FOLDER NO.
154
Wm. A. Egan  
President, Alaska Constitutional Convention  
College, Alaska

Dear Sir;

Herewith attached is a narrative report of the recess hearing held by Mr. McNees and me at Nome on the 28th of December, as prepared from the record of the stenotypist who covered the hearing for us, on a strictly volunteer basis. This report was given orally by me on the opening date of the reconvening of the Convention.

In addition to the one public meeting, at which approximately 100 citizens were present. I also spoke at the Chamber of Commerce and at the Rotary Club Luncheon, both of which were well attended. I also put in my two-bits worth at every social event of the week and talked privately with many individuals.

I believe the people of Nome are thoroughly informed in the premises.

Yours very truly,

Mildred R. Hermann

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HEARING

on

ALASKA’S CONSTITUTION

Held at Nome, Alaska, on Wednesday, December 28, 1955, at 8:00 P.M. in the high school auditorium. The hearing was conducted by Mrs. Mildred Hermann, assisted by Mr. John McNeess.

The hearing was opened by Mrs. Hermann who explained that the purpose of the meeting was to give the people of this area an opportunity to express their opinions about what the constitutional convention is doing and should do. She called attention to the fact that this would probably be the last constitutional convention ever called for the purpose of writing a constitution for a new state in the American Union.

She pointed out that the convention was substantially following the precedents established by those who drafted the Federal Constitution which convention, through peculiar coincidence, had exactly the same number of members as the convention drafting Alaska’s constitution - 55. Mention was made of the difficulties encountered by those drafting the Federal Constitution such as the dissatisfaction of the members of the convention, some of whom went home before it was completed, some of whom refused to sign it, and that the 37 who did sign it went home and apologized for having turned out such an inferior document. Those first members were criticized all
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the time they were drafting the constitution; they were using their own time and money but just kept plugging away for many months, not just the 75 days allotted to this convention; they finally came up with a document which was so bad in the opinion of those who wrote it that they apologized for it and promised, if possible, to revise it and make it a better document. Mrs. Hermann further pointed out that this was the same document that has endured for 166 years and that it has never been amended in its essential form; such amendments as have been added not changing the original form at all only adjusting it to changing circumstances under which the country has moved ahead.

Mrs. Hermann advised that the convention felt it was writing a good constitution and when it was finished they hoped to have one perhaps a little bit better than any state had yet written; that they must be bound by certain things in the Federal Constitution, for instance the theory of popular sovereignty government; that government is derived from the people and is inherent in the people and only they can indicate what kind of government they want. Mention was made of the separation of the powers of government i.e., legislative, executive, and judicial and the necessity of maintaining the checks and balances for which our government has been famous. Gladstone had said that our Constitution was one of the most remarkable documents ever devised by the mind of man.
Mrs. Hermann then discussed some of the mechanics of writing a state constitution pointing out that it was the first time that a task of this sort had been done by and for Alaskans entirely, and that in this instance the Federal government was taking a back seat. She advised that the Act creating the convention had authorized a recess, at the discretion of the convention itself, for a period not to exceed two weeks, for the purpose of holding such hearings as this i.e. to gather public opinion as to what should go in the constitution and that 17 such meetings were being held throughout the Territory. She advised that there were 11 committees writing sections of the constitution, plus three housekeeping committees to take care of odds and ends. She pointed out that none of the provisions or articles had been adopted, or would be until the opinions of the people had been brought to the attention of the convention.

A discussion of the section on legislative apportionment then followed, which is the section dealing with the composition of the state legislature. Mr. McNees reiterated that no section had yet been adopted and advised that the legislative apportionment section was one of the most complicated. He explained that in order to set up a representation that would provide the most adequate coverage by population and by area, a method was chosen based upon the premise that the house should represent the population factor and the
In order to accomplish that most logically what is known as the ethnical watershed method was followed in which, with very few exceptions, lines were drawn along the tops of mountains confining areas with a common social relationship. This resulted in 24 areas separated more or less by natural mountain barriers, which would represent the election districts. It was pointed out that although some land areas were larger than others the lines had been drawn to take into consideration the confining areas of population which ranged from 25,210 in the Anchorage area to a low of 1419 on the Yukon flats; these figures being based on the 1950 population figures which were the only ones available.

Mr. McNees further explained the quotient factor of dividing the number of representatives in the house (40) into the figure of 108,069, which was the basis upon which the figure of representation in the house would be reached. He advised that a modification had been granted which would give representation to any area which had half that figure within the area plus 1 which would assure representation in each area unless it was very small. The quotient factor was divided so as to assure one representative from each district and the balance over that to be divided to cover what are known as the most deserving areas. Mr. McNees further explained the quotient factor and described how different sections in the Second Division had been divided i.e. by drawing a line on top
of the Brooks range, thus leaving the Artic-Barrow area in one of these representative districts, a second area being the Lisburne-Kotzebue Sound area etc.

Mr. McNees further explained that each two of the representative districts would be granted a senator, plus two at large which, in this Second Division, would total 4.

Mr. von der Heydt then asked if that meant there would be 4 senators in what was the old Second Division instead of 5, and Mr. McNees advised that such was correct.

Mr. Harwood asked if the judicial divisions as they are now were going to be done away with and Mr. McNees advised that there was some very strong feeling that this should be done although the tendency at present was swinging back to the old judicial lines, particularly for senatorial representation.

Mr. Harwood asked if having four senators instead of five wouldn't disturb these judicial lines and Mr. McNees replied that that would be correct but that it would give some sections more senatorial representation.

Mr. Harwood indicated that he was not in favor of lessening such representation.

Mr. McNees indicated that there was very strong feeling regarding house representation on a population basis and senatorial representation on a geographical basis and advised that if enough people wanted to make a change they could very
well do so and that these hearings were an excellent opportunity for individuals and groups to make their opinions known.

Miss Jolley asked the purpose of setting a permanent figure rather than leaving it elastic, indicating that someone set such a figure or it was dictated by geographical areas and that such was not functional.

Mr. McNees advised that the tendency at present was to keep the size of legislative bodies small because if they comprised too many individuals too much time was lost in getting organized. He advised that the legislative committee on which he served had arrived at 40 as a maximum figure but that such figure need not be filled immediately.

Miss Jolley advised that she thought setting it on a functional basis was the important thing.

Mrs. Hermann invited opinions on that and other questions advising that she was also inclined to feel that the number of senators should be the same for each division or geographic area that could be called equal but that she could also see the thinking of the people at the convention, explaining that the southeastern Alaska division with approximately 28,000 people would have five senators while the Second Division would have 4 and the Third Division with between 45 and 50 thousand would have 6 senators.

The point was brought out that this would disturb the balance of power very considerably and that the Second Division probably would no longer hold the strategic position it always had and that opinions on the subject should be registered
before a final draft of the article was reached. He advised that if information were gathered on the subject, it would pretty well demonstrate that the candidates for the constitutional convention did not come from the larger cities as a whole and that there may have been a little bit of fear in the public mind that the larger sections, such as Anchorage, would dominate, but that it hadn't worked out that way at all.

Mrs. Hermann indicated that there had been a good deal of discussion about retaining the old lines but that even if they got all the votes from the Second Division they might not be able to do it.

Senator Jones questioned the necessity of drawing up new divisions when Congress hadn't yet granted the right to do so, and hadn't even said what we would be given. He mentioned a mining reserve which was being talked about and asked where it was going to come from and what it was going to include. He advised that he didn't believe such divisions were a matter for legislation at this time but should be taken care of after statehood was reached; that if such was done as a Territory it might have to be all changed after statehood and that he couldn't see any purpose in trying to do it at this time.

Mr. McNees advised that the next problem was ratification of the constitution by the people of Alaska and that if it
wasn't ratified it would be nullified and that after that, the
next task would be to get Congressional approval; that it
might be possible to get statehood at the next session of
Congress if we were willing to give a large portion of our
Territory to the government as a reserve but that the people
of Alaska didn't want that. It was brought out that we were
following the lead of many other states in writing a constitu­
tion prior to attaining statehood and that if we could have
a good constitution approved by the people of Alaska he thought
we would be that much nearer statehood.

Mrs. Hermann invited further questions and criticisms
of this section and advised that although it might be some
time before statehood was attained, the convention had to take
into consideration that the constitution should be adaptable
to progress.

Mrs. Emons asked how this division would affect the voting
in regard to other offices in state business such as health,
welfare and whether they would be voted on or appointed.

Mr. McNees advised that some of this would no doubt carry
over into other offices as well; that voting strength was
necessary for all offices that were voted upon but that there
would likely be some changes in this section too.

Mrs. Hermann then discussed what had been proposed in
regard to the legislative, judicial and executive branches of
government. She pointed out that the committees on suffrage,
elections and apportionment and on legislation, meeting entirely separately, had both come up with the same number of senators and representatives, independently of each other. She advised that the legislative committee had proposed a bi-cameral legislature and that a proposition had been made to pay legislators a yearly salary and that there be sessions of the legislature every year - 30 days one year and 60 the next etc; the theory behind the yearly salary being that they were always in office and a special session could be called without paying out any more money. She advised that there was a good deal of criticism and opposition to what might be a salary of $5000.00 a year and that she, herself, thought it considerably higher than we ought to pay or could afford to pay for a part time job which would not seriously interfere with other businesses the legislators might have.

Mr. McNees further discussed the basis for the yearly salary idea, the thought being that the usual sessions of 30 or 60 days might not be time enough to handle all the matters involved, particularly during the early days of statehood, so why not have the legislature on call continuously, with the members being paid an annual salary large enough to attract qualified, capable people. He advised that the present dean of the University of Colorado law school thought that it was a very fine idea - and that he had been a legislator for many years.
Mr. Goodrich asked what controls or restrictions would be placed on the governor in regard to these appointments.

Mrs. Hermann indicated that she did not believe legislative confirmation was called for and Mr. McNees advised of a provision which provided for definite review of any changes in administrative structure made by the governor, by both houses jointly. He also advised that another section provided that if the governor were unable to continue in office because of death etc., the secretary of state would succeed him, then the president of the senate and then the speaker of the house, so that whoever became the head of the government would be an elected official and not an appointed one. He advised that this was similar to a system adopted by the State of New York which seemed to have worked out very well.

Mr. Goodrich then asked the proposed length of term or office, and Mrs. Hermann advised that it was four years with only two terms in succession.

Mr. Goodrich asked if this wouldn't mean an almost total turnover of the executive offices and the personnel every time the party went out and the comment was made that in that case it usually does anyway.

Mr. Harwood asked what was to prevent the governor from appointing his own group who could filch the treasury at will.

Mr. McNees advised that he believed such would be almost impossible if watched and if the state of affairs were known...
as they should be. He advised that if impeachment or recall
powers were left strong that would be a safeguard and in any
event in case things were not to your liking you would get a
change every four years.

Miss Jolley asked what provision was made for the
qualification of employees for their jobs, not only in high
appointive positions but for clerks and other office jobs.

Mr. McNees advised that it was felt that this was largely
a matter of legislative responsibility and that one of the
things they had to watch constantly, probably one of the most
important things, was to maintain the rights of the legislature;
that there was a tendency to take away their rightful powers
and try to incorporate them in the constitution. He advised
that the constitution should remain a basic law and that they
were trying to get such understanding on the part of the dele-
gates and the people.

Senator Jones at this point advised he wanted to go on
record as being absolutely opposed to a strong centralized
government and to giving the governor power to do all that
had been proposed. He advised that he believe the people of
Alaska much preferred to elect the officers to run their
various departments and that while some governors would be
all right, others wouldn't be. He thought it would be pretty
much of a dictatorship and he didn't want that.
Mrs. Hermann advised that there was a good deal of feeling either way.

Mr. Jones asked why a lieutenant-governor wasn’t elected instead of a secretary of state and Mrs. Hermann advised that actually they were the same but that there was a tendency throughout the country to abolish lieutenant-governorships in favor of secretaries of state; that actually their functions were the same.

The judicial branch of government was then discussed and Mrs. Hermann indicated that this plan had been favored almost entirely by the judicial committee and that it called for the appointment of judges for an approximate period of three years, the appointment to be made by the governor from a list furnished by a committee consisting of three lay people and three lawyers. The judges would serve a three year probationary period and then their names would be put on the ballot. They would not be running against any one but would be running on their records. If a judge’s record was so approved, he would be appointed for 10 or 12 years with retirement mandatory at 70. She said that there would be a unified court system for the whole of Alaska with every judge having equal jurisdiction over every case in Alaska. Assignments were to be made by the chief justice and the legislature was permitted to increase the number of judges as the case load indicated. She advised that this section had met with
Mrs. Hermann then mentioned some of the other problems such as those dealing with local government, natural resources, and the bill of rights. She advised they had constitutional revision to take care of as well as ordinances and transitory measures.

She indicated that the idea in regard to natural resources was to protect them but not to the extent that they couldn’t be used for the benefit of the people.

She advised that it was not planned to have a county system of government comparable to that in many states, although a system of boroughs had been set up, and that this would do away with the duplication of taxes and services etc. so often found in the county systems in the states.

Mr. von der Heydt asked if there was a connection between the natural resources section as being written in the constitution and the public lands which were being given to the state and how that was being done.

Mrs. Hermann replied in the affirmative and advised that they had to be careful to follow the requirements of the present enabling act in this as well as other things, and that they would be required to accept the requirements of the enabling act as a basis.

Mr. von der Heydt advised that his thought was whether the state could pick or choose the lands that it would be
getting from the Federal government and Mrs. Hermann advised
that one hundred million acres had been allocated under the
enabling act and that the new state would have 25 years to choose
the portions of land it wanted.

Mr. Jones asked that - or whether the proposed changes
advocated in Congress by the mining convention held in Las
Vegas were what she referred to as not being able to sell
such state-owned land and Mr. Hermann replied in the affirmative.

Mr. Jones then commented that we had nothing for certain
as to whether they would give us a hundred million acres or
one million or what, and also questioned what regulations
would be in effect for the disposition of such land or what
protection for damage to land already settled would there be,
from those going in after minerals etc.

Mr. McNees then advised of the primary right of such a
settler for use of the land for farm purposes etc. and that
any subsequent person going after minerals etc. would have
to pay for damages or that right.

Miss Jolley advised that she didn't understand a point
regarding the assignment of judges and Mrs. Hermann advised
that the judges, appointed by the governor, would be assigned
to their respective positions where needed by the chief justice.
She advised that under statehood there would be a complete
court system for the state including a supreme court.

Miss Jolley then asked how many levels of courts there
would be.
Mrs. Hermann replied that the constitution would provide for district courts similar to those we now have, for a supreme court and would permit the legislature to establish lower courts including probate courts and courts of special jurisdiction.

Mrs. Emons mentioned an editorial which she thought to be to the effect that under the proposed division this area would be left without a local representative for the Departments of Health, Welfare, etc. and that a protest had been made sometime ago regarding the re-apportionment of the Second Division.

Miss Jolley advised that if was felt the Department of Welfare representative etc. might be lost to this area if it were lumped in with other divisions.

Mrs. Hermann advised that this misunderstanding probably arose from an individual proposal that the Second and Fourth Divisions be combined - which did not last at all. She further said that proposals must first pass the committee and then the floor and mentioned the problems in trying to get the 55 members of the constitution to agree on the proposals, and then after agreement was reached they still had the job of drafting a literary composition out of the drafts of the 14 different committees. She reiterated that if the people wanted to take action on anything, or get their own opinions heard they should get letters or telegrams into the member of the convention.
She said that such action should be taken quite soon if the people wanted their own voices to be heard.

Mr. Eben asked, with natural resources in mind, what was being done about Indian reservations in the different villages and said that he and the people where he lived felt that they were detrimental to the progress of the people.

Mr. McNees advised that he believed there was a definite section on the protection of native lands.

Mr. Jones said he believed Mr. Eben was objection to the reservations as such, and Mr. McNees then advised that he didn't think there had been any mention of that.

Mrs. Emons commented that this was a Federal reservation, and Miss Jolley advised that she didn't believe it was permissible in the states to choose such lands, for state lands.

Mr. McNees then advised that the enabling act was unique in allowing the state of Alaska to choose the hundred million acres given to it, nearly one-third of the entire Territory.

Mrs. Hermann said she didn't believe we could choose land that was in an Indian reservation.

Mr. Eben again advised that the people in his village (Unalakleet) were opposed to reservations; that they were holding his people back from doing things on their own and Mr. McNees said he felt that this should be brought to the attention of the convention.
Mr. Jones said he hadn't seen a copy of the enabling act and Mrs. Hermann indicated that two proposed acts were before congress, both very similar and it was hoped that one of these would pass the next session, and that was the theory under which they were working.

Mr. Jones said that nowhere had he been able to find a distinct reference as to what disposition would be made of native citizenship, i.e. the aboriginal rights of the natives.

Miss Jolley advised that there was strong feeling regarding this in the states in all the native brotherhoods and Indian organizations about statehood for Alaska with reference to what was done about native lands.

Mrs. Hermann said she didn't believe such feeling had penetrated up here yet.

A question was then asked as to the large amount of land to be given Alaska as a state whereas in the states it was usually 5% or 3% etc.

Mrs. Hermann advised that a positive allocation in the bill now pending had been made of 103 million acres of land and that although some of the older bills did provide a percentage this one made such an allocation.

Mr. Jones then questioned the rights of schools to land previously granted them.

Mrs. Hermann indicated that such allocations would be abolished under the new constitution; that there would be no allocations of lands or money for special purposes; they would not be earmarked, and Mr. Jones commented that we gave
them to the Territory and now we are taking them away, but
that some of those that had been surveyed would be retained
because the Courts had so decided.

Mrs. Hermann then asked if there were any further
questions or anything anyone would like to know and commented
that the proposed bill of rights very closely followed that
of the Federal constitution and that there was a special
section on the bill of rights and preamble; also a section
dealing with education, public health and public welfare.
Ordinances and transitional measures had a committee of their
own setting up articles dealing with education, public welfare
etc. and this committee had come out in favor of leaving to
the legislature the power of making laws in regard to the school
system and public health and public welfare. She indicated
that she was going to try to include a provision of a unified
public library service as well as public schools and other
educational institutions; the principal safeguard being to
see that public moneys would not be spent for private institu-
tions or schools and that all support given to educational
institutions would be to public schools.

Mrs. Hermann mentioned the academic atmosphere at College
where the constitution was being held and the splendid coopera-
tion they had been given by the University. She mentioned the
complete representation of the different parts of the Terri-
tory and the gratifying fact of the hard work that everyone
was doing.
Mr. McNees and Mrs. Hermann both mentioned the pamphlets and literature available to those at the hearing, advising that such could be picked up after the hearing and that they would be glad to try and obtain any additional that might be desired. Mr. McNees advised that a complete set of the items was being left with the secretary of the Chamber of Commerce and would be available to those interested; that the different reports were in two sections, one giving the article as proposed and one giving a brief commentary on it.

Mrs. Hermann then expressed appreciation to the Nome Nugget for the excellent publicity given the hearing and to those attending it and at that time the hearing was adjourned.