

NOTE FROM THE EDITOR

The *Alaska Law Review* is pleased to present our December 2018 issue, which is the second in our thirty-fifth volume, and our biennial symposium issue. This issue commemorates our third symposium, which was held at the University of Alaska Anchorage on October 12, 2018. Entitled *60 Years Later: The Alaska Constitution, History in Context*, the symposium was designed to reflect on the successes and failures of the Alaska Constitution on its 60th anniversary. This issue features two speeches that were presented at the symposium, along with four articles related to the symposium topic. Additionally, the issue features two student notes, and finally, it contains recently unearthed “recollections” documenting the Alaska Constitutional Convention.

The Keynote Address, *The Alaska Constitution and the Future of Individual Rights*, was delivered by Erwin Chemerinsky, the 13th Dean of UC Berkeley School of Law. In his address, Dean Chemerinsky discusses how the Alaska Constitution operates to protect individual rights, and how these protections go beyond those offered by the U.S. Constitution. Dean Chemerinsky has been named by the *National Jurist* magazine as the most influential person in legal education in the United States and has a long-time connection to Alaska.

Our second speech comes from a panel discussion with William Hensley and John “Sky” Starkey, and is called *Alaska Native Perspectives on the Alaska Constitution*. This speech focuses on the perspective of Alaska Natives in the drafting and ratification of the Alaska Constitution and considers how to analyze constitutional issues with significant impact on Alaska Natives in light of their exclusion from the constitution-making process. Mr. Hensley is a former member of the Alaska Legislature and has had many other experiences which have given him a close look at how the constitution impacts the rights and lives of Alaska Natives. John “Sky” Starkey is a partner in the law firm Landye Bennett Blumstein LLP.

In *Alaska, The Last Statehood Constitution, And Subnational Rights And Governance*, Professor Robert Williams reflects on the general characteristics of U.S. subnational constitutions and locates the Alaska Constitution within the state constitutional tradition. Professor Williams is an expert in state constitutional law and is the Director of the Center for State Constitutional Studies at Rutgers, where he is also a Distinguished Professor at Rutgers University School of Law.

Our second article, *Of Time, Place, and the Alaska Constitution*, by G. Alan Tarr, offers historical perspective on the Alaska Constitution by comparing it with other state constitutions. It shows how the nature of the Alaska Constitution reflects the fact that it is the state's first constitution, that it is a western constitution, and that it is a mid-twentieth century constitution. Professor Tarr is an Emeritus Board of Governors Professor of Political Science at Rutgers University-Camden.

Alaska's Merit Selection Of Judges: The Council's Role, Past And Present, by Teri White Carns and Susie Mason Dosik, reflects on the Alaska Constitution's Judiciary Article and the state's merit selection system. Under this system, the Alaska Judicial Council reviews judicial applicants and offers recommendations about whether those applicants should be appointed and retained. This article describes the evolution of the Council's selection process and evaluates its effectiveness. Susie Dosik is an Administrative Attorney with the Alaska Judicial Council and Teri Carns is a Special Projects Coordinator at the Alaska Judicial Council.

In our fourth article, *Merit Selection of Judges in Alaska: The Judicial Council, The Independence of the Judiciary, and the Popular Will*, Walter L. Carpeneti and Brett Frazer also reflect on the Alaska Constitution's Judiciary Article and merit selection system. They focus on why the founders adopted the merit selection system, examine historical challenges to it, and assess its performance on the 60th anniversary of Alaska statehood. Walter L. Carpeneti was appointed to the Alaska Supreme Court in 1998 by Governor Tony Knowles and served as chief justice from 2009 to 2012, retiring in 2013. Brett Frazer earned a J.D. degree from the University of Michigan Law School in 2018, and a B.S. degree from the University of Alaska Anchorage in 2012. He is currently an associate at Latham & Watkins.

In our first student note, *Racing to Regulation: A Comparative Analysis of Virtual Currency Regulation in Alaska And the Proposed Alaska Money Services Act*, Carlos Manzano discusses recently proposed legislation that sought to create a framework for regulating virtual currency in Alaska. The note compares that proposal to existing virtual currency regulations in other states, and offers recommendations on how policymakers could enact virtual currency legislation that adequately balances technological innovation with consumer protection.

Our second student note, *Banishment Of Non-Natives By Alaska Native Tribes: A Response To Alcoholism And Drug Addiction*, was written by Halley Petersen. In this note, Ms. Petersen evaluates the legality of the practice of banishment as it is used by Alaska Natives against non-Natives. She argues that tribal jurisdiction should be expanded to allow tribal courts

to banish non-Natives for violations of drug and alcohol laws in order to improve access to justice, decrease the burden on state law enforcement, and improve welfare in rural Alaska communities.

Finally, this issue contains recollections of the Alaska Constitutional Convention, written by Alaska Judge Thomas Stewart. These writings describe the unique historical context surrounding the convention and are written with an insider's knowledge and perspective. Judge Stewart was a member of Alaska's Territorial House of Representatives, was Secretary for the Alaska Constitutional Convention in 1955-56, and served as a state senator in the first Alaska Legislature following statehood. Judge Stewart passed away in 2007, but these documents were recently unearthed and submitted to the *Alaska Law Review* by members of the Alaska Bar Association Historians Committee. These recollections were edited and arranged by Thomas Metzloff, a Professor of Law at Duke University School of Law.

This issue of the *Alaska Law Review*, as with all of our previous issues, is freely available on our website, alr.law.duke.edu. There, anyone can access PDFs of all of our content, which are both printable and searchable. We hope that you will visit our site, and continue to engage with the journal. We always welcome your comments, responses, and feedback; please feel free to email us at alr@law.duke.edu.

On behalf of my peers on the *Alaska Law Review* editorial staff, I hope that you enjoy this issue. It is a privilege to participate in this service for the Alaskan legal community. We thank the Alaska Bar Association for its confidence in Duke University School of Law, and thank all of our readers for your interest and support.

Bradley Russian
Editor-in-Chief, 2018-2019