proposal 33, the abolition of fishtraps received the Committee's searching attention. While the Committee Proposal does not mention traps, the Committee urges an expression in this respect by the Convention, and recommends that the Convention adopt an appropriate Resolution or Ordinance as a means of hastening the abolition of traps.

Respectfully submitted,

W. O. Smith, Chairman

Burke Riley

John C. Boswell

Ada B. Wien

Leonard King

B. D. Stewart

Peter L. Reader

Barrie M. White, Jr.

Truman C. Emberg

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 8/A

Introduced by Committee on Resources

STATE LANDS AND NATURAL RESOURCES

RESOLVED, that the following be agreed upon as part of  
the Alaska State Constitution:

ARTICLE ON STATE LANDS AND NATURAL RESOURCES

Statement  
of Purpose

1 It is the policy of the State to foster  
2 and encourage settlement and development through the  
3 maximum use and availability of its natural resources  
4 consistent with the public interest, [and the avoidance  
5 of waste. To that end it is the intent of this Article  
6 to extend to all peoples the opportunity of participa-  
7 tion in Alaska's heritage.]

State  
Boundaries

8 Section 1. The State of Alaska shall consist  
9 of all the territory, together with the territorial  
10 waters appurtenant thereto, [now] included in the

11 territory of Alaska. [upon the date of ratification of  
12 this Constitution by the people of Alaska.]

State's  
Proprietary  
Interest

13 Section 2. The State of Alaska shall provide  
14 for the utilization, conservation and development of

General  
Authority

15 all of the natural resources [including land and waters  
16 belonging to the State] in accordance with provisions

17 of applicable acts of Congress, including the act  
admitting Alaska to the Union, this Constitution, and

1 the laws of the State, ] for the maximum benefit of its  
2 people.

Sustained Yield 3 Section 3. Forests, fish, wildlife, grasslands  
4 and other replenishable resources belonging to the  
5 State shall be administered, utilized and maintained  
6 on the sustained yield principle. *subject to preferences as defined by the Legislature*

General Reservations 7 Section 4. Fish, wildlife, and waters <sup>among beneficial uses,</sup> wherever  
8 occurring in their natural states, are reserved to the  
9 people for common use.

Fish and Game Management 10 Section 5. Regulation and administration  
11 of the commercial fisheries and of the wildlife, in-  
12 cluding game fish, shall be delegated to a commission,  
13 or to separate commissions, under such terms as the  
14 legislature shall prescribe.]

General Authorization for Facilities, Improvements and Services 15 Section <sup>5</sup> 6. Facilities, improvements and  
16 services may be provided to assure greater utilization,  
17 development, reclamation and settlement of lands, and  
18 fuller utilization and development of the fisheries,  
19 wildlife and waters.

Uniform Application 20 Section <sup>6</sup> 7. Laws and regulations governing  
21 the use or disposal of natural resources shall apply <sup>to</sup>  
22 equally to all persons similarly situated with reference  
23 to the subject matter and purpose to be served by the  
24 law or regulation.

Special Acquisitions and Purposes

1 Section <sup>7</sup>8. Sites, objects, and areas of  
2 natural beauty or of historic, cultural, recreational  
3 or scientific interest may be acquired, preserved, and  
4 administered for the use, enjoyment and welfare of the  
5 people, under the laws of the State, and may be re-  
6 served from the State public domain.

State Public Domain

7 Section <sup>8</sup>9. Lands and interests therein, in-  
8 cluding submerged and tidal lands, possessed or  
9 acquired by the State, and not used or intended  
10 exclusively for governmental purposes, constitute  
11 the State public domain.

12 The Legislature shall make provision for the  
13 selection and administration of lands in the State  
14 public domain.

*selection of lands granted to the State by the United States, and for the administration of the State public domain.*

Leases

15 Section 10. The Legislature may provide for  
16 the leasing of any part of the public domain, or  
17 interests therein, subject to reasonable concurrent uses.

*and the issuance of exploration permits on*

18 Leases shall provide, among other conditions,  
19 for payment by the party at fault for damage or injury  
20 arising from noncompliance with terms governing con-  
21 current use <sup>and</sup> for forfeiture in the event of breach of  
22 conditions ~~and, generally, for enforcement of terms.~~

Sales and Grants

23 Section <sup>10</sup>11. The Legislature may provide for  
24 the sale or grant of State lands or interests therein,  
25 and establish sales procedures subject to the following  
26 conditions:

1 ✓ All sales or grants of State land or interests  
2 ✓ therein shall contain such reservations to the State  
3 ✓ of all mineral or water resources as are required by  
4 the Congress, or the State, and shall provide for  
5 ✓ access thereto, and to all other resources reserved  
6 ✓ to the people; except that the reservation of access  
7 ✓ shall not impair the owners' beneficial use, prevent  
8 the control of trespass, nor preclude compensation for  
9 damage.

Public  
Notice and  
Other  
Safeguards

10 Section 11. Disposals or leases of state  
11 lands or interests therein shall be preceded by such  
12 public notice and other appropriate safeguards of the  
13 public interest as the Legislature shall prescribe.

Mineral  
Rights

14 Section 12. Discovery and appropriation shall  
15 be the basis for establishing a right in those minerals  
16 ✓ subject to location under the Federal mining laws in force during  
17 ✓ the year 1955 ratification of the people and thereafter reserved to the State, as well as  
18 ✓ in ~~to~~ all other metallic minerals reserved to the State.  
19 Prior discovery, location and filing shall, as pres-  
20 cribed by law, give prior right to such minerals and  
21 ✓ to issuance of permits, and transferable licenses, leaseholds, deeds, or  
22 patents if authorized by the Congress, and by the State,  
23 for the extraction thereof. Except as title to mineral  
24 lands shall have been conveyed by the State, continuance  
25 of such right shall depend upon performance of annual

*upon the date of ratification of this constitution by the people of Alaska*



*Reasonable, concurrent exploration or to different*

1 labor, on payment of fees, rents, or royalties, or such  
2 other requirements as may be prescribed by the Legislature.

3 Surface use of such lands, by the mineral  
4 claimant, shall be limited to those necessary to <sup>either</sup> the  
5 extraction <sup>or</sup> and basic processing of mineral deposits.

6 The Legislature shall provide for the issuance,  
7 type, and terms of leases for coal, oil, gas, oil shale,  
8 sodium, phosphate, potash, ~~sulfur~~, pumice, and other  
9 minerals as may be prescribed by law.

10 Leases and [prospecting] permits giving exclusive  
11 right of exploration for specific periods and areas, <sup>subject to</sup> may  
12 be authorized for exploration conducted for coal, oil,  
13 gas, oil shale, sodium, phosphate, potash, sulfur,  
14 pumice, and other [non-metallic] minerals as may be  
15 prescribed by law; <sup>like permits and leases may also be</sup> and for the use of geophysical, <sup>authorized by</sup>  
16 geochemical and similar methods of prospecting for all  
17 minerals.

Water  
Rights

18 Section 13. All waters reserved to the <sup>surface and subsurface</sup> people for common use, <sup>except mineral and medicinal waters,</sup> shall be subject to appropriation.  
21 Priority of appropriation shall give prior right. An  
22 appropriation of water, except for public water supply,  
23 shall be limited to stated purposes and subject to  
24 preferences <sup>among</sup> [of] beneficial uses, concurrent or otherwise,  
25 as prescribed by the Legislature; [and to the general  
26 reservation of fish and wild life.]

Access to  
Navigable  
Waters

1 Section 14. Free access to the navigable or  
2 public waters of the State, *as defined by the Legislature* shall not be denied any  
3 resident of Alaska or citizen of the United States,  
4 except that the State may by general law regulate and  
5 limit such access for other beneficial or public purposes.

No Ex-  
clusive  
Right of  
Fishery

6 Section 15. There shall be no exclusive right  
7 or special privilege of fishery created or authorized  
8 in the natural waters of the State.

Divestment  
of Rights

9 Section 16. No person shall be involuntarily  
10 divested of his right to use of waters, his interests in  
11 lands, or improvements affecting either, except for a  
12 superior beneficial or public use and then only, *with just compensation* by *and*  
13 operation of law.

Private  
Ways of  
Necessity

14 Section 17. Proceedings in eminent domain  
15 may be undertaken for private ways of necessity to  
16 permit essential access for extraction or utilization

17 of resources, *and just compensation for such takings*  
*as well as for the taking of or damages to interests*

Residual  
Powers

18 Section 18. The enumeration of specified  
19 powers shall not be construed as limitations on other  
20 implied powers of the State in relation to the utiliza-  
21 tion, development and conservation of natural resources,  
22 except as specifically provided herein.

Constitutional Convention  
X/Resources/8/A  
January 16, 1956

ALASKA CONSTITUTIONAL CONVENTION

Commentary on Article on State Lands and  
Natural Resources

(Sec. 1 State Boundaries)

This is the same boundary statement set forth in H.R. 2535.

(Sec. 2 States' Proprietary Interest)

This section is a general grant of authority to the State for the utilization and development of all resources over which the State has a proprietary interest. This includes all game fish, wildlife, fisheries, waters and those lands and related land uses including mineral rights, etc., that may be acquired by the State through grants from the United States or by other means. Authority over private lands and resource interests is not provided in this Article except as that authority is generally reserved in Section 18.

(Sec. 3 Sustained Yield)

Sustained yield is recognized as a principle applicable to the administration of plant and animal life subject to the immediate authority of the State. This provision applies generally to wildlife and fisheries anywhere in the State and to the forests and other replenishable resources including grass which occurs on lands in the State public domain. This principle is qualified in terms of "the highest beneficial public use" in recognition of its not being in the public interest to preserve certain parasitic or predatory organisms destructive of more beneficial plant and animal life. The

reference of this section is to the State of Alaska, and not to any particular parcel of land or any particular body of water.

(Sec. 4 General Reservations)

Game fish, wildlife, fisheries, and water are recognized as belonging to the State so long as in a natural state. These resources are subject to a private right only when they have been acquired or utilized as provided by law. For example, a private person has no right to buy and sell wild animals in their natural state, but once an animal is taken in compliance with law, it becomes the property of the taker, subject to use or disposition within the law. This provision does not apply to the domestication of fur-bearing animals or other animals subject to intensive culture, to fish in private ponds, or to registered trap lines if authorized by law. The ownership of water is generally recognized as vesting in the state. Private rights can be acquired only to the use of water.

(Sec. 5 Fish and Game Management)

Management of fish and game resources, and the regulation thereof, are by this section to be the responsibility of a commission, or commissions. Composition and tenure of commissions is not mentioned, because the Committee did not wish to fix membership rigidly in the Constitution, and because the "staggered term" concept is firmly established in Alaska's Board system.

(Sec. 6 General Authorization for Facilities, Improvements and Services)

This general authorization is made to facilitate the development of the State's natural resources. In localities where lands

are susceptible to general agricultural development, the State would have authority to undertake improvements by providing roads or improvements on the land in preparation for settlement. Where improvements or facilities may be essential to the development of fisheries and water resources, the state would have the authority to undertake those developments. Such developments could require the services of technical specialists and advisors who can assist citizens of the State on technical problems involving the improvement of production and resource utilization in much the same way that the farm agent has worked on problems of agricultural production and the Forest Service has rendered aid to private owners of standing timber. The section is not, however, intended as an authorization for the State's entering business in competition with private industry.

(Sec. 7 Uniform Application)

This section is intended to exclude any especially privileged status for any person in the use of natural resources subject to disposition by the State.

(Sec. 8 Special Acquisition and Reservations)

General authority is granted the State to acquire special sites, objects or areas of scenic, historic, cultural or scientific or recreational interest, to reserve similar sites, objects or areas in the state public lands and to administer these special sites, objects, and areas for general public use. These sites, objects or areas might ultimately become state monuments or parks.

(Sec. 9 State Public Domain)

The State public domain is defined to include all lands and interests therein that are acquired by the State except for (1) lands used or intended to be used exclusively for governmental operations, and (2) those sites and areas that have been acquired or reserved for special scenic, historic, cultural, recreational, or scientific interest. The lands, and interests therein, in the State Public Domain may be disposed of in accordance with provisions of federal law, the State Constitution and State Law. Should terms of enabling legislation covering grants of lands to the State be modified before passage, the language of this section would avoid necessity of amending the Constitution.

General authority is granted to the Legislature to provide for the selection and administration of the State Public Domain. The Enabling Bill provides for State selection of granted lands. The Legislature is given general authority to provide for the general administration of the State public domain in order to assure maximum use and public benefit in the several uses of those lands.

(Sec. 10 Leases)

The Legislature is authorized to lease State lands or interests therein. In granting leases, the potential uses of the land are to be considered so that maximum benefit can be derived. Each lease shall state the particular use or uses to be made of the lands as well as the conditions of the use and the term or tenure of the lease in order to facilitate reasonable concurrent use by others if occasion arises. "Reasonableness" of concurrent uses

implies that possibilities of conflict in use should be kept to a minimum. Provisions of liability, forfeiture and other means of enforcement of the lease are to be provided in the instrument.

(Sec. 11 Sales and Grants)

Sales and grants of State lands and interests therein are generally authorized with provision for reservation of mineral rights and for reservations of access. The reservation of mineral rights is prompted by provisions of H.R. 2535, the current Enabling Bill.

Reservation of access is required on all grants or sales of state land so as to assure access to reserved mineral rights and to those resources generally reserved to the people by Section 3 of the proposal. While reserving access, the section explicitly provides that these rights of access shall not impair the owner's beneficial use, shall permit the control of trespass and allow for compensation for damages done to the owner of the land.

(Sec. 12 Public Notices and Safeguards of the Public Interest)

Certain safeguards of the public interest are essential in public land transactions. Such transactions may vary in importance from routine matters to those of substantial value. If general constitutional provisions impose too rigid requirements, the land administration can become hopelessly ensnarled in red tape. As a result this section of the Constitution provides for the Legislature to establish public notice, and other safeguards to protect the public interest. As requirements change and many transactions become routine, appropriate modifications can be made in procedures if rigid requirements are not specified in the Constitution itself.

(Sec. 13 Mineral Rights)

With the restrictions on the sale, grant or patent of mineral lands as provided in the proposed Enabling Bill and in Section 9 of the proposal, this section recognizes the established pattern of mining rights whether applied to a system of leaseholds or patents. This established system of mining law recognizes the preferential right of a prospector to a mineral deposit on the basis of discovery and appropriation. Appropriation involves both location and filing. All mining law requires continued beneficial use (assessment work) to maintain a mining claim.

These elements of mining law were described by Costigan in his standard works on American Mining Law when he stated, "They (mining laws) all recognize discovery followed by appropriation, as the foundation to the possessor's title and development by working as the condition of its retention". This conception underlies the statement of mineral rights contained in Section 13.

Exceptions to these general rules applicable to mineral rights have become recognized through the Federal Mineral Leasing Act of 1920, as amended, and other special legislation for Alaska. The fuel minerals of oil, gas, oil-shale, and coal and phosphates, potash and other non-metallic minerals have been developed under a lease system which involves exclusive right to prospect certain areas over a given period of time subject to payment of certain royalties if commercial development is undertaken. This is the reason for making exceptions of these non-metallic minerals and for the newer forms of geophysical and geochemical prospecting. Otherwise the



right of an ordinary prospector to search for mineral deposits is fully recognized and he is recognized as having a preferential right to the appropriate permit, license, lease or patent if possible, for the extraction of these mineral deposits. The prospector's preferential right would presumably be transferable in the same manner that a claim can be conveyed today.

Section 13 is so phrased as to permit patenting of claims on state land should Congress remove the anticipated restrictions and the Legislature so provide. However in adapting the ideas behind the Act of July 23, 1955 to Alaskan conditions, restrictions are placed upon claims and patents so that the surface uses of the land shall be limited to those uses necessary to the extraction and basic processing of mineral deposits. The land will be available for construction of mining works, the disposition of mining wastes and for the timber necessary in mine construction. However, forests on these lands would not be generally available to the mineral claimant. The further requirement of assessment work, operation, or payments is to assure that the lands claimed for mineral purposes will revert to public control when for example, mining has ceased, the mineral deposits have been exhausted or the property abandoned.

(Sec. 14 Water Rights)

This section provides for the prior-appropriation system of water rights generally used in the western states and in Alaska. The prior appropriation system recognizes the principle of "first come; first served", or "first in time; first in right" which is also

the basic principle of mining law. Here again the concept of appropriation involves filing an application for stated quantities of water for stated uses at specific locations. The preservation of a prior appropriation right to water requires continued beneficial use. Concurrent use is recognized to assure maximum utilization. Water used for the generation of hydro-electric power, for example, is also subject to appropriation for domestic consumption or other uses that do not conflict with those for which prior appropriations have been made. Appropriations are subject to the general reservation of fish and wildlife provided in Section 3 so that reservoirs shall not exclude fish and wildlife remaining in natural states from coming under the provision of their general reservation to the people.

Preference among beneficial uses is a basic provision found in the resource codes and constitutions of several of the Western States. Orders of preference are usually made for water uses such as domestic or industrial consumption, irrigation, fisheries, mining, hydro-electric power production, etc.

The provision for divestment of right allows eminent domain proceedings to be used in permitting a higher use only. As among users of the same order of priority, the power of condemnation cannot be used. Under this type of provision the state may have granted a mining lease for placer mining in a river bed. If the stream had important hydro-electric potentialities a power company might desire to use a site, which would cause the flooding of the mine. If the hydro-electric development was determined to be a higher beneficial

use, the mining properties might be acquired by appropriate legal action with just compensation for the interests and improvements of the conflicting mining use.

(Sec. 15 Access to Navigable Waters)

This section assures free access to the navigable waters of the state for "any person resident of Alaska or citizen of the United States." However, such access may be limited by other beneficial purposes such as the construction of dam or other water-works. Since the control of navigable waters is a Federal question within the province of Congressional authority, any actions taken by the Federal government would supersede this constitutional provision.

(Sec. 16 No Exclusive Right of Fishery)

This section is intended to serve as a substitute for the provision prohibiting the several right of fisheries in the White Act. Instead of using the terminology of that Act the purposes sought by it are given expression in a prohibition of exclusive right or special privileges of any person to the fisheries of the State.

(Sec. 17 Divestment of Rights)

This section, protecting any person from involuntary divestment of property rights and interests, is generally applicable to any established right and might be relied upon to protect persons who claim possessory rights to tidelands in coastal areas where substantial improvements have been made in docks, wharves or other waterfront facilities and homes.

(Sec. 18 Private Ways of Necessity)

This provision was borrowed from the Wyoming Constitution and modified to meet Alaskan conditions. The Wyoming provision states, "Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and for reservoirs, drains, flumes, or ditches on or across the lands of others for agricultural, mining, domestic or sanitary purposes, nor in any case without due compensation." In that arid state this provision was developed to assure access to water supply even though it might be necessary for a private person to secure easement across adjoining private lands. Since the adoption of the Wyoming Constitution, a number of western states have included a similar provision in their constitutions. Since the problem of essential access in Alaska is not limited to water supply as in Wyoming, this article makes only a general provision for the use of eminent domain proceedings to provide essential access for extraction and utilization of natural resources.

(Sec. 19 Residual Powers)

The Article on State Lands and Natural Resources is primarily concerned with the State's proprietary interests in the State public lands, waters, wildlife and fisheries. This section explicitly states that the other provisions in the Article on State Lands and Natural Resources shall not limit the exercise of the general police powers of the State to provide for the utilization, development and conservation of natural resources in general, including those in private ownership.

Regulation of stream pollution, the prohibition of fish-traps and fire control in timber areas are illustrations of action taken under general public police powers to provide for public health, safety or the general welfare which may affect resource development, utilization or conservation on both public and private lands.

Constitutional Convention  
Committee Proposal/8  
December 16, 1955

ALASKA CONSTITUTIONAL CONVENTION  
REPORT OF THE COMMITTEE ON RESOURCES

Hon. William A. Egan, President  
Alaska Constitutional Convention

Dear Mr. President:

Your Committee on Resources presents for your consideration and adoption its proposed Article on Resources.

The Committee proposal, while incorporating many of the ideas contained in Convention proposals, is a Committee proposal and is unanimously endorsed by the Committee.

A section by section commentary on the subject matter has been prepared by your Committee for the use of the Delegates to the Convention.

Respectfully submitted,

W. O. Smith, Chairman

Burke Riley

John Boswell

Ada B. Wien

Leonard King

B. D. Stewart

Peter R. Reader

Barrie M. White

Truman C. Emberg

CONSTITUTIONAL CONVENTION OF ALASKA

COMMITTEE PROPOSAL NO. 8

Introduced by Committee on Resources

STATE LANDS AND NATURAL RESOURCES

RESOLVED, that the following be agreed upon as part of  
the Alaska State Constitution:

ARTICLE ON STATE LANDS AND NATURAL RESOURCES

Statement	1	It is the policy of the State to
of Purpose	2	foster and encourage settlement and development
	3	through the maximum use and availability of its
	4	resources consistent with the public interest and
	5	the avoidance of waste, and to that end it is the
	6	intent of this Article to extend to all peoples the
	7	opportunity of participation in Alaska's heritage.
State's	8	Section 1. The State of Alaska has the power to
Proprietary	9	provide for the utilization, conservation and
Interest	10	balanced development of all of the natural resources,
	11	including aesthetic features, of the land and waters
	12	belonging to the State for the maximum benefit of
	13	its people.
Sustained	14	Section 2. Forests, fisheries, wildlife and
Yield	15	other replenishable resources belonging to the State

1 shall be administered, utilized and maintained on  
2 the sustained yield principle in order to achieve  
3 the highest beneficial public use.

General 4 Section 3. Game fish, wildlife, fisheries and  
Reservations 5 waters, wherever occurring in their natural states  
6 within the State or its jurisdiction, are reserved  
7 to the people for common use.

General 8 Section 4. Facilities, improvements and services  
Authorization 9 may be provided to assure greater utilization,  
for Facili- 10 development, reclamation and settlement of the State  
ties, Improve- 11 lands, and fuller utilization and development of the  
ments and 12 fisheries and waters of the State.  
Services

Uniform 13 Section 5. Laws and regulations made for the use  
Application 14 of natural resources shall bear equally on all persons  
15 similarly situated with reference to the subject  
16 matter and purpose to be served by the law or regula-  
17 tion.

Special 18 Section 6. Sites, objects, and areas of natural  
Acquisitions 19 beauty or of historic, cultural or scientific inter-  
and Purposes 20 est may be acquired, preserved, and administered for  
21 the use, enjoyment and welfare of the people, under  
22 the laws of the State.

State 23 Section 7. Lands and interests therein possessed  
Public 24 or acquired by the State, including submerged and  
Domain 25 tidal lands, and not used or intended exclusively for



1 governmental purposes or for reserved sites and  
2 areas, constitute the State public domain. Such  
3 lands and interests therein are to be held in  
4 trust for the people of the State. These lands and  
5 interests may be disposed of only in accordance with  
6 provisions of applicable acts of Congress, including  
7 the Act admitting Alaska to the Union, this Constitu-  
8 tion and the laws of the State.

9                   The Legislature shall make provision  
10 for the selection, classification and administration  
11 of lands in the State public domain, and the several  
12 uses thereof, in such manner as will give maximum  
13 use and public benefit.

Leases

14           Section 8. The Legislature may authorize the  
15 leasing of any lands and interests therein in the  
16 State public domain, subject to the following  
17 conditions:

18                   In granting leaseholds and in administer-  
19 ing the State public domain and interests  
20 therein, the various potential uses of the  
21 land shall be considered. Leases shall  
22 state use, conditions and tenure, to enable  
23 reasonable concurrent uses in the lands and  
24 waters of the State. The Legislature shall  
25 provide, among other conditions, for payment

1 by the party at fault for damage or injury  
2 arising from noncompliance with terms  
3 governing concurrent use, for forfeiture  
4 in the event of breach of conditions and,  
5 generally, for enforcement of terms.

Sales and  
Grants

6 Section 9. The Legislature may authorize the  
7 sale or grant of State lands or interests therein,  
8 subject to the following conditions:

9 All sales or grants of State land or  
10 interests therein shall contain such reserva-  
11 tions to the State of all mineral resources  
12 as are required by the Congress, access  
13 thereto, and access to all other resources  
14 generally reserved to the people; except  
15 that the reservation of access shall not  
16 impair the owners' full beneficial use,  
17 prevent the control of trespass nor preclude  
18 compensation for damage.

Public  
Notice and  
Other  
Safeguards

19 Section 10. Disposals or leases of state lands or  
20 interests therein shall be preceded by such public  
21 notice and other appropriate safeguards of the public  
22 interest as the Legislature shall determine. Each  
23 such transaction shall be subject to review or audit,  
24 as prescribed by law.

Creation of  
Mineral  
Rights

1 Section 11. Discovery and appropriation shall be  
2 the basis for establishing a right in those minerals  
3 heretofore subject to location under the Federal  
4 Mining Laws and now reserved to the State. Prior  
5 discovery and filing shall give prior right to such  
6 minerals and to issuance of permits, licenses, lease-  
7 holds, or patents if authorized by the Congress, for  
8 the extraction thereof. Continuance of such right  
9 shall depend upon beneficial use as prescribed by  
10 law.

11 Prospecting permits giving exclusive  
12 right of exploration for specific periods and areas  
13 may be provided for exploration conducted for coal,  
14 oil, gas, oil shale, sodium, phosphate, potash, sulfur,  
15 and other Mineral Leasing Act minerals and for the use  
16 of geophysical, geochemical and similar methods of  
17 prospecting for all minerals. Issuance, type, and  
18 terms of leases for coal, oil, gas, oil shale, sodium,  
19 phosphate, potash, sulphur and other Mineral Leasing  
20 Act minerals shall be as provided by Law.

21 Surface uses of the land shall be  
22 limited to those uses necessary to the extraction of  
23 the mineral deposits, and continuance of such right  
24 shall depend upon beneficial use as prescribed by  
25 law.

Creation of 1 Section 12. All surface and sub-surface waters,  
Water Rights 2 reserved to the people for common use, shall be  
3 subject to appropriation for beneficial use as  
4 prescribed by law. Priority of appropriation shall  
5 give prior right. An appropriation of water, except  
6 for municipal water supply, shall be limited to  
7 stated uses and be subject to concurrent appropria-  
8 tion for other beneficial uses and to the general  
9 reservation of fish and wildlife to the people for  
10 common use.

Access to 11 Section 13. Free access to the navigable waters of  
Navigable 12 the State shall not be denied any person resident of  
Waters 13 Alaska or of any State or Territory of the United  
14 States, except that the State may by general law  
15 regulate and limit such access for other beneficial  
16 or public purposes.

No Exclusive 17 Section 14. There shall be no exclusive right or  
Right of 18 special privilege of fishery created or authorized  
Fishery. 19 in the natural waters of the State.

Preferences 20 Section 15. The Legislature shall provide for  
Among Bene- 21 determination of the order of preference of the  
fical Uses 22 beneficial uses of the waters of the State and of  
23 the State public domain in order to realize the  
24 highest public purpose in terms of the potentialities  
25 of each locality. No person shall be involuntarily

1 divested of his right to use of waters, his interests  
2 in lands, or improvements affecting either, except  
3 for a superior beneficial or public use and then  
4 only by operation of law.

Private  
Ways of  
Necessity

5 Section 16. Proceedings in eminent domain may be  
6 undertaken for private ways of necessity to permit  
7 essential access for extraction or utilization of  
8 resources.

State  
Boundaries

9 Section 17. The State of Alaska shall consist of  
10 all the territory, together with the territorial  
11 waters appurtenant thereto, now included in the  
12 Territory of Alaska.

Residual  
Powers

13 Section 18. The specific provisions of this Art-  
14 icle shall not limit the powers of the State in re-  
15 lation to the utilization, development and conserva-  
16 tion of natural resources except as specifically  
17 provided herein.

ALASKA CONSTITUTIONAL CONVENTION  
Commentary on Article on State Lands and  
Natural Resources

(Sec. 1 States' Proprietary Interest)

This section is a general grant of authority to the State for the utilization and development of all resources over which the State has a proprietary interest. This includes all game fish, wildlife, fisheries, waters and those lands and related land uses including mineral rights, etc., that may be acquired by the State through grants from the United States or by other means. Authority over private lands and resource interests is not provided in this Article except as that authority is generally reserved in Section 18.

(Sec. 2 Sustained Yield)

Sustained yield is recognized as a principle applicable to the administration of plant and animal life subject to the immediate authority of the State. This provision applies generally to wildlife and fisheries anywhere in the State and to the forests and other replenishable resources including grass which occurs on lands in the State public domain. This principle is qualified in terms of "the highest beneficial public use" in recognition of its not being in the public interest to preserve certain parasitic or predatory organisms destructive of more beneficial plant and animal life. The reference of this section is to the State of Alaska, and not to any particular parcel of land or any particular body of water.

(Sec. 3 General Reservations)

Game fish, wildlife, fisheries and water are recognized as belonging to the State so long as in a natural state. These resources are subject to a private right only when they have been acquired or utilized as provided by law. For example, a private person has no right to buy and sell wild animals in their natural state, but once an animal is taken in compliance with law, it becomes the property of the taker, subject to use or disposition withing the law. This provision does not apply to the domestication of fur-bearing animals or other animals subject to intensive culture or the fish in private ponds. The ownership of water is generally recognized as vesting in the state. Private rights can be acquired only to the use of water.

(Sec. 4 General Authorization for Facilities, Improvements and Services)

This general authorization is made to facilitate the development of the State's natural resources. In localities where lands are susceptible to general agricultural development, the State would have authority to undertake improvements in providing roads or improvements on the land in preparation for settlement of the land. Where improvements or facilities may be essential to the development of fisheries and water resources, the state would have the authority to undertake those developments. Such developments could require the services of technical specialists and advisors who can assist citizens of the State on technical problems involving the

improvement of production and resource utilization in much the same way that the farm agent has worked on problems of agricultural production and the Forest Service has rendered aid to private owners of standing timber.

(Sec. 5 Uniform Application)

This section is intended to exclude any especially privileged status for any person in the use of natural resources subject to the disposition of the State.

(Sec. 6 Special Acquisition and Reservations)

General authority is granted the State to acquire special sites, objects or areas of scenic, historic, cultural or scientific interest, to reserve similiar sites, objects or areas in the state public lands and to administer these special sites, objects, and areas for general public use. These sites, objects or areas might ultimately become state monuments or parks.

(Sec. 7 State Public Domain)

This section defines the State public domain to include all lands and interests therein that are acquired by the State except for (1) lands used or intended to be used exclusively for governmental operations and (2) those sites and areas that have been acquired or reserved for special scenic, historic, cultural or scientific interests. The lands, and interests therein, in the State Public Domain are to be held in trust for the people of the state until disposed of in accordance with provisions of federal



law, the State Constitution and State Law. Should terms of enabling legislation covering grants of lands to the State be modified before passage, the language of this section would avoid necessity of amending the Constitution.

General authority is granted to the Legislature to provide for the selection, classification and administration of the State Public Domain. The Enabling Bill provides for State selection of granted lands. Classification, or examination by whatever means, will be the process whereby the State determines what lands it will wish to select. The Legislature is given general authority to provide for the general administration of the State public domain in order to assure maximum use and public benefit in the several uses of those lands.

(Sec. 8 Leases)

The Legislature is authorized to lease State lands or interests therein. In granting leases, the potential uses of the land are to be considered so that maximum benefit can be derived. Each lease shall state the particular use or uses to be made of the lands as well as the conditions of the use and the term or tenure of the lease in order to facilitate reasonable concurrent use by others if occasion arises. "Reasonableness" of concurrent uses implies that possibilities of conflict in use should be kept to a minimum. Provisions of liability, forfeiture and other means of enforcement of the lease are to be provided in the instrument.

(Sec. 9 Sales and Grants)

Sales and grants of State lands and interests **therein are** generally authorized with provision for reservation of mineral rights and for reservations of access. The reservation of mineral rights is prompted by provisions of the Enabling Bill. Mineral deposits in such lands shall be subject to lease by the State as the Legislature may direct.

The reservation of mineral rights in the proposal is in conformity with the proposed enabling bill, H.R. 2535, of the 84th Congress.

Reservation of access is required on all grants or sales of state land so as to assure access to reserved mineral rights and to those resources generally reserved to the people by Section 3 of the proposal. While reserving access, the section explicitly provides that these rights of access shall not impair the owner's full beneficial use, shall permit the control of trespass and allow for compensation for damages done to the owner of the land.

(Sec. 10 Public Notices and Safeguards)

Certain safeguards of the public interest are essential in public land transactions. Such transactions may vary in importance from routine matters to those of substantial value. If general constitutional provisions impose too rigid requirements, the land administration can become hopelessly ensnarled in red tape. As a result this section of the Constitution provides for the Legislature to establish public notice, review or audit and other safeguards to

protect the public interest. As requirements change and many transactions become routine, appropriate modifications can be made in procedures if rigid requirements are not specified in the Constitution itself.

(Sec. 11 Creation of Mineral Rights)

With the restrictions on the sale, grant or patent of mineral lands as provided in the proposed Enabling Bill and in Section 9 of the proposal, this section recognizes the established pattern of mining rights as applied to a system of leaseholds or limited patents. This established system of mining law recognizes the preferential right of a prospector to a mineral deposit on the basis of discovery and appropriation. Appropriation involves both location and filing. All mining law requires continued beneficial use (assessment work) to maintain a mining claim.

These elements of mining law were described by Costigan in his standard works on American Mining Law when he stated, "They (mining laws) all recognize discovery followed by appropriation, as the foundation to the possessor's title and development by working as the condition of its retention." This conception underlies the statement of mineral rights contained in Section 11.

Exceptions to these general rules applicable to mineral rights have become recognized through the Mineral Leasing Act of 1920 as amended. The fuel minerals of oil, gas, oil-shale and coal and phosphates, potash and other non-metallic minerals have been developed under a lease system which involves exclusive right

to prospect certain areas over a given period of time subject to payment of certain royalties if commercial development is undertaken. This is the reason for making exceptions of these non-metallic minerals and for the newer forms of geophysical and geochemical prospecting. Otherwise the right of an ordinary prospector to search for mineral deposits is fully recognized and he is recognized as having a preferential right to the appropriate permit, license or lease, for the extraction of these mineral deposits. The prospector's preferential right would presumably be transferable in the same manner that a claim can be conveyed today.

Section 11 is so phrased as to permit patenting of claims on state land should Congress remove the anticipated restrictions and the Legislature so provide. However in adapting the ideas behind the Act of July 23, 1955 to Alaskan conditions, restrictions are placed upon claims and patents so that the surface uses of the land shall be limited to those uses necessary to the extraction of the mineral deposits and so long as beneficial use is maintained. The land will be available for construction of mining works, the disposition of mining wastes and for the timber necessary in mine construction. However, forests on these lands would not be generally available to the mineral claimant. The further requirement of beneficial use is to assure that the lands patented for mineral purposes will revert to public control when for example, mining has ceased, the mineral deposits have been exhausted or the property abandoned, which situations would depend on legislative definition of "beneficial use".

(Sec. 12 Creation of Water Right)

This section provides for the prior-appropriation system of water rights generally used in the western states and in Alaska. The prior appropriation system recognizes the principle of "first come; first served", or "first in time; first in right" which is also the basic principle of mining law. Here again the concept of appropriation involves filing an application for stated quantities of water for stated uses at specific locations. The preservation of a prior appropriation right to water requires continued beneficial use. Concurrent use is recognized to assure maximum utilization. Water used for the generation of hydro-electric power for example is also subject to appropriation for domestic consumption or other uses that do not conflict with those for which prior appropriations have been made. Appropriations are subject to the general reservation of fish and wildlife provided in Section 3 so that reservoirs shall not exclude fish and wildlife remaining in natural states from coming under the provision of their general reservation to the people.

(Sec. 13 Access to Navigable Waters)

This section assures free access to the navigable waters of the state for "any person resident of Alaska or any state or territory of the United States." However such access may be limited by other beneficial purposes such as the construction of dam or other water-works. Since the control of navigable waters

is a Federal question within the province of Congressional authority, any actions taken by the Federal government would supersede this constitutional provision.

(Sec. 14 No Exclusive Right of Fishery)

This section is intended to serve as a substitute for the provision prohibiting the several right of fisheries in the White Act. Instead of using the terminology of that Act the purposes sought by it are given expression in a prohibition of exclusive right or special privileges of any person to the fisheries of the State.

(Sec. 15 Preferences Among Beneficial Uses)

This is a basic provision found in the resource codes and constitutions of several of the Western States. Orders of preference are usually made for water uses such as domestic or industrial consumption, irrigation, fisheries, hydro-electric power production, etc. With Alaska's diversity of conditions, provision was made to vary the determination of priorities of use according to the potentialities of any particular locality, area or region. Again this provision is limited in bearing on the waters of the State and on the State Public Domain where the state maintains its proprietary interest, and not upon private or federal land holdings.

The provision for divestment of right allows eminent domain proceedings to be used in permitting a higher use only. As among users of the same order of priority, the power of condemnation cannot be used. Under this type of provision the state may have granted a mining lease for placer mining in a river bed. If the

stream had important hydro-electric potentialities a power company might desire to use a site, which would cause the flooding of the mine. If the hydro-electric development was determined to be a higher beneficial use, the mining properties might be acquired by appropriate legal action with just compensation for the interests and improvements of the conflicting mining use.

The last sentence, protecting any person from involuntary divestment of property rights and interests, is generally applicable to any established right and might be relied upon to protect persons who claim possessory rights to tidelands in coastal areas where substantial improvements have been made in docks, wharves or other waterfront facilities and homes.

(Sec. 16 Private Ways of Necessity)

This provision was borrowed from the Wyoming Constitution and modified to meet Alaskan conditions. The Wyoming provision states, "Private property shall not be taken for private use unless by consent of the owner, except for private ways of necessity, and for reservoirs, drains, flumes, or ditches on or across the lands of others for agricultural, mining, domestic or sanitary purposes, nor in any case without due compensation." In that arid state this provision was developed to assure access to water supply even though it might be necessary for a private person to secure easement across adjoining private lands. Since the adoption of the Wyoming Constitution, a number of western states have

included a similiar provision in their constitutions. Since the problem of essential access in Alaska is not limited to water supply as in Wyoming this article makes only a general provision for the use of eminent domain proceedings to provide essential access for extraction and utilization of natural resources.

(Sec. 17 State Boundaries)

This is the same boundary statement set forth in H.R. 2535.

(Sec. 18 Residual Powers)

The Article on State Lands and Natural Resources is primarily concerned with the State's proprietary interests in the State public lands, waters, wildlife and fisheries. This section explicitly states that the other provisions in the Article on State Lands and Natural Resources shall not limit the exercise of the general police powers of the State to provide for the utilization, development and conservation of natural resources in general, including those in private ownership.

Regulation of stream pollution, the prohibition of fish-traps and fire control in timber areas are illustrations of action taken under general public police powers to provide for public health, safety or the general welfare which may affect resource development, utilization or conservation on both public and private lands.