

Jan. 12, 1956

ALASKA CONSTITUTIONAL CONVENTION

JOURNAL OF THE FORTY-SIXTH CONVENTION DAY, Saturday, January 7, 1956

The Convention was called to order at 9 a.m. by President Egan.

The Invocation was given by the Rev. John Stokes of the University Community Presbyterian Church.

Roll call showed all delegates present except Mr. Cooper and Mr. Emberg who were reported ill. The President declared a quorum to be present.

Mr. Doogan moved and asked unanimous consent that the Journals for the 37th through the 42nd days be approved subject to the following corrections:

37th day Journal:

Page 1 - second paragraph, change "e" to "a" in name of Chaplain.

38th day Journal:

Page 1 - paragraph 2, insert "the Rev." before "Robert".

Page 9 - fifth paragraph from bottom of page, strike first "p.m.".

39th day Journal:

Page 3 - fourth paragraph from bottom of page, insert "student body of the" at end of second line.

Page 1 - correct spelling of "ninth" in title.

Page 5 - first paragraph, second line, strike "part" and substitute "another group"; strike "the" before "sophomore"; strike "classes" and substitute "students".

40th day Journal:

Page 1 - delete "o'clock" in first paragraph.

Page 3 - 6th paragraph, strike "5" and insert "15".

Page 6 - first paragraph AFTER RECESS, insert "to" after "moved".

Page 9 - second paragraph AFTER RECESS, after the word "to", insert the following: "the first sentence in the amended".

Page 12 - insert "AFTER RECESS" after paragraph 5, calling the recess.

Page 19 - first roll call, change "27 yeas" to "25 yeas".

- second roll call, change "25 yeas" to "27 yeas".

46th Day, Saturday, Jan. 7, 1955

42nd day Journal:

- Page 1 - next to last paragraph, insert a period after "gallery" and strike rest of sentence and substitute the following: "The Alaska Road Commission District Engineer from Nome, Mr. Frank Morris and Mrs. Morris were introduced."
- Page 3 - third paragraph from the bottom of page, strike "himself and announced" and substitute "the earlier announcement of said vote by announcing".
- second paragraph from the bottom of page, third line, insert "portion of that" at end of line.
 - last paragraph, strike "voting on"; insert comma after "recess"
- Page 5 - third paragraph from bottom of page, third line, strike "H."; insert "Ralston" before "A".
- Page 6 - third paragraph from bottom of page, change "wishes" to "wished".
- second paragraph from bottom of page, second line, strike "of" and substitute "on".

There being no objection, it was so ordered.

Mr. Boswell asked that the Journals show the time of adjournment daily. The President ordered that this be done in the future.

Mr. Robertson moved to reconsider his vote on Mr. Kilcher's amendment to Section 13, line 24, at this time. Mr. Johnson seconded.

After discussion by Mr. Robertson, Mr. Buckalew, Mr. McLaughlin, Mr. Barr, Miss Awes, Mr. Sundborg, Mr. Kilcher, Mr. Riley, Mr. R. Rivers, Mr. Smith, the question was called.

The question being "Shall the amendment to line 24 of Section 13 offered by Mr. Kilcher be adopted?", the roll was called with the following result:

Yeas: 3 - Barr, Kilcher, Lee

Nays: 50 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Londborg, 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, Mr. President

Absent: 2 - Cooper, Emberg

and so the amendment failed.

Mr. R. Rivers moved and asked unanimous consent for the adoption of the following amendment to Section 13: line 24 and 25, strike "two hundred and fifty dollars" and insert the words "three hundred dollars". Mr. Taylor objected. Mr. V. Rivers seconded. After discussion by Mr. V. Fischer, Mr. R. Rivers, Mr. Kilcher and Mr. Taylor, the question was called.

The question being "Shall Mr. R. Rivers's amendment to Section 13 be adopted?", the roll was called with the following result:

Yeas: 17 - Buckalew, Cross, H. Fischer, Hinckel, Laws, McLaughlin, Marston, Nerland, Nolan, Peratrovich, Poulsen, Riley, R. Rivers, V. Rivers, Robertson, Smith, White

Nays: 36 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nordale, Reader, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, Wien, Mr. President

Absent: 2 - Cooper, Emberg

and so the amendment failed.

Mr. Sundborg asked unanimous consent to revert to committee announcements. There being no objection, it was so ordered.

Mr. Sundborg announced a meeting of the Committee on Style and Drafting at 10:30 a.m. Sunday in Apt. 1013, Polaris Bldg.

Mr. Coghill announced a meeting of the Committee on Administration on the first fifteen-minute recess.

SECOND READING OF PROPOSALS

Committee Proposal No. 7 was considered again. The amendment to Section 11 which had been moved by Mr. V. Rivers and seconded by Mr. Armstrong having been held over, was considered at this time.

Mr. R. Rivers requested a short recess. There being no objection it was so ordered.

Mr. Taylor moved the adoption of the following amendment to the amendment: after word "admissible" insert the words "as evidence"; strike second word "evidence" and insert word "information"; strike word "or" in last sentence and insert word "and" and insert the words

"or other investigative" after word "legislative". Mr. V. Rivers seconded and asked unanimous consent for its adoption. Mr. Johnson objected.

After discussion by Mrs. Hermann and Mr. Barr, Mr. White rose to a point of order to state that Mr. Barr was not talking on the amendment to the amendment. The President stated that Mr. Barr was in order because his statements related to the amendment.

The question being "Shall Mr. Taylor's amendment to the amendment to Section 11 be adopted?", the roll was called with the following result:

Yeas: 19 - Armstrong, Awes, Davis, H. Fischer, V. Fischer, Harris, Hellenthal, Hinckel, McCutcheon, McNealy, Nordale, Riley, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sundborg, Taylor

Nays: 34 - Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, Gray, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, Rosswog, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President

Absent: 2 - Cooper, Emberg

and so the amendment to the amendment failed.

Mr. Robertson moved the adoption of the following amendment to the amendment to Section 11: At end of amendment, delete period and insert comma and add "except when obtained upon warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the objectives thereof." Mr. Metcalf seconded. After discussion by Mr. Robertson, Mr. Hurley, Mr. Taylor, Mr. V. Fischer, Mr. Barr and Mr. White, Mr. Buckalew requested Mr. Robertson to withdraw his amendment so the Convention could act on the main amendment. Mr. Robertson did not withdraw his amendment.

The question being "Shall the amendment to the amendment to Section 11 as offered by Mr. Robertson be adopted?", the roll was called with the following result:

Yeas: 35 - Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Davis, Doogan, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Laws, Londborg, McCutcheon, McNealy, Marston, Metcalf, Nerland, Nolan, Reader, Riley, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, White

Nays: 18 - Armstrong, H. Fischer, V. Fischer, King, Knight, Lee, McLaughlin, McNees, Nordale, Peratrovich, Poulsen, V. Rivers, Sundborg, Taylor, VanderLeest, Walsh, Wien, Mr. President

Absent: 2 - Cooper, Emberg

and so the amendment to the amendment was adopted.

Mr. Coghill moved the previous question. Mr. Laws seconded. On voice vote the motion failed.

Mr. White spoke on the main amendment.

Mr. McNealy moved the adoption of the following amendment to the amendment to Section 11: delete the word "incriminating" and insert the words "information or". Mr. V. Rivers seconded. After Mr. Barr spoke on the amendment, the question was called. On voice vote the amendment was adopted.

After discussion on the main amendment by Mr. McNealy, Mr. Buckalew, Mr. Marston and Mr. V. Rivers, Mr. Sundborg moved and asked unanimous consent for a fifteen-minute recess. There being no objection, it was so ordered.

AFTER RECESS

Mr. White spoke on a matter of personal privilege.

COMMUNICATIONS

A telegram from Mr. Henning N. Johnson and William Raver of Homer, stating they believed the people on the Kenai Peninsula would not ratify the constitution unless the initiative and referendum are included and recommending an automatic constitutional convention every 25 years, was read and ordered filed.

A statement from Mr. Don M. Dafoe relative to Committee Proposal No. 10 was referred to the Committee on Executive Branch.

Mr. Coghill stated that since Mr. Dafoe would be in Fairbanks shortly could he not address the Convention?

The President directed Mr. Coghill, as Chairman of the Committee on Administration, to make arrangements for Mr. Dafoe to meet with the delegates and to report back to the Convention.

After Mr. Harris and Mr. Riley spoke on the amendment to Section 11, the question was called. Mr. V. Rivers requested a roll call.

The question being "Shall the amendment to Section 11 as amended be adopted?", the roll was called with the following result:

Yeas: 12 - Armstrong, Davis, H. Fischer, Hellenthal, ~~Hinckel~~, Laws, McNealy, Reader, R. Rivers, V. Rivers, Robertson, Smith

Nays: 41 - Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cross, Doogan, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Riley, Rosswog, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President

Absent: 2 - Cooper, Emberg

and so the amendment failed.

Mr. Riley requested a five-minute recess. There being no objection, it was so ordered.

AFTER RECESS

Mr. Doogan asked permission to revert to corrections to the Journal. There being no objection, it was so ordered. Mr. Doogan moved and asked unanimous consent that the following correction to the Journal for the fortieth day be adopted: page 13, insert the following before the third to the last paragraph: "On voice vote the amended amendment was adopted." There being no objection, the correction was ordered adopted.

Mr. Riley reported that several delegates had drafted an amendment to Section 11 but wished to have it mimeographed before presenting it to the Convention and asked that the Convention proceed to other sections until copies were available.

Mr. V. Fischer and Mr. Buckalew asked questions of Miss Awes, Chairman of the Committee on Bill of Rights, regarding Section 3.

Mr. V. Rivers moved the adoption of the following amendment proposed Friday: Section 6, page 2, line 23, add to the section the following sentence: "The right of a person to due process of law shall not be infringed by use of the Legislature's investigative power." Mr. McCutcheon seconded.

After discussion by Mr. V. Rivers, Mr. Johnson, Mr. Davis, Mr. Barr, Mr. Buckalew, Mr. McLaughlin, Mr. R. Rivers, Miss Awes and Mr. Taylor, Mr. R. Rivers asked that action on the amendment be held over until after the noon recess. There being no objection, it was so ordered.

Mr. Kilcher moved the adoption of the following amendment to Section 14: line 8, strike the comma and "invasion or imminent peril" and substitute "or actual and imminent invasion,".

Mr. McCutcheon objected. Mr. Buckalew seconded. Mr. Taylor stated he believed the words were inconsistent. Mr. Kilcher spoke on the amendment. Miss Awes asked Mr. Kilcher if he would not amend the amendment by changing the word "and" to "or". Mr. Kilcher asked unanimous consent for the adoption of the amendment offered by Miss Awes. There being no objection, it was so ordered.

After discussion by Mr. Hurley, Mr. Buckalew and Miss Awes, the question was called. The question being "Shall the amendment as amended be adopted?", the roll was called with the following result:

Yeas: 30 - Armstrong, Awes, Boswell, Buckalew, Coghill, Collins, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Kilcher, Knight, Lee, Lomborg, McNeese, Marston, Nerland, Nolan, Peratrovich, Poulsen, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, VanderLeest, Mr. President

Nays: 23 - Barr, Cross, Davis, Doogan, Hellenthal, Hinckel, Johnson, King, Laws, McCutcheon, McLaughlin, McNealy, Metcalf, Nordale, Reader, Riley, Robertson, Rosswog, Sweeney, Taylor, Walsh, White, Wien

Absent: 2 - Cooper, Emberg

and so the amendment was adopted.

Mr. V. Rivers asked whether this was the last day for the introduction of individual proposals. The President stated that since the eighth of January, the date adopted as the cutoff date, fell on Sunday, the time had been extended one day until Monday, January 9, 1956.

Mr. Gray asked unanimous consent to address the Convention on a matter of personal privilege to discuss apportionment. There being no objection, it was so ordered.

At the conclusion of Mr. Gray's remarks, Mr. Nerland moved and asked unanimous consent that the Convention adjourn until Monday morning at 9 a.m. Mr. V. Fischer objected. Mr. Taylor seconded. The roll was called with the following result:

Yeas: 17 - Barr, Boswell, Collins, Cross, H. Fischer, Johnson, McLaughlin, McNealy, McNees, Nerland, Nolan, Poulsen, R. Rivers, V. Rivers, Robertson, Taylor, Wien

Nays: 36 - Armstrong, Awes, Buckalew, Coghill, Davis, Doogan, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, Marston, Metcalf, Nordale, Peratrovich, Reader, Riley, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Mr. President

Absent: 2 - Cooper, Emberg

and so the Convention did not adjourn.

Mr. Sundborg moved and asked unanimous consent that the Convention recess until 1:30 p.m. There being no objection, it was so ordered.

AFTER RECESS

Mrs. Sweeney stated that she was filing with the Secretary of the Convention a report from Curtis G. Shattuck of Juneau regarding apportionment.

The President directed the Chief Clerk to read a memorandum from the Alaska Department of Health regarding Section 1 of Proposal No. 7, Health, Education and Welfare and Section 19 of Proposal No. 5 on the Legislative Branch, prohibiting the expenditure of public funds for the direct aid or benefit of religious or private institutions which Miss Awes had asked be read.

Mr. Riley asked that the tables attached to the memorandum be read to show the hospitals receiving aid. Without objection, the tables were read. The communication was ordered filed.

Mr. Armstrong stated he had a letter from Mr. Dafoe, Commissioner of Education, regarding Committee Proposal No. 7 which he was filing with the Chief Clerk and Miss Awes, Chairman of the Committee on Bill of Rights.

Mr. Buckalew asked that the communication be read at this time.

Mr. V. Fischer suggested that the two communications be held and read at the time the sections referred to were considered.

The President stated the communications would be read at the appropriate time when the sections in question were up for consideration.

Mr. Riley moved the adoption of the following amendment offered by Mr. Robertson, Mr. Davis, Mr. Hellenthal, Mr. R. Rivers, Mrs. Nordale and Mr. Riley to Section 11: strike Section 11 in its entirety and substitute the following:

"Section 11. The right of the people to privacy and to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches, seizures, or other invasions of privacy shall not be violated; and no warrants shall issue, but upon probable **cause, supported by oath or affirmation**, and particularly describing the place to be searched, the information sought or the persons or things to be seized. Information secured in violation of this section shall not be admissible evidence in any Judicial or other proceeding."

Mr. White seconded. After discussion by Mr. Kilcher, Mr. McCutcheon, Mr. White, Mr. Buckalew, Mr. Gray, Mr. Hellenthal, Mr. Doogan, Mr. Davis, Mr. Marston, Mr. Harris, Mr. McNees, Miss Awes and Mr. Hurley, the question was called. Mr. Johnson requested a roll call.

The question being "Shall the amendment to Section 11 be adopted?", the roll was called with the following result:

Yeas: 27 - Armstrong, Coghill, Cross, Davis, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Marston, Nerland, Nordale, Peratovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Walsh, White

Nays: 21 - Awes, Boswell, Buckalew, Collins, Doogan, Gray, Harris, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNees, Metcalf, Nolan, Sweeney, VanderLeest, Mr. President

Absent: 7 - Barr, Cooper, Emberg, H. Fischer, McNealy, Taylor, Wien

and so the amendment was adopted.

The President requested that delegates refrain from advising other delegates how to vote on a roll call.

Mr. V. Rivers asked unanimous consent to withdraw his amendment to Section 6. There being no objection, it was so ordered.

Mr. V. Rivers moved the adoption of the following amendment: Section 6, page 2, line 23, add to the section the following sentence:

"The right of the people to be protected from unjust abuse in the course of legislative investigations shall not be infringed, to this end the legislature shall prescribe adequate investigative procedures." Mr. R. Rivers seconded. Mr. R. Rivers asked unanimous consent to amend the amendment by striking the comma after "infringed", inserting a period and changing "to" to "To". There being no objection, it was so ordered.

Mr. Hellenthal questioned whether the amendment should not be stated in the affirmative.

Mr. V. Rivers requested a two-minute recess. There being no objection, it was so ordered.

AFTER RECESS

Mr. V. Rivers asked unanimous consent to withdraw his amendment and substitute the following amendment in its place: Section 6, page 2, line 23, add to the section the following sentence: "The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed." There being no objection, Mr. V. Rivers's request was granted.

Mr. V. Rivers moved the adoption of the amendment. Mr. Smith seconded. After discussion by Mr. Buckalew, Mr. Smith, Mr. Johnson, Mr. Stewart and Mr. V. Rivers, the question was called. On voice vote the amendment was adopted.

Mr. Harris rose to speak on a matter of personal privilege.

Mr. V. Fischer inquired whether the Proposals which contain two or more parts could not be separated so that the whole proposal would not have to be held up on its way to Engrossment and Enrollment and Style and Drafting. The President stated he didn't think this would be possible because it would involve remimeographing of proposals by the "boiler room".

Mr. Sundborg asked unanimous consent that the Article on Declaration of Rights be ordered to Engrossment and Enrollment.

The President stated the Article on Declaration of Rights would be ordered to Engrossment and Enrollment, but that amendments would be possible until the Convention had completed all work on Proposal No. 7.

Mrs. Sweeney moved that the Convention adjourn until 9 a.m. Monday. Mr. V. Rivers seconded.

Mr. Kilcher rose to a point of inquiry regarding giving notice of reconsideration on a vote if the Convention adjourned.

The President stated that the notice would have to be given before adjournment on this day.

Mr. Hurley served notice of reconsideration on his vote on the adoption of the amendment to Section 11 offered by Mr. Riley and other delegates.

The question being "Shall the Convention adjourn until 9 a.m. Monday?", the roll was called with the following result:

Yeas: 21 - Armstrong, Boswell, Coghill, Collins, Cross, Doogan, Harris, Johnson, Londborg, McLaughlin, Metcalf, Nerland, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sundborg, Sweeney, VanderLeest

Nays: 26 - Awes, Buckalew, Davis, V. Fisher, Gray, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, McCutcheon, McNees, Marston, Nolan, Nordale, Peratrovich, Riley, Rosswog, Smith, Walsh, White, Mr. President

Absent: 8 - Barr, Cooper, Emberg, H. Fischer, Hilscher, McNealy, Taylor, Wien

and so the Convention did not adjourn.

Mr. Johnson rose to a point of order that since Mr. Hurley had given notice of reconsideration, the Article on Declaration of Rights could not be ordered to Engrossment and Enrollment.

The President stated Mr. Johnson's point of order was well taken and the Article on Declaration of Rights was not ordered to Engrossment and Enrollment.

Mr. R. Rivers asked that the Article on Health, Education and Welfare be read again.

Mr. Riley asked unanimous consent for a five-minute recess. There being no objection, it was so ordered.

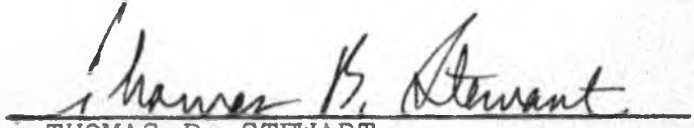
AFTER RECESS

The Chief Clerk read the Article on Health, Education and Welfare.

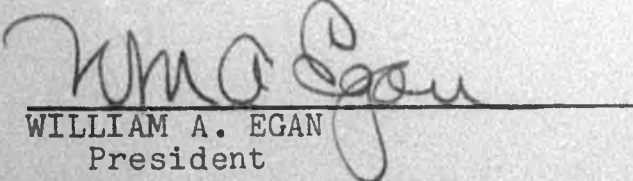
Mrs. Sweeney moved that the Convention adjourn until 9:05 Monday. Mr. Rosswog seconded. Mrs. Hermann requested a roll call. The roll was called with the following result:

- Yeas: 27 - Armstrong, Boswell, Coghill, Collins, Cross, Doogan, Harris, Hellenthal, Hinckel, Johnson, King, Knight, Londborg, McLaughlin, Metcalf, Nerland, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Sweeney, Taylor, Walsh.
- Nays: 20 - Awes, Buckalew, Davis, V. Fischer, Gray, Hermann, Hilscher, Hurley, Kilcher, Laws, Lee, McCutcheon, McNees, Marston, Nordale, Peratrovich, Riley, Smith, White, Mr. President
- Absent: 8 - Barr, Cooper, Emberg, H. Fischer, McNealy, V. Rivers, VanderLeest, Wien

and so the Convention adjourned at 2:30 p.m. until 9:05 a.m., Monday.


THOMAS B. STEWART
Secretary

Attested:


WILLIAM A. EGAN
President