

# ALASKA CONSTITUTIONAL CONVENTION

## PART 1

Proceedings: November 8 -- December 12, 1955

Alaska Legislative Council

Box 2199 — Juneau, Alaska

by the people under their jurisdiction.

PRESIDENT EGAN: Mr. McLaughlin, you may ask a question.

MCLAUGHLIN: Merely to confirm Mr. Hinckel, he did discuss the matter with the Judiciary Committee, and we unanimously agreed that it would not change the deletion of the words, "of the state" on line 6, page 2, would not change the meaning and would effectuate the purpose that Mr. Hinckel sought. In other words, the Judiciary Committee unanimously consents.

PRESIDENT EGAN: Is there further objection to Mr. Hinckel's unanimous consent request? If not, the request has been adopted by the Convention, and the words "of the State" are ordered deleted. Mr. Sundborg.

SUNDBORG: Mr. President, I move and ask unanimous consent that we recess for ten minutes.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for ten minutes. The Convention is at recess.

#### RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair has been informed that we have with us some of the members of the Board of Governors of the Alaska Bar Association. We have the President of the Alaska Bar, Mr. Mike Monagle of Juneau, and we are certainly happy to have you with us this morning. We are now on Section 8 of the Committee Proposal No. 2. Are there amendments to Section 8? If not, we will proceed to Section 9. Are there amendments to Section 9?

HURLEY: May I ask the Chairman of the Committee on Judiciary a question?

PRESIDENT EGAN: You may, Mr. Hurley, if there is no objection.

HURLEY: Is there in your opinion, Mr. Chairman, any possibility that the judicial council would nominate a large number of persons for selection by the governor? In other words, say ten, in which case it would, in effect, place the selection and the nomination on the governor and relieve the judicial council of any responsibility for having selected a precise panel. In other words, the fact that there is no upper limit there, would that affect the --

MCLAUGHLIN: The possibility does exist that the council could do that. Under the Missouri Plan, that is under the Missouri Constitution from which this section is derived, it reads "not less than three". It was the intent of the Judiciary Committee not to make it "not less than three" because then by law the council would be required to present three persons.

It is the desire of the Judiciary Committee (and to some extent that had confirmation of the Board of Governors of the Alaska Bar Association) that we keep the selections down to a minimum, because of the limited number of lawyers that we have in the Territory we wanted to restrict the selection of the governor. In fact, the fear has been expressed already that initially the governor might have too much determination in selecting the judges. For that reason it was kept down to two, but with the increase in size of the state it is well recognized that then the judicial council should have latitude in submitting more than two nominations for the one vacancy.

SUNDBORG: May I be permitted to address a question to Mr. McLaughlin?

PRESIDENT EGAN: You may, if there is no objection.

SUNDBORG: Mr. McLaughlin, several days ago when we were discussing this article for the first time, as I heard you, you answered a question, asked by someone, on whether if the governor did not like the names suggested to him he could call for more names, and my recollection was that you answered that in that case more names would be supplied. Was that a considered answer?

MCLAUGHLIN: That was not a considered answer. I believe that I corrected myself. Under this article, under Section 9, the governor has no right of refusal, he cannot refuse. The obvious answer to it, that's the way the section was intended, if there was any other intent it would mean, particularly with the present status of the Alaska Bar, that if the governor refused, he would very promptly exhaust all nominees and he would pick the man that he wanted.

SUNDBORG: Thank you, I just wanted to clear the record. May I address another question to Mr. McLaughlin?

PRESIDENT EGAN: If there is no objection.

SUNDBORG: Also, with respect to Section 9, it does not mention there is an office of chief justice. Is there an office of chief justice created by this article? The reason I ask is that when a man, for instance, is appointed by the governor to the position of chief justice, does he hold that position subject to the elections every ten years, and the retirement provision is in here for life, or does each governor who is elected have the right to name a chief justice from among the panel that then makes up the supreme court?

MCLAUGHLIN: There is an office of the chief justice and once appointed by the governor, he remains the chief justice for life or until removed by the voters or until retired for other cause or resignation.

PRESIDENT EGAN: Mr. White?

WHITE: My question was somewhat along the same line, Mr. President. I am not sure that that answered it or not. Did I understand the intent of this section Mr. McLaughlin, to be that when the office of chief justice of the supreme court becomes vacant it, the new appointee is automatically the chief justice?

MCLAUGHLIN: Those who are designated by the judicial council, the nominees, the governor selects one of the two or maybe three nominees. The governor selects one of those and that man becomes the chief justice.

WHITE: Not only the first time but each subsequent time the office becomes vacant?

MCLAUGHLIN: That is correct.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Following through on the same line, if the governor desired to elevate one of the justices of the supreme court to be the chief justice, it would have to go through the regular procedure of approval by the judicial council that his name might be one of two submitted to the governor, and then it would be up to him to choose?

MCLAUGHLIN: That does not preclude a member of the supreme court from becoming chief justice. Actually, under this act he could resign. The judicial council could select him, he and someone else submitted to the governor and if the governor selected him, then he would become chief justice.

V. FISCHER: Would he have to resign?

MCLAUGHLIN: There is a possibility he would have to resign.

PRESIDENT EGAN: Are there any other questions or amendments relative to Section 9? If not, we will proceed with Section 10. Are there amendments to Section 10? Mr. Sundborg?

SUNDBORG: Mr. President, may I be permitted to address a question to Mr. McLaughlin? With respect to Section 10 I am in the dark as to what you mean by this phrase, "on the basis of appropriate area representation".

MCLAUGHLIN: The phrase, "on the basis of appropriate area representation" was put in there as a guide in order to assure that the judicial council would not consist entirely of three lawyers, let us say from an area like Anchorage. It was intended to have the representation from all areas of the Territory. We were indicating an intent to have a geographical



representation.

SUNDBORG: That then refers to and modifies the word, "appoint". They "appoint on the basis of appropriate area representation"?

MCLAUGHLIN: That is right.

V. RIVERS: Are members of the bar, all members of the bar, members of the "organized state bar", or is that just the American Bar Association?

MCLAUGHLIN: The "organized state bar" was a generic term the Committee took as best representing what would be a state-wide organization of attorneys. Originally the Committee did have the expression "The Alaska Bar Association or its successor". The difficulty was that the legislature could terminate the organized bar, that is terminate the integrated bar, and we use the "organized bar" as best representing that association which would represent all the attorneys of the Territory.

V. RIVERS: "Organized state bar" would not necessarily imply that all members admitted to the bar then were members of that organized bar, is that right?

MCLAUGHLIN: That would imply this, that all could belong to it.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would like to address a question to Mr. McLaughlin. My question really has reference to Section 11 but affects Section 10. In Section 11 you mention that "the chief justice shall thereafter be ex officio a seventh member and the chairman of the judicial council" and then mention that it requires an affirmative vote of four of its members. Does the term, "ex officio member", restrict his voting rights in that group?

MCLAUGHLIN: It does not restrict his voting rights at all.

HURLEY: In the matter of a tie he would have a vote?

MCLAUGHLIN: He does anyway.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to address a question to Mr. McLaughlin. I am just a little curious as to the Committee reasons for providing that the organized state bar shall appoint the three attorney members and that the governor shall appoint the three nonattorney members.

MCLAUGHLIN: The reason, Mr. President, for that is that is the very essence of the so-called Missouri Plan. The three who are appointed by the bar represent a craft in substance, the theory being, and it has worked out in Missouri, that they best know their brothers, and they are there, based solely on their professional qualifications but selected because they would represent in theory the best thinking of the bar, and they are there solely because they represent their craft. In essence there is nothing undemocratic about it because of the fact that we know by its very nature that the judges of the supreme and superior court will be attorneys. The three lay members are in substance those who represent the public. Under the Missouri Plan there is a specific provision that the members appointed by the bar of Missouri shall be elected. They specifically use the word "elected". We didn't use it, we did not deem it necessary. Under the Missouri Plan the three laymen are appointed by the governor. There is a difference in this Section 9 in the sense that the laymen under our Section 9 are required to be approved by the senate. That is, they are subject to confirmation by the senate. The reason that varies from the Missouri Plan is that what happened was in Committee there was quite some discussion about the popular representation.

DAVIS: Mr. President, before he goes ahead, he is talking about Section 9, I am sure he meant Section 10. I would like it to be clear.

MCLAUGHLIN: Do you desire me to proceed, Mr. President, or wait until that arises.

PRESIDENT EGAN: It might be inasmuch as the question has arisen that if there is no objection, Mr. McLaughlin could proceed. Mr. Fischer?

V. FISCHER: I would like to give cause to the question to arise by introducing an amendment on this subject.

PRESIDENT EGAN: Mr. Fischer, you may introduce your amendment at this time. The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Section 10, page 3, line 22, strike the comma after the word 'article', substitute a period and strike the remainder of the sentence."

V. FISCHER: Mr. President, I move and ask unanimous consent for the adoption of this motion.

MCCUTCHEON: I object.

COGHILL: I second the motion.

PRESIDENT EGAN: Objection is heard. Mr. Coghill seconds the motion. The question is open for discussion. Mr. Fischer?

V. FISCHER: I would just like to briefly say that I believe the confirmation requirement is not necessary and is in a way

discriminatory against the lay members. I can see why it was put in originally, to give the legislature some say in the selection of judges. We have now amended Section 7 to provide that the qualifications, in effect, would be established by the legislature, and I believe that therefore we should not require confirmation of lay appointees to the council by the legislature.

PRESIDENT EGAN: Is there further discussion of the motion by Mr. Fischer? Mr. Taylor?

TAYLOR: Perhaps Mr. Fischer did not give full consideration to this particular section of the proposal. Under our present act, the Bar Association, the integrated bar, is an official body of the Territory. It is, you might say, chartered, by the legislature, and compulsory membership is required under the act. Nobody can practice law unless they have been admitted to the bar and belong to the integrated bar. Now the bar is screening their applicants, their men for the board, on this judicial board. They must have certain geographical representation in the integrated bar. We have three from the First Division, three from the Third Division and three from the combined Second and Fourth Divisions. So the selection of the three attorney members of the Commission are a selection by an official Alaska organization, the integrated bar. The other three would be selected and approved by the senate, appointed by the governor and approved by the senate. The attorney members have already been approved by the Alaska Bar Association, so why then put them through a further screening when they have already been screened by the members. The lay members have not been screened at all, only by the senate. We feel that the bar members are screened by the bar, then the lay members are screened by the senate. It makes it even.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, there is in Section 10, it is pertinent to this motion, the way that I interpret it, line 16, "the appropriate area", in line 20, "different major areas". I would like to ask Mr. McLaughlin if the intent was that the three attorney members of the judicial council would come from three appropriate areas and the three lay members would come from different major areas than that of the three appropriate areas?

MCLAUGHLIN: There is no difference. In fact, if the Committee on Style and Drafting desires in the future to change it, we would be delighted. The one reason why we have left in the words "major areas" on the laymen representation is the possibility (forgive me, Mr. Walsh) that Nome itself might have the feeling that it would be left out in its representation. If we struck "major areas" then there would be



an implication that we did not have to worry about certain areas of the Territory. Frankly, it is my belief that both could be made to conform and the same wording could be used.

COOPER: In other words then, the idea is not to cause the three laymen to come from different areas than the areas from which the three lawyers came?

MCLAUGHLIN: No, there was no such intent.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I would like to ask the question of the Judicial Committee, if using the word major, does not that denote there is also a minor?

MCLAUGHLIN: In answer to that, Mr. Londborg, if the representatives from the alleged minor areas so desire, we can strike the whole expression, "major area or appropriate area" and then you're not assured of any representation at all. It is the desire of the Committee to have a general geographical representation on the judicial council and that includes all areas.

COGHILL: Point of order. I believe we are diverting from the subject before the Convention. We have a motion on confirmation by the senate for the nonattorney members. We are talking about representation from the major areas. I think we ought to dispose of the subject at hand.

PRESIDENT EGAN: You are correct, Mr. Coghill. That was allowed because the question was asked. The question is, "Shall Mr. Fischer's amendment, inserting a period and striking the words, 'subject to confirmation by the Senate', on line 22 of page 3, be adopted?" Mr. Davis?

DAVIS: Mr. President, was Mr. Fischer's motion seconded?

PRESIDENT EGAN: Yes, by Mr. Coghill. Mrs. Nordale?

NORDALE: I would like to call attention to the fact that one speaker said that the organized bar was an arm of the Territorial government and the senate was an arm of the Territorial government, and I would like to point out that the governor is certainly an arm of the Territorial government and elected by direct vote of the people.

HELLENTHAL: Mr. President, on Mrs. Nordale's suggestion I heartily agree. The people through their agency, the integrated bar, are going to screen the three attorney members. The people through their agent, the governor, will screen the nonattorney members. I don't know why we should get the senate in on the act in addition.



PRESIDENT EGAN: Does anyone else wish to speak on the subject?

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: If not, the question is, "Shall Mr. Fischer's amendment be adopted?"

METCALF: Roll call.

PRESIDENT EGAN: Mr. Metcalf asks that the roll be called. The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 26 - Armstrong, Boswell, Coghill, Collins, Cooper, Cross, Davis, V. Fischer, Hellenthal, Hilscher, Hurley, Kilcher, Knight, Lee, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, Rosswog, Sundborg, Sweeney, VanderLeest, White.

Nays: 27 - Awes, Barr, Buckalew, Emborg, Gray, Harris, Hermann, Hinckel, Johnson, King, Laws, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nerland, Nolan, V. Rivers, Robertson, Smith, Stewart, Taylor, Walsh, Wien, Mr. President.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 26 yeas, 27 nays and 2 absent.

PRESIDENT EGAN: So the amendment has failed of adoption. Mr. Sundborg?

SUNDBORG: Mr. President, I have an amendment to offer.

PRESIDENT EGAN: Mr. Sundborg has an amendment to offer to Section 10. The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 10, line 22, strike the words 'the Senate' and insert in lieu thereof the following: 'a majority of the members of the Legislature in joint session assembled'."

SUNDBORG: Mr. President, I move and ask unanimous consent for the adoption of the amendment.

JOHNSON: I object.

MCNEES: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Sundborg?

SUNDBORG: Mr. President, this is a fairly basic matter also which I am sure is going to come before us in some other connection before we are through here. The practice in the Territorial legislature in the past has been that confirmation of appointments is by both houses in joint session assembled. I believe it has been a good practice. I don't believe that only the senate should have the right to express the people's will with respect to appointments by the executive, as it would be in this case, but that it should be by majority of all the members of the legislature and not just by majority of the members of the upper house.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Mr. President, I wish to speak in favor of the amendment. The situation can arise, as it has in the past, where in the makeup of our senate alone, there might be a majority of attorneys as members of the senate or there may be a sufficient number of attorneys that if they wish to exert certain influence, they could act as somewhat of a damper on confirmation of the lay members of that board. I believe that Mr. Sundborg's amendment is worthy of support.

BARR: I am not going to discuss it very widely, but I would say that I don't know what may happen in the future. The only thing I can do is judge by what has happened in the past. I have never been in the senate when there was a majority of attorneys. But I remember distinctly when there was a time when there were 14 attorneys in the house out of 24.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am a little concerned. I think the confirmation of the lay members of the judicial council should be the same as the confirmation procedure which will be uniform throughout our governmental structure. Now I don't know what the body has in mind or whether the constitution could contain a blanket clause to the effect that when the language "subject to confirmation" is used that means subject to confirmation by the members of both houses sitting in joint session. It seems to me that Mr. Sundborg made a good point, but I don't know whether we are doing the right thing by saying "subject to confirmation by both houses sitting in joint session" and later on come up with a different motive for the general operation of the state. I would like to hear from somebody.

MCNEES: May I ask Mr. Rivers if this might not be a general policy of the Convention to require the meeting of both houses

in joint session on issues of this magnitude or nature.

R. RIVERS: That would be fine if that were to turn out to be the fact.

HERMANN: I think the adoption of any such provision should wait upon the report of the Apportionment Committee and find out how big the house and senate are going to be. You might very well have the tail wagging the dog in this case.

PRESIDENT EGAN: The question is, "Shall Mr. Sundborg's proposed amendment be adopted?" All those in favor of the adoption of Mr. Sundborg's amendment will signify by saying "aye", all opposed "no".

MCCUTCHEON: Call the roll.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 28 - Armstrong, Buckalew, Collins, Cooper, Davis, Emberg, V. Fischer, Hellenthal, Hilscher, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNealy, McNees, Marston, Nordale, Peratrovich, Poulsen, Reader, Riley, Smith, Stewart, Sundborg, VanderLeest, White, Mr. President.

Nays: 25 - Awes, Barr, Boswell, Coghill, Cross, Gray, Harris, Hermann, Johnson, King, Knight, Laws, Londborg, McLaughlin, Metcalf, Nerland, Nolan, R. Rivers, V. Rivers, Robertson, Rosswog, Sweeney, Taylor, Walsh, Wien.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 28 yeas, 25 nays and 2 absent.

PRESIDENT EGAN: The "yeas" have it and so the proposed amendment has been adopted. Are there other amendments to Section 10? If there are no further amendments, we will proceed --

STEWART: Mr. President, may we have that read as it was amended

CHIEF CLERK: "Line 22, page 3, strike the words 'The Senate' and insert in lieu thereof the following: 'a majority of the members of the Legislature in joint session assembled'."

PRESIDENT EGAN: Are there other amendments? We will proceed with Section 11. Mr. Coghill?

COGHILL: Mr. President, Section 10, I have an amendment that



I am contemplating on proposing. However, first I would like to hear discussion by the Convention as far as the subject of confirmation by the legislature in joint session assembled, as far as the attorney members of these boards are concerned. I feel that we are going to be setting up a precedent here that all professional boards will be chosen by their given profession and a minority will be picked by the nonprofessional group and confirmed by the elected members of the electorate for Alaska, but in turn the professions of the doctors, lawyers, and dentists and all the rest of them are going to have the chance to load the committee with professional people.

PRESIDENT EGAN: Mr. Coghill, the Chair has been lenient in allowing discussion even through there was no motion on the floor, owing to the fact that questions have been asked. The Chair will have to ask that these discussions be confined to matters before the Convention.

COGHILL: Well I'll submit a proposal then, Mr. Chairman.

CHIEF CLERK: "Line 18, page 3, after the word 'bar' insert a comma and add the following: 'subject to confirmation by the Legislature in joint session assembled'."

COGHILL: Mr. President, I move and ask unanimous consent for the adoption of this amendment.

BUCKALEW: Objection.

COGHILL: I so move.

KILCHER: I second the motion.

PRESIDENT EGAN: Mr. Kilcher seconded Mr. Coghill's motion. Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "In Section 10, line 18, after the word 'bar' insert 'subject to confirmation by the Legislature in joint session assembled'."

PRESIDENT EGAN: Add a comma.

SUNDBORG: I wonder if I might ask Mr. Coghill if he would consent to a proposed change in his amendment which would not change the sense but I believe would be a little smoother. If on line 22, after the word "article" we change the comma to a period and then insert "both the attorney and nonattorney members shall be". It would then read, the new sentence, would say "both the attorney and nonattorney members shall be subject to confirmation by majority."

COGHILL: Mr. President, I consent to that with consent of my second because it does not change the intent of my amendment.

PRESIDENT EGAN: Mr. Coghill, it might be more in order if you ask that your original amendment be withdrawn and then submit it. There will be no confusion in the minds of the delegates when we vote on it, if that is what you are attempting to accomplish.

COGHILL: Yes, that's right. I will so move and ask unanimous consent that my proposed amendment be withdrawn.

PRESIDENT EGAN: Mr. Coghill asks unanimous consent that his original proposed amendment be withdrawn. Is there objection? Mr. Riley?

RILEY: I object for purposes of comment. It would appear to me to be far more expeditious to act on it as first offered. Otherwise we are going to introduce the complication of, do we rescind our former action to put the show on the road. This could all be reconciled in Style and Drafting later if Mr. Coghill's motion is adopted.

SUNDBORG: I agree with that, Mr. President, and withdraw my suggestion.

PRESIDENT EGAN: Mr. Sundborg then asks unanimous consent that his motion be withdrawn. If there is no objection it is so ordered and we have Mr. Coghill's original motion before us. Mr. McLaughlin.

MCLAUGHLIN: I presume Mr. Coghill submitted this motion merely for the purpose of getting this on the floor. Coldly and calculatingly, if this motion is passed you might as well tear up the whole proposal and provide for the election of juries, because then it would be more efficacious and more democratic. The whole theory of the Missouri Plan is that in substance, a select and professional group, licensed by the state, can best determine the qualifications of their brothers. The intent of the Missouri Plan was in substance to give a predominance of the vote to professional men who knew the foibles, the defects and the qualifications of their brothers. It is unquestionably true that in every trade and every profession the men who know their brother careerists the best are the men engaged in the same type of occupation. That was the theory of the Missouri Plan. The theory was that the bar association would attempt to select the best men possible for the bench because they had to work under them. If you require a confirmation of your attorney members you can promptly see what will happen. The selection is not then made by the organized bar on the basis of a man's professional qualifications alone. The determination of the selection of those people who are on the judicial council will be qualified by the condition, are they acceptable to a house and a senate or a senate alone, which is essentially Democratic or essentially Republican. No longer is the question based solely on the qualification



of the candidate for the bench. The question is, will those people whom we set up here on the judicial council, that we send from the bar, will they be acceptable in terms of political correctness? If political correctness enters into the determination of the selection of those professional members who are to be placed upon the judicial council, the whole system goes out the window. All you have is one other political method of selection of your judges. The theory, and it is the only way it can possibly work, is that the lawyers are put on there to get the best man and not to take a man on the basis of his politics. But if we require confirmation, then the material consideration to be made by the Alaska Bar Association is, are we sending our best representative -- no. But are we sending a good Democrat acceptable to both members to both houses or are we sending a good Republican acceptable to both houses. If we permit that determination to enter into our consideration, then in substance we should provide for an initial election or initial appointment by the governor or some other body. Qualifications go out the window as soon as you have confirmation. The theory on the lay members on the confirmation, they represent the public and they represent the predominant political thought. The theory on the lawyer members of the council, they represent the profession, they represent the best interests of the profession. They represent a desire to have the best judges on the benches. I beg of you, please don't vote for the amendment.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I want to heartily second the remarks of Mr. McLaughlin but also want to point out that the purpose of the draft as now written is to have a nonpartisan selection of these lawyer members, and the minute you adopt something like this, you are making a partisanship proposition out of it. We want that to carry through to a nonpartisan selection of judges, so I think our thinking is quite clear.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: In bringing this up, I quite agree with both the Chairman of the Judiciary Committee and also the member. I believe that all of us here are working on committees real hard and we are trying to bring out good and concise thoughts. We are not trying to go to the extreme in our committee proposals, so that we will get a compromise on the floor. I don't think that is the intent. The purpose for this amendment is that I foresee that the nonattorney members of this board are going to be subject to all the ills of political skulduggery on the floor of the senate or the joint house assembled, and I see that if we are going to pick the judges on nonpartisan basis, that it should be left up to your representative of the government, the highest official in the executive branch which is your governor. That is the reason



why I voted for the amendment to strike that, the acceptance or confirmation by the senate. I think if we are going to accept some of them by the senate confirmation, we should accept them all. It is the precedent you are setting up here for boards on the professional level.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Coghill's proposed amendment be adopted by the Convention?"

ROBERTSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following result:

Yeas: 4 - Coghill, Kilcher, Londborg, Mr. President.

Nays: 49 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Cross, Davis, Emberg, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Absent: 2 - Doogan, H. Fischer.)

CHIEF CLERK: 4 yeas, 49 nays and 2 absent.

PRESIDENT EGAN: So the proposed amendment has failed. Are there other amendments to the section?

TAYLOR: I have one.

PRESIDENT EGAN: Mr. Taylor has a proposed amendment.

TAYLOR: Mr. President, I am proposing this amendment to Section 7.

PRESIDENT EGAN: Mr. Taylor offers a proposed amendment to Section 7. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Line 2, page 3, after the word 'State' strike the balance of the section and insert 'for at least three years and have been residents of the State for at least three years next preceding their respective nominations; provided, that additional qualifications may be prescribed by law.'"

TAYLOR: I ask unanimous consent for the adoption of the amendment.

SUNDBORG: Objection.

TAYLOR: I so move.

METCALF: I second it.

PRESIDENT EGAN: Mr. Metcalf seconds the motion of Mr. Taylor. Mr. Taylor?

TAYLOR: I would like to mention one thing. The matter was brought up and we have argued this thing quite thoroughly. I felt that it might be of the period of time that would elapse. Now in the last three years we have admitted perhaps 50 attorneys to the practice of law in Alaska, and it seems like there are going to be quite a number of them admitted each year from now on. Now this past year we had 25 who took the examination, the year before 19, so those men who in the past couple of years have taken the bar and have been admitted to the bar, in all probability by the time we achieve statehood will have the required residence of three years, and they have been practicing law for three years, which will make them eligible for the bench. It seemed the opinion of some of the proponents to eliminate the five-year period. It was through the fact there might not be sufficient manpower, but I think that would be taken care of. Now, even putting the best light on it, we cannot anticipate we will have statehood for a year and a half or possibly more. I think I am being unduly optimistic when I say a year and a half. These men who are barred by time, that will be taken care of, as immaturity is always cured by the passage of time, and by three years we will have plenty of attorneys to pick for the judiciary. We feel there should be some restriction instead of dragging a man in from the outside and putting him on the bench, not knowing his qualifications or background, I think we should put at least three years because by that time there will be approximately 60 or 70 more lawyers in Alaska who will be judicial timber. I feel this amendment should be adopted.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I rise to speak against the amendment on the same basis that I rose to speak against the original article as it was originally turned out in the Judiciary Committee. Feeling that it is not a matter of constitutional law but one of legislative law, therefore I oppose the amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: Will you have the Chief Clerk read the amendment again?