Colorado Judicial Merit Selection—A Well-Deserved 40th Anniversary Celebration

by Gregory J. Hobbs, Jr.

Colorado is remarkable for its beauty, its tradition of independent thought, and its method of selecting judges. Forty years ago, in November 1966, Colorado voters adopted a constitutional amendment for the merit selection of judges.[1] Repeated efforts from 1939 to 1966 ultimately led to this accomplishment.

As a result, unlike in some other states, a lawyer aspiring to become a Colorado judge need not obtain the nomination of a political party, raise funds, campaign for office, or be elected in a partisan race over a rival candidate.

As a result, no judge may hold office in any political party organization, or contribute to or campaign for any political party or candidate for political office.[2]

As a result, no litigant in a Colorado court needs to fear that the opposing party was a contributor to the judge's campaign and enjoys special status.

As I write this article, plans are proceeding for a year-long educational celebration of Colorado's judicial merit selection system, to begin on May 1, when the Colorado Supreme Court holds oral arguments at Durango High School. The celebration will continue statewide through April 30, 2007. *See* the "Honorary Proclamation" regarding the fortieth anniversary celebration of the Merit Selection System, signed by Colorado Governor Bill Owens, printed on page 12.

I am pleased to present this historical synopsis of how the 1966 constitutional amendment came to be adopted. Those who preceded us worked long and hard for a judicial system of which all Colorado citizens can be proud.

Colorado is one of thirty-two states that use nominating commissions to help the Governor select judges.[3] Some of these states use commissions only to select their appellate judges. Colorado is among the fifteen states whose commissions make nominations for trial courts of general jurisdiction.

During ten years of service, I have had the privilege of chairing twenty-seven local judicial nominating commissions for county and district court judges. It is very satisfying to see how deliberately and conscientiously the lawyer and non-lawyer members of these commissions go about their very important work of selecting nominees for judicial office.

Ultimately, the commissioners must answer two fundamental questions during their deliberations: "Is this person qualified to serve as a judge?" and "Who among these applicants are the most qualified persons for nomination?" In making their nominations to the Governor, these commissions focus on the reputation each applicant does or does not enjoy within the legal profession and in the larger community—for intelligence, hard work, honesty, humility, patience, fairness, and prior public service.

Merit Selection Under 1966 Constitutional Amendment

Under the 1966 amendment, when a vacancy occurs, a statewide commission composed of eight non-lawyers and seven lawyers considers applicants for justice of the Colorado Supreme Court or judge of the Colorado Court of Appeals. Local judicial district nominating commissions comprising four non-lawyers and three lawyers take applications for district or county court judge. Under the Colorado Constitution, Denver County Court judges are selected by a separate nominating commission and appointed by the Mayor, as set forth in the Denver City Charter.[4]

Nominating Commissions

The Governor appoints the non-lawyers to the nominating commissions; the Governor, Attorney General, and Colorado Supreme Court Chief Justice jointly appoint the lawyers. These are the conditions under which commission appointments are made:

- No voting member of the commission may hold any elective public office or political office.
- No more than half of the members of the commission plus one can be members of the same political party.
- Commissioners serve only one six-year term and do not receive a salary.
- A member of the nominating commission may not apply to be a judge during his or her term as a commissioner.
- A Colorado Supreme Court Justice serves as *ex officio* chair of each of the district commissions, without a vote.
- Colorado Supreme Court Chief Justice serves as *ex officio* chair of the Colorado Supreme Court and Colorado Court of Appeals nominating commission, without a vote.[5]

Hon. Gregory J. Hobbs, Jr. was appointed to the Colorado Supreme Court by Governor Roy Romer on April 18, 1996. He began his law career as clerk to Judge William E. Doyle of the U.S. Court of Appeals for the Tenth Circuit. Prior to his appointment to the Bench, he was a practitioner of water, environmental, land use, and transportation law for twenty-five years.

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Appointments by Governor

The two or three persons nominated for county or district judge stand before the Governor for appointment, as do the three persons nominated for the Colorado Court of Appeals or Supreme Court. The Governor has fifteen days in which to make the appointment from this list. If this time has expired without an appointment, the Chief Justice of the Colorado Supreme Court makes the appointment from the list.[6] Those appointed to serve must have been licensed Colorado lawyers for five years. Judges and justices cannot practice law while serving in office and cannot hold any other public office.[7] However, a non-lawyer can be appointed to serve as a part-time county judge in less-populated counties.[8]

Terms

The appointed judicial officers serve for at least two years, then must stand for a "yes" or "no" retention vote at the next general election. A majority of those voting is required for retention. If retained, the justice or judge serves the following term of years:

- Ten years for Supreme Court Justice[9]
- Eight years for Court of Appeals Judge[10]
- Six years for District Court Judge[11]
- Four years for County Court Judge.[12]

At the end of the term, the justice or judge again can stand for retention to another term, but may not serve in office past his or her 72nd birthday.[13] If a justice or judge is not retained by a majority of those voting on the question of retention, the citizen commission convenes to select nominees to fill the office.[14] Retirement or resignation of a justice or judge also prompts convening the commission.[15] The Chief Justice may appoint a retired justice or judge to perform temporary judicial duties.[16]

Commission on Judicial Discipline

An independent commission on judicial discipline reviews complaints against judges and may institute disciplinary or removal proceedings for violation of the Code of Judicial Conduct. This commission also may retire a judge for disability of a permanent character interfering with performance of duties.[17] These provisions were patterned after the California system for investigation and removal of judges for willful misconduct, failure to perform duties, and intemperance.[18]

Merit Selection Versus Partisan Politics

Obtaining passage of the 1966 merit selection amendment was a long time coming. From statehood in 1876, partisan politics had been the selection method.[19] The Governor filled any judicial vacancy that occurred by retirement, resignation, or death, typically from his own party. Then, the judge became subject to a contested election.

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In 1934, the American Bar Association ("ABA") took its first stand in favor of non-political merit selection of judges. In 1939, the Colorado Bar Association ("CBA") began a twenty-six-year effort toward making such a change.

On October 10, 1939, CBA President William R. Kelly appointed a committee to study the "problem of improving the method of selection of judges in Colorado."[20] However, this great reform happened three decades later only through a much broader community effort.

"The very backbone of effective administration of law is an honest and competent judiciary."[21] This is how the CBA introduced its 1940 Annual Report, discussing improvement of judicial selection. William Lee Knous of the Colorado Supreme Court, later a Colorado U.S. District Court Judge, pointed out that Missouri was proposing to its voters that very year a system of nominations by non-partisan, non-salaried commissions, with the Governor appointing from a list of three nominees. Missouri's successful proposal was based on recommendations of the ABA Selection and Tenure Committee, headed by John Perry Wood.

Justice Knous warned lawyers of the "popular prejudice" against them. To reform judicial selection, he said, would take a plan "acceptable to the cross-section of the whole citizenry."[22] In Missouri, he emphasized, the proposed amendment was being sponsored by the Missouri Institute for the Administration of Justice, "composed of lawyers and laymen in all walks of life."[23]

CBA Committee on Judicial Selection

At the 1940 annual convention, the CBA Committee on Judicial Selection reported to the CBA Board of Governors its recommendation to replace the partisan political method of selecting judges. The committee's reasons for change in 1940 embody those repeated in every effort over the next twenty-six years, culminating in Colorado voter adoption of the 1966 constitutional amendment. In the committee's own words:

> Each member of this committee believes that the present method of selecting judges for the various courts in Colorado can be improved. Each believes that our judges should not want or be required to speak on controversial political issues that they, at a later date, may be called on to consider as part of their official duties. Each believes that the judiciary should be removed from partisan politics, insofar as it is possible.
>
> The evils of the political system are well known and need not be dwelt upon. We believe it self-evident that a judge should not be called on to spend his time upon political questions, should be free from the demands of politics and political pressures. A judge should not be required to submit him-

self to the ordeal of seeking office on a political basis. Political skill is not a necessary attribute of a good judge.

As a result your committee has reached the conclusion that the Colorado Bar Association should devote its efforts to the formulation of a plan for the non-partisan selection of judges.[24]

John Perry Wood addressed the CBA annual convention in 1941. He called for a system of judges whose service is "removed from all temptation to color their judgments according to personal interest." Those with their eyes "on the next election" are subject to "the urge of self interest" and have rendered "the backward-looking decisions."[25] With this resounding keynote, the Board of Governors authorized the Committee on Judicial Selection to "enter into conferences with various elements of the state such as women's groups, labor organizations, professional and commercial clubs, and the press" to organize an effort to submit a merit selection amendment to the electorate.[26]

CBA Judiciary Committee

In 1945, the CBA Board of Governors established the Judiciary Committee, first headed by Philip S. Van Cise. Its recommendations were approved by the CBA at its October 1947 convention and submitted to the 1949 General Assembly.[27] These recommendations included establishment of non-partisan commissions to nominate "according to merit and without regard to political party affiliations, persons for appointment" to judicial office by the Governor.[28] Retention elections would be held at the end of specified terms, should the judge wish to continue serving. Mandatory retirement would occur at the age of 75.[29] The 1949 Colorado General Assembly killed resolutions S.C.R. No. 2 and H.C.R. No. 1, which would have referred this constitutional amendment to the people.[30]

Sustaining the Vision Amidst More Failed Attempts

At its October 1953 annual convention, CBA President Jean S. Breitenstein praised the successful work of the CBA Judiciary Committee, under the chairmanship of Merrill A. Knight, in obtaining placement of Amendment No. 1 on the 1952 Colorado General Election ballot.[31] Approved by the voters, this amendment removed the prohibition against increases in judicial salary during a judge's term in office. Based on this success, Breitenstein called on the Bar to "take the lead in advocating appropriate legislation for the non-political selection of judges. Advantage should be taken of the current trend favoring such change in the judicial system."[32]

At the 1954 General Election, the toll electoral politics can take on a sitting judge for making one unpopular decision demonstrated itself dramatically. A month prior to the election, Chief Justice Mortimer Stone authored a 4–3 opinion holding Denver's Dillon Reservoir on the Blue River to be junior in priority to the downstream Green Mountain Reservoir of the Colorado Big Thompson Project. The Denver Water Department and the Denver press campaigned vehemently against Stone for re-election because of this decision, endorsing his opponent.[33] The Chief Justice was turned out of office. Lawyer Leonard Campbell later said at a Supreme Court commemoration of Stone, "[N]ever was it more clearly demonstrated that there was a deficiency in the elective process that did not return him to office."[34]

With this raw example of how to beat a judge who decides against you, while intimidating those who might think about doing so in the future, the CBA Judiciary Committee[35] renewed its efforts under the leadership of Peter H. Holme, Jr. Preparing for an attempt to have the 1957 General Assembly refer a judicial merit selection amendment to the people, Holme argued that "selection of the specialists to whom our liberties and the very integrity of our form of government are entrusted" should not be left to "the most able headline hunter or the one who by sheer chance happens to bear the label of the political party currently in favor."[36] He pointed out that many of the persons who probably would make the best judges would never agree to run in a political race. "A political court system," he argued, rewarded "ward heeler" patronage of clerks, bailiffs, constables, and jury commissioners through a "spoils system."[37]

However, Holme also recognized that "many sincere people" believed that ending the partisan election system "disenfranchises" the voter. He responded that "the voter does not select the candidates—the political party inner sanctum does that."[38] The proposed plan for retention elections still would allow the voter the right to remove any judge who failed to do his or her duty.

The 1957 legislature postponed consideration of the merit selection proposal to the 1958 session.[39] The 1958 legislature created a short-term judicial council to study the proposal.[40] Despite CBA hopes that the judicial council would become a permanent entity and would recommend adoption of the merit selection system, the 1959 legislature allowed the council to go out of existence and assigned study of judicial reform proposals to the Legislative Council.[41]

Turning to the Community

In 1960, CBA Judiciary Committee Chair Benjamin F. Stapleton, Jr. observed that "the Bar Association could not by itself bring about an amendment to the judicial article which would include the non-partisan selection of judges."[42] Thus, the Board of Governors had authorized the Judiciary Committee "to enlist the aid of other lay groups in the formation of a lay committee to bring about the non-partisan selection of judges."

In the short term, with Clyde O. Martz as Chair of the Judiciary Committee, the CBA turned its efforts to supporting 1962 Constitutional Amendment No. 1, which the voters adopted to reorganize the courts.[43] Meanwhile, efforts to involve a larger segment of the community in the merit selection proposal began.

In November 1963, a meeting of 100 leading Colorado citizens was convened to consider non-political judicial selection and tenure. It was sponsored by the Joint Committee for the Effective Administration of Justice, the University of Colorado ("CU") School of Law, the University of Denver ("DU") College of Law, the American Judicature Society, and the CBA.

This conference included a presentation by Jim Carrigan, then a CU Associate Professor of Law, who challenged the participants to consider "what system of judicial selection will produce for our state the most qualified and dedicated judges?"[44] The system recommended for Colorado in this conference was based on the 1962 ABA "Model Judicial Article for State Constitutions." It recommended a merit selection system based on independent commission nominations; Governor appointment from the list; "yes" or "no" retention vote by the electorate for a term of years after serving two to three years in the judicial of-

fice; a mandatory retirement age; and a process for retirement, discipline, and removal of judges.[45]

Experimenting with using a nomination approach, Governor John A. Love appointed a voluntary committee comprising lawyers and non-lawyers to select three candidates for appointment to a Colorado Supreme Court vacancy. From the list presented, Governor Love selected District Judge Hilbert Schauer to the Court; his service as a justice began January 29, 1965.[46]

Citizens Adopt Judicial Merit Selection

In support of a statewide effort to enact the merit selection amendment, the CBA and the Denver Bar Association collaborated in 1965 to form the Joint Committee on Judicial Selection and Tenure, led by Raphael Moses and William W. Gaunt.[47] This committee worked with interested groups outside the legal profession to establish the Citizens Committee for Non-Political Courts, a non-profit organization headed by Dr. William Ross, retired President of Colorado State College in Greeley. Its purpose was to win the General Assembly's and electorate's approval of the merit selection amendment.[48] Ross was supported by a strong Executive Committee that included Dr. Chester M. Alter, DU Chancellor; Dr. Robert L. Stearns, CU President; Houstoun Waring, publisher of the *Littleton Independent*; Farrington Carpenter; and Eugene H. Adams. Francis M. Bain served as Executive Secretary.[49]

The 1966 General Assembly session again defeated a resolution to refer the judicial merit selection amendment to the voters.[50] The Colorado League of Women Voters, along with the Colorado Medical Association and the CBA,[51] then endorsed the voter petition drive that resulted in collecting more than 47,000 signatures and placing Amendment No. 3 on the 1966 General Election ballot.[52]

Leading up to the election, the newspapers were full of articles, editorials, and pro-and-con letters to the editor about Amendment No. 3. For example, *The Denver Post* endorsed the Amendment,[53] as did the *Boulder Daily Camera*.[54] The *Rocky Mountain News*[55] and *The Daily Journal*[56] opposed it.

Justice Tom C. Clark of the U.S. Supreme Court came to Colorado to urge its adoption. He was quoted as saying, "[T]here's almost universal agreement that the merit selection system produces a higher quality of judge than the election system."[57] Dr. Chester M. Alter added: "When political considerations override an objective approach to the law, which is our ultimate safeguard, the rights of all will be placed in extreme jeopardy."[58]

The two principal arguments voiced most often against the amendment by its opponents were: (1) judges would no longer be accountable to the people as they would be in a contested race; and (2) the Governor would have too much influence because of his role in selecting members of the nominating commissions and then making the actual appointment. The two leading counterarguments by its supporters were: (1) partisan politics is not a good way of selecting persons who should concentrate on their decisions rather than campaigning for office; and (2) the nominating commissions would be independent and have the motivation of studying and selecting the best persons who applied for the office.

On November 8, 1966, Colorado voters approved the judicial merit selection system constitutional amendment by a vote of 293,771 to 261,558.[59] "We sincerely hope Amendment No. 3 will prove to be as successful to the public as the Colorado Bar Assn. assures us it will be," was the statement printed in the *Rocky Mountain News*.[60]

Looking back on only five years of experience under the new method, Colorado Supreme Court Justice Donald E. Kelley wrote:

> [T]he merit system does produce competent and well-qualified judges [and has] a wholesome effect on the judicial performance of the holdover judges as well. . . . The new system contemplates that judges shall devote full time to their vocation. Current day case loads require no less. . . . Under the partisan political system, a judge was a Democrat or a Republican first, last and always, and was not permitted to forget it between elections."[61]

Looking Forward

Access to fair and impartial justice under the constitutions and laws of the United States and the state of Colorado is the most fundamental purpose of the legal profession and the judiciary. Thanks to the voters of Colorado, we have a judicial selection and tenure system that lends itself to this great work.

Judges are not subject to currying favor with political party officials or financial contributors. They stand for review and comment by a judicial performance commission[62] based on how they have conducted themselves in office. They serve a term of specified years and may serve additional terms, subject to the oversight of voter approval and mandatory retirement at age 72.

One actually can consider being a judge in Colorado as the professional continuum of being a lawyer who has served clients well and now wishes to have the responsibility of being a decision-maker. Following their applications to a judicial nominating commission, lawyers can know within a short period of time whether they have been nominated and appointed. They can leave their law practices and devote themselves, in the maturation of their careers, by serving as a judge among respected judges.

Best of all, a judge appointed through merit selection does not have to consider what interest group might be offended or benefited when making a decision. The judge listens to the evidence, studies the law, and concentrates on rendering fair and impartial judgment in the case. This is what the voters intended in adopting the 1966 amendment; and this is what Colorado citizens, forty years later, have every right to celebrate.

NOTES

1. Constitutional Amendments and a Referred Law submitted to and adopted by the People at the General Election, Nov. 8, 1966, 1967 Colo. Sess. Laws, ch. 455, 5-10 (1966 supplement) (amending Colo. Const. art. VI).

2. Colo. Const. art. VI § 18. Canon 7 of the Code of Judicial Conduct implements this provision of the Constitution.

3. Larry C. Berkson, updated by Rachel Caufield, "Judicial Selection in the United States: a Special Report" 5-7; "Judicial Merit Selection: Current Status, American Judicature Society" (2003). *See* http://www.ajs.org/js/materials.htm.

4. Colo. Const. art. VI § 26.

5. Colo. Const. art. VI § 24.

6. Colo. Const. art. VI § 20(1).

7. Colo. Const. art. VI § 18. Part-time county judges who are licensed Colorado lawyers may practice law, subject to the conditions contained in CRS § 13-6-204(2) and Canon 8 of the Colorado Code of Judicial Conduct.

8. CRS § 13-6-203(3).

9. Colo. Const. art. VI § 7.

10. CRS § 13-4-104(1).

11. Colo. Const. art. VI § 10 (2).

12. Colo. Const. art. VI § 16; CRS § 13-6-205.

13. Colo. Const. art. VI § 23(1).

14. Colo. Const. art. VI § 25.

15. Colo. Const. art. VI § 23(3)(f).

16. Colo. Const. art. VI § 5(3).

17. Colo. Const. art. VI § 23(3).

18. Legislative Council of the Colorado General Assembly, "An Analysis of 1966 Ballot Proposals," Research Publication No. 110 (1966) at 13.

19. Colo. Const. art. VI § 6 (repealed).

20. Colorado Bar Association ("CBA") 1940 Annual Report at 271.

21. *Id.* at 99, 123, 130.

22. *Id.* at 131.

23. *Id.* at 132.

24. *Id.* at 272-73.

25. 18 *Dicta* No. 10, 271 (Oct. 1941).

26. *Id.*

27. 25 *Dicta* No. 1, 1-2 (Jan. 1948). The Judiciary Committee's Plan for the 1949 General Assembly, as reported by Stanley H. Johnson, is set forth in 25 *Dicta* No. 12, 281-89 (Dec. 1948).

28. Philip S. Van Cise, "The Colorado Judicial System—Can It And Should It Be Improved?" 22 *Rocky Mountain L.Rev.* 142, 157-59 (1950).

29. *Id.* at 159.

30. Senate Journal of the Thirty-seventh Legislature of the State of Colorado 77-84, 1228 (1949); House Journal of the Thirty-seventh General Assembly of the State of Colorado 101-108, 1527 (1949).

31. CBA 1953 Annual Report at 7.

32. *Id.* at 5.

33. Gregory J. Hobbs, Jr., "State Water Politics Versus an Independent Judiciary: The Colorado and Idaho Experiences," 5 *U. Denv. Water L.Rev.* 122, 131-136 (2001).

34. Proceedings in the Supreme Court of Colorado, Friday, April 14, 1978, "To honor the memory of the late Honorable Mortimer Stone as a Justice and Chief Justice of the Court," 195 Colo. (1978) (un-paginated preface). In 1966, Campbell served as co-chair with William Gaunt of the Committee on Judicial Selection and Tenure, which was instrumental in the adoption of the 1966 constitutional amendment. CBA 1966 Annual Report at 17.

35. The mission of the CBA Judiciary and Judicial Ethics Committee read as follows:

> This Committee shall have the responsibility of furthering in all proper ways the election or appointment of properly qualified candidates for judicial office, and helping to prevent the election or appointment of unfit candidates, to the end that attorneys of high character, sound learning, wide experience, and judicial temperament may preside over the courts of Colorado; shall make every effort to submit plans to the Legislature and promote the passage of such plans that will remove judicial offices from the web of party politics; shall make every effort to improve the judicial salaries, and related benefits of the judiciary by proposed legislation; shall make every effort to continue capable judges in their offices; and shall promote any other program that will improve the administration of justice in Colorado.

CBA 1955 Annual Report at 18.

36. Peter H. Holme, Jr., "The System For Administration Of Justice In Colorado," 28 *Rocky Mountain L.Rev.* 299, 314 (1956).

37. *Id.* at 315.

38. *Id.* at 315-16.

39. CBA 1958 Annual Report at 4, 34.

40. CBA 1959 Annual Report at 4.

41. CBA 1960 Annual Report at 8.

42. CBA 1961 Annual Report at 28-29.

43. CBA 1962 Annual Report at 3, 44-45; CBA 1964 Annual Report at 4.

44. Colorado Conference On Judicial Selection and Tenure, "Reading Materials prepared by the Joint Committee For The Effective Administration of Justice, American Judicature Society and the University of Colorado School of Law," November 15–16, 1963 at 5. On the national level, in 1961, seventeen organizations had cooperated to form the Joint Committee for the Effective Administration of Justice under the chairmanship of Justice Tom C. Clark of the U.S. Supreme Court. Its agenda included reform in judicial selection, tenure, and compensation. The cooperating organizations included American Bar Association, American Bar Foundation, American College of Trial Lawyers, American Judicature Society, American Law Institute, Association of American Law Schools, Columbia Project for Effective Justice, Conference of Chief Justices, Institute of Judicial Administration, Junior Bar Conference, National Conference of Bar Presidents, National Conference of Bar Executives, National Conference of Court Administrative Officers, National Conference of Judicial Councils, National Council of State Trial Judges, National Council of Juvenile Court Judges, and National Legal Aid and Defender Association.

45. *Id.* W. St. John Garwood, "Judicial Selection and Tenure—the Model Article Provisions," *Journal of the American Judicature Society* 5 (June 1963).

46. *The Denver Post*, March 14, 1965 at 15.

47. CBA 1965 Annual Report at 4. The initial membership of this committee included a galaxy of leading Colorado attorneys: William H. Allen; Harry L. Arkin; Howard O. Ashton; Paul C. Brown; William P. Cantwell; Jim R. Carrigan; John R. Clayton; John M. Evans; Harold A. Feder; Carl W. Fulghum; Kenneth Geddes; James K. Groves; Peter H. Holme, Jr.; John F. Kelly; Jack E. Kennedy; Charles W. Kreager; John M. Law; Harrison Loesch; George McLachlan; Arch L. Metzner, Jr.; Herman A. Mundt, Jr.; Frederick J. Pattridge; Harry S. Petersen; James M. Pughe; William K. Ris; Richard M. Schmidt, Jr.; Stewart A. Shafer; Charles W. Sheldon; M. O. Shivers, Jr.; Benjamin F. Stapleton, Jr.; J. Donovan Stapp; Dale P. Tursi; Edwin P. Van Cise; Ben S. Wendelken; Perry E. Williams; Douglas McHendrie; Clyde O. Martz; and Robert L. Stearns. *Id.* at 17.

48. CBA 1966 Annual Report at 3.

49. *Rocky Mountain News*, Nov. 7, 1966 at 48.

50. League of Women Voters of Colorado, Inc., *The Colorado Woman Voter*, March 1966 at 5.

51. League of Women Voters of Colorado, Inc., *The Colorado Woman Voter*, June 1966 at 4.

52. *Rocky Mountain News*, July 2, 1966 at 25.

53. *The Denver Post*, Oct. 12, 1966 at 26.

54. *Boulder Daily Camera*, Oct. 31, 1966 at 4.

55. *Rocky Mountain News*, Oct. 8, 1966 at 41; Oct. 16, 1966 at 40.

56. *The Daily Journal*, Oct. 29, 1966 at 8.

57. *The Denver Post*, Oct. 25, 1966 at 1.

58. *The Denver Post*, Oct. 19, 1966 at 16.

59. Secretary of State, "State of Colorado Abstract of Votes Cast At a General Election Held On Tuesday November 8, A.D. 1966, for Referred and Initiated Amendments to the State Constitution of the State of Colorado" at 29.

60. *Rocky Mountain News*, Nov. 11, 1966 at 78.

61. Donald E. Kelley, "Selection and Tenure in Colorado," *Judicature*, Vol. 55, No. 4, Nov. 1971 at 155-56,158.

62. CRS § 13-5.5-101-109. Before the advent of the performance commissions, the state and local bar associations polled lawyers regarding judges who were standing for re-election and reported the results to the newspapers. ■