

Constitutional Convention

Journal/30

Approved Jan. 7, 1956

ALASKA CONSTITUTIONAL CONVENTION

JOURNAL OF THE THIRTY-EIGHTH CONVENTION DAY, Thursday, December 15, 1955

The Convention was called to order at 12 o'clock noon by President Egan.

The Invocation was given by <sup>the Rev.</sup> Robert Sheppard of the Church of the Nazarene.

Roll call showed all delegates present. The President declared a quorum to be present.

The President announced that copies of the Convention keynote address "Let Us End American Colonialism!" by Ernest Gruening, were now available at the message center.

Mrs. Hermann stated that the address had been printed by the Alaska Statehood Committee for wide distribution.

The President stated that Mrs. Laura Jones's 8th grade class was present in the gallery at the invitation of the Convention. He introduced Miss Marjory Thomas, president of the class, who in turn introduced the members of her class.

Mrs. Nordale rose to a point of personal privilege to announce that Delegate Davis was celebrating his birthday. The delegates extended good wishes to Mr. Davis.

Mrs. Hermann asked unanimous consent that the Convention recess until 1:30 o'clock p.m. There being no objection, it was so ordered.

AFTER RECESS

A telegram from Lester Bronson of Nome stating that <sup>a</sup>majority ~~was~~ in favor of four divisions in Alaska as now existing was read and ordered filed.

An invitation from the University of Alaska music department regarding a concert to be held Friday, December 16, was read.

Mr. Riley asked if three or four members of the Resources Committee could be excused from the plenary session so work could be completed with the consultant, Mr. Ostrom, prior to his departure.

38th Day, Thursday, Dec. 15

The President granted Mr. Riley's request.

Mrs. Sweeney, Chairman of the Committee on Engrossment and Enrollment, reported that the Committee had compared the Engrossed copy of Committee Proposal No. 2 with the original and found it correctly engrossed.

Mr. McCutcheon reported that the Committee on Legislative Branch was submitting for the consideration of the Convention the matters which had been delegated to them in the form of Committee Proposal No. 5.

Committee Proposal No. 5 by the Committee on Legislative Branch, entitled LEGISLATIVE POWERS AND DUTIES, was introduced, read the first time and referred to the Committee on Rules for assignment to the calendar.

The President ordered Committee Proposal No. 2 referred to the Committee on Style and Drafting.

Mrs. Hermann rose to a point of privilege and at the request of Mr. R. Rivers and with the unanimous consent of the Convention, her remarks were ordered spread on the Journal as follows:

"HERMANN: I think it is particularly important that we of the Constitutional Convention pause a moment from our regular duties to recognize the fact that this is a very important anniversary in the history of America. This is the 164th anniversary of the ratification of the Bill of Rights which was accomplished in 1791 when the tenth of the thirteen states to whom it had been submitted finally ratified it. I was in hopes that our own Bill of Rights might make the floor on this day, and I am going to request that it be dated as of this day in commemoration of the fact that our national Bill of Rights was finally ratified as of this date.

I think we should turn back and remember some of the struggles of these early founding fathers as they sought to draft the Constitution and the subsequent Bill of Rights. Their condition was somewhat like ours, but it was also vastly different because they had no example upon which to found their work. They were without precedent. They did not have great universities spotting the land from which they could draw on the consultants and the advice that they had to give, as we have been able to do. They had literally nothing to guide them. They simply reached down into their own great hearts and souls and minds and produced the document that Gladstone was later to call the most remarkable document ever struck off by the mind of man. And then, not satisfied that it had given all the liberties and freedoms that we should have, it produced

the ten amendments that constitute the Bill of Rights, after some more years of struggling. There can be no doubt that there was dissention and compromise and frustration all through the course of writing that great Constitution and writing the Bill of Rights that followed after it. But the fact of the matter is that they did come up with a document that set up the principles of government for that Atlantic coastline of thirteen states. From there it became not a localized government, but it crossed the Alleghanies into the great region that was known as the Northwest Territory, on across the great plains, over the Rockies and the Cascades to the Pacific Ocean and northward to Alaska.

And so I think it is particularly important today that we who are assembled here at the site of the farthest north university under the American flag, in Constitution Hall, that may in time become as much of a shrine to Alaskans as Independence Hall has become to Americans, in a Convention that is writing the constitution for a state that may become the last state in this American Union, should take time and, in the presence of these boys and girls, who will probably be among those who will write future amendments to this constitution, rededicate ourselves wholly to the principles of government that made our American Constitution and our Bill of Rights the greatest charter of freedom that the world has ever known. I ask that we date our own Bill of Rights, which we are to produce at this time and for which we have had the example not only of our federal Constitution and the Constitution of our forty-eight states, including Hawaii, but also the help of great students of governmental matters, as of this day, in commemoration of the ratification of the Bill of Rights. We may, in this way, in all gratitude and reverence say, 'Thank God for a job well done in 1789 and 1791.'"

Miss Awes stated that the Committee on Preamble and Bill of Rights had completed its work and the proposal was being prepared for introduction and that in line with Mrs. Hermann's request the proposal was dated as of this date.

The President ordered that Proposal No. 7, Preamble and Bill of Rights, be dated December 15, 1955.

Mr. White rose to a point of order regarding Rule 44.

The President declared a short recess.

#### AFTER RECESS

The President declared a recess and requested that the Rules Committee meet with the Committee on Engrossment and Enrollment to clarify the question of second reading.



AFTER RECESS

Mrs. Sweeney asked unanimous consent that the report of the Committee on Engrossment and Enrollment be returned to the Committee at this time. There being no objection, it was so ordered.

Mr. Rosswog reported that the Rules Committee would like to recommend that in Rule 16 on the second to the last line after the word "proposal" delete "in completed form after" and replace with the words "as amended in". Mr. Rosswog moved and asked unanimous consent for the adoption of the change.

After discussion and explanation by the President, the change was adopted by unanimous consent.

Mr. White spoke on personal privilege regarding keeping a proposal in second reading.

Mr. White moved and asked unanimous consent that the Rules be suspended, that Committee Proposal No. 2 be withdrawn from the Committee on Engrossment and Enrollment and be continued in second reading until after the recess hearings and then placed on the calendar for further action under the rules of the Convention. Mr. Sundborg objected. Mr. Coghill seconded.

Mr. V. Rivers stated that he believed he had requested that the proposal be continued in second reading at an earlier plenary session.

The President declared a recess so the record could be checked.

AFTER RECESS

The Chief Clerk read from the Journal of the thirty-fifth day the following:

"Mr. V. Rivers asked whether Committee Proposal No. 2 would still be in second reading.

"The President stated he believed the Proposal would be in second reading through the Committee on Engrossment and Enrollment."

The President stated this matter had been taken up with the Rules Committee and it was the ruling of the Committee that as soon as a proposal had been referred to the Committee on Engrossment and Enrollment no more amendments could be considered and adopted by a majority vote.

Mr. White moved and asked unanimous consent to withdraw his motion. There being no objection, it was so ordered.

Mr. White moved and asked unanimous consent that when Committee Proposal No. 2 is reported by the Committee on Engrossment and

Enrollment that it still be considered in second reading for purpose of amendment. Mr. Davis objected. Mr. White moved. Mr. Knight seconded.

After discussion, the President asked Mr. Peratrovich to take the Chair.

The President stated that because he had not had it clearly in mind regarding the status of a proposal after it was referred to the Committee on Engrossment and Enrollment and possibly many of the delegates were of the same feeling, he would have to support Mr. White's motion in this particular case.

After discussion by Mr. Davis, Mr. White, Mr. Fischer, and Mr. Doogan, Mr. Johnson inquired whether the motion would take a two-thirds vote.

Mr. Peratrovich asked the President to take the Chair.

The President stated that since the motion was a suspension of the rules it would take a two-thirds vote to carry.

The question being "Shall Mr. White's motion be adopted?", the roll was called with the following result:

Yeas: 19 - Armstrong, Barr, Coghill, Emberg, Harris, Hurley, Kilcher, Londborg, McNealy, Nerland, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Smith, Sweeney, White, Mr. President.

Nays: 32 - Awes, Buckalew, Collins, Cooper, Cross, Davis, Doogan, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nolan, Nordale, Robertson, Rosswog, Sundborg, VanderLeest, Walsh, Wien

Absent: 4 - Boswell, Riley, Stewart, Taylor  
and so the motion failed.

Mr. Johnson moved for a recess. Mr. Buckalew objected. Mr. Barr seconded. On voice vote the motion carried.

#### AFTER RECESS

Proposal No. 1 was considered again. Mr. V. Rivers' motion offered December 13 was before the Convention.

After Mr. Peratrovich, Mr. Sundborg and Mr. Marston spoke against the amendment, the question was called.

The question being "Shall Mr. V. Rivers amendment be adopted?" the roll was called with the following result:

Yeas: 10 - Hinckel, Johnson, Laws, Londborg, Metcalf, Nerland, Reader, R. Rivers, V. Rivers, Robertson

Nays: 40 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nolan, Nordale, Peratrovich, Poulsen, Rosswog, Smith, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Absent 5 - Boswell, Riley, Stewart, Taylor, White and so the amendment failed.

Mr. Buckalew moved the adoption of the following amendment to Section 3:

Page 2, lines 10 and 11, strike all language down through word "mind" and insert following: "No person who is non compos mentis". Mr. Barr objected. Mr. McNealy seconded.

After discussion by Mr. McLaughlin, Mr. Davis, Mr. Buckalew, Mr. Hellenthal, Mr. Londborg, Mr. Fischer and Mr. Barr, the President declared a recess.

#### AFTER RECESS

Mr. Sundborg stated that Mr. Buckalew had agreed to permit the withdrawal of his amendment so that another amendment could be substituted, and in accordance with that agreement, Mr. Sundborg moved and asked unanimous consent for the withdrawal of Mr. Buckalew's amendment. There being no objection, it was so ordered.

Mr. Sundborg moved and asked unanimous consent for the adoption of the following amendment:

Section 3. Strike lines 10, 11, 12, and 13 and insert in lieu thereof the following:

"Section 3. No person convicted of a felony involving moral turpitude, unless pardoned and restored to his civil rights, and no person judicially determined to be of unsound mind, until the disability is removed, shall be"

Mrs. Hermann seconded.

Mr. Hellenthal moved to amend the amendment by striking

"involving moral turpitude" after the word "felony". Mr. Sundborg objected. Mr. Kilcher seconded.

After discussion by Mr. Buckalew, Mr. Davis, Mr. Kilcher and Mr. Gray, the question was called. On voice vote the amendment to the amendment failed.

Mr. Kilcher moved to amend the amendment by striking the words "until the disability is removed". Mr. Lee seconded. On voice vote the amendment to the amendment failed.

The question being "Shall Mr. Sundborg's amendment be adopted?", on voice vote the amendment was adopted.

Mr. Metcalf moved the adoption of the following amendment:

Add Section 6. "Provided further that the legal age of persons qualified to vote shall be permanently established by referendum vote of the people at the time this constitution is submitted for ratification by the people." Mr. Sundborg seconded.

Mr. McCutcheon stated he believed this amendment should be included in the transitional measures.

The President stated he was unable to decide whether the amendment was in order and referred the matter to the Rules Committee.

The President declared a short recess.

#### AFTER RECESS

Mr. Riley, Chairman of the Rules Committee, reported that the Rules Committee had found the amendment out of order.

The President ruled Mr. Metcalf's amendment out of order.

Mr. Metcalf moved the adoption of the following amendment:

Page 1, line 2, after the word "years" insert "unless otherwise determined by a referendum vote of the electors at the time this constitution is submitted for ratification,". Mr. Coghill objected. Mr. Hinckel seconded.

The question being "Shall Mr. Metcalf's amendment be adopted?", the roll was called with the following result:

Yeas: 12 - Armstrong, Barr, Collins, Hinckel, Johnson, Laws, Londborg, McNealy, Metcalf, Nolan, Reader, Robertson

Nays: 39 - Awes, Buckalew, Coghill, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Kilcher, King,



Knight, Lee, McCutcheon, McLaughlin, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Sundborg, Sweeney, VanderLeest, Walsh, Wien, Mr. President.

Absent: 4 - Boswell, Stewart, Taylor, White.

and so the amendment failed.

Mrs. Hermann moved the adoption of the following amendment:

Section 2, page 2, line 7, strike the word "that" and insert "the manner of determining", add period after "elections" and strike the rest of the sentence. Mr. Riley seconded.

After discussion by Mrs. Hermann, Mr. Hellenthal, Mr. Sundborg and Mr. R. Rivers, Mr. Riley asked for a two minute recess. There being no objection, it was so ordered.

#### AFTER RECESS

Mr. R. Rivers moved to amend Mrs. Hermann's amendment by adding at the end thereof the following:

"which shall include the right of appeal to a court of competent jurisdiction." Mr. Knight seconded. Mrs. Hermann accepted the amendment and it was ordered adopted.

The question being "Shall the amendment as amended be adopted?", on voice vote the motion carried.

Miss Awes moved the adoption of the following amendment:

Strike Section 5 and substitute the following: "Section 5. Secrecy of voting shall be preserved." Mr. Buckalew seconded. On voice vote the amendment was adopted.

Mr. Fischer moved the adoption of the following amendment:

In the amended language of the last sentence of Section 1, after the year "1924" insert the following: "and meet the residence requirements of this section". Mr. Hellenthal asked unanimous consent. There being no objection, it was so ordered.

Mr. Barr moved the adoption of the following amendment:

Strike Section 2. Mr. McCutcheon objected. Mr. Laws seconded.

After discussion by Mr. Barr, Mr. Sundborg, Mr. McCutcheon and Mr. Robertson the question was called. On voice vote the amendment failed.



Mr. Londborg moved the adoption of the following amendment:

Page 2, Section 3, strike "judicially determined to be of unsound mind" and insert after the word "person" the following: "found, in manner provided by law, to be of unsound mind." Mr. Buckalew seconded. On voice vote the amendment failed.

Mr. Kilcher asked unanimous consent if as general practice the President would entertain a motion to the effect that a certain proposal would be forwarded to the Committee on Engrossment and Enrollment.

Mr. McCutcheon stated that this was the prerogative of the Chair.

The President stated that Mr. Kilcher would have to offer a new rule.

Mr. McCutcheon objected and read Rule 61.

The President asked Mr. Kilcher to hold his motion until later.

Mr. Davis stated that the time for Mr. Kilcher's motion was when the Convention had finished considering all amendments to Proposal No. 1.

Mr. Harris moved to adjourn until 9 o'clock a.m. Friday. Mr. Robertson seconded.

The President called for Committee announcements.

Mr. Hellenthal announced a meeting of the Committee on Suffrage, Elections and Apportionment at 8 ~~p.m.~~ o'clock p.m., at Apt. 1009 Polaris.

On voice vote the motion to adjourn failed.

Mr. Coghill moved to adjourn until 9:05 o'clock a.m. Since no other business had been considered, Mr. Coghill's motion was out of order.

Mrs. Hermann spoke on a matter of personal privilege to congratulate the Committee on Judiciary for having met its target date in the submission of its article.

Mr. V. Fischer spoke on a matter of personal privilege to state that most of the Committees have finished their work and the proposals were being put in final form and it was not the Committees' fault that the formal reports were not in the hands of the delegates.

The President rose to a point of personal privilege to congratulate the Committee Chairmen for the long hours spent on Committee work and for the excellent work being done.

Mr. Davis stated he would like to move that Committee Proposal No. 1 be referred to the Committee on Engrossment and Enrollment.

Mr. Sundborg rose to a point of order to state he believed Mr. Kilcher wanted to make a motion before that was ordered.

Mr. R. Rivers rose to a point of order to state he believed there were some amendments on the Clerk's desk.

Mr. Hellenthal stated that the amendments were Mr. Taylor's and he believed the matter had been taken care of by action on similar amendments this date.

Mr. Barr stated that he believed Mr. Davis's motion was out of order because it was up to the President to move the proposals along in accordance with the rules of the Convention.

Mr. Egan stated that Mr. Barr was correct and that he had advised Mr. Kilcher that he would let him make his motion to amend the permanent rules as soon as all action of amending Proposal No. 1 had been completed.

Mr. Sundborg moved and asked unanimous consent that Committee Proposal No. 1 be continued in second reading.

Mr. Buckalew objected. Mr. McNealy seconded.

On voice vote the motion failed.

Mr. Gray moved that the Convention adjourn until 9:05 o'clock a.m., Friday. Mr. V. Rivers seconded. The roll was called with the following result:

Yeas: 29 - Armstrong, Awes, Barr, Coghill, Collins, Cross, H. Fischer, Gray, Harris, Hellenthal, Johnson, King, Knight, Laws, Londborg, McLaughlin, McNealy, Nolan, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sweeney, VanderLeest, Walsh, White, Wien

Nays: 23 - Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Hermann, Helscher, Hinckel, Hurley, Kilcher, Lee, McCutcheon, McNees, Marston,

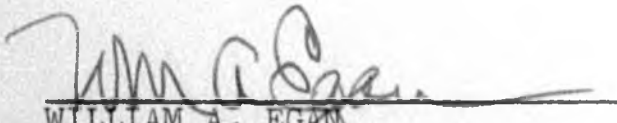
Metcalf, Nerland, Nordale, Peratrovich, Poulsen,  
Riley, Sundborg, Mr. President.

Absent: 3 - Boswell, Stewart, Taylor

and so the Convention adjourned.

  
KATHERINE T. ALEXANDER  
Chief Clerk

Attested:

  
WILLIAM A. EGAN  
President