

ALASKA CONSTITUTIONAL CONVENTION

December 17, 1955

FORTIETH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning the Reverend Richard Lambert of St. Matthew's Episcopal Church. Reverend Lambert will give our daily invocation.

REVEREND LAMBERT: Let us pray. Direct us, O Lord, in all our doings with Thy most gracious favor and further us with Thy continual help that in all our works begun, continued and ended in Thee that we may glorify Thy Holy Name. We ask Thy continued guidance for this Assembly that with one accord that we may work for good government for Alaska which will be to the lasting honor of the delegates here assembled and to the glory of many generations in Alaska to come. This we pray in Christ's name. Amen.

PRESIDENT EGAN: The Chief Clerk will call the roll.

(The Chief Clerk called the roll at this time.)

PRESIDENT EGAN: Show Mr. Coghill and Mr. McNealy as being present.

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. Does the Committee appointed to read the journal have a report to make at this time? Mr. White.

WHITE: The Committee to read the journal asks unanimous consent to make the report later in the day.

PRESIDENT EGAN: The Committee asks unanimous consent that it make its report later in the day. If there is no objection, so ordered. Are there any petitions, memorials or communications from outside the Convention? Mr. Marston.

MARSTON: Mr. President, I have a communication here that I want this body to send to our Canadian friends across the line. I would like to read it to you and ask unanimous consent that this be sent.

PRESIDENT EGAN: If there is no objection Mr. Marston may read his proposed communication.

MARSTON: Having lived in Canada for several years I know how much interested they are in what goes on across the line, and I know they are interested and so therefore this resolution. (Mr. Marston read his resolution.) I move and ask unanimous consent that this be sent.

PRESIDENT EGAN: Mr. Marston, the Chair wonders if it would be acceptable to you to have the resolution go to the Resolutions Committee first and then perhaps there might be some changes. Would that be all right?

MARSTON: That would be perfectly all right.

PRESIDENT EGAN: Such is the case then. Mr. Taylor.

TAYLOR: To whom is that to be directed?

MARSTON: That is to be directed from this Convention to the Governor of Alaska, to the Secretary of State, and then to the land bordering Alaska.

PRESIDENT EGAN: If there is no objection the resolution is referred to the Committee on Resolutions for their consideration. Does the Chief Clerk have any communications to read to the Convention?

CHIEF CLERK: A letter from the Territorial Librarian. (The Chief Clerk read the letter regarding the preservation of the papers of the Convention.)

PRESIDENT EGAN: The communication will be referred to the Committee on Administration.

CHIEF CLERK: A letter from the Sitka Central Labor Council.

PRESIDENT EGAN: This is opposing the right-to-work clause in the constitution.

CHIEF CLERK: Shall I read it?

PRESIDENT EGAN: Inasmuch as the Preamble and Bill of Rights Committee has reported, the letter will be on file. It deals entirely with that subject.

CHIEF CLERK: That is all.

PRESIDENT EGAN: Are there reports of standing committees? Mrs. Hermann.

HERMANN: Committee No. 1 on Rules wishes to report that it recommends that Proposal No. 4 be referred to the Committee on Ordinances. Committee Proposal No. 4 is an ordinance actually, and we feel that the Ordinance Committee should give that some consideration.

PRESIDENT EGAN: If there is no objection, Committee Proposal No. 4 will be referred to the Committee on Ordinances.

HERMANN: We have as a second recommendation, pursuant to Rule

No. 46, the Committee recommends that after January 8 only committee proposals will be accepted by the Convention. That is for the purpose of shutting off individual proposals at a selected time. Rule No. 46 covers that. I think it will have to have action by the Convention. I move the adoption of this report.

V. RIVERS: What day is the recommendation for?

HERMANN: January 8, four days after we resume sessions.

PRESIDENT EGAN: Mrs. Hermann moves and asks unanimous consent that in line with the statement that is contained in Rule No. 46 of the permanent rules that January 8 be set as the date after which all proposals will have to be committee proposals and not individual proposals. Is there objection?

JOHNSON: I object.

HERMANN: I so move.

ROSSWOG: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, I think it is unwise to put these ceilings over the committees when they are already working hard. If the committees were not working hard it might be well. It does not seem to me that the quality and speed go along hand in hand. You are speaking only of the committee proposals?

HERMANN: No, individual proposals.

V. RIVERS: It seems to me further that we should not put such a ceiling on individual proposals. There are going to be times and matters coming up when there are things that have not yet reached our attention. It seems to me we should put it up to a very late date in the Convention when committee proposals could not be received.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: The resolution would not put any ceiling over committee work or committee proposals but just be cutting off the introduction of individual proposals as of that date, and as far as I am concerned we could have dispensed with the whole matter of ever having any individual proposals. Now if we adopt this, if any individual even after that time thinks he has a good idea, all he needs to do is go to the proper committee and broach his idea, and the committee would still be perfectly free and they would have the right to bring in a proposal in body, but it is just to stop the great mass of work

through the boiler room.

PRESIDENT EGAN: The Chair would like to correct, and with the feeling that Mr. Sundborg meant to say that the proposals that are being submitted to the Convention are all being actually worked over by the committees rather than that the constitution is being written by the committees. Mr. Victor Rivers.

V. RIVERS: That is true of any legislative body. The matter that comes in to it will be referred to committee. It does not seem right to me to foreclose the delegates on having the chance to put in any original ideas, especially after these hearings. We are coming back on the 4th. We will then have four days to put in delegate proposals. I think it should be left open, I don't see any reason for this ceiling, there's not a great amount of them probably coming in but there will doubtless be some that will have to come in and then it will take a two-thirds majority or else you will have to go through some committee that might be very reluctant. You would have to induce seven or nine people to join in introducing something, which may or may not be of value, but which I think should still be the privilege of this body.

PRESIDENT EGAN: Mr. Davis.

DAVIS: It was our thought here that anybody that may gain some thoughts at home in which he would wish to embody in a committee proposal will have the period of the recess after the idea occurs and four days after he comes back here to make up his proposal and that should be adequate for anybody to make any proposal he wants to make. Then, thereafter, if he gets a bright idea he can give it to the committee and let them take care of it. We have got to have this cut off some place, and we felt that January 8 would give everybody adequate time.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I agree with Mr. Victor Rivers. I see no reason for putting a shutoff date on this proposition at all. In the first place, January 8 falls on Sunday, so the last day would be Saturday, January 7, but that is a mere technicality. However, it seems to me that if we are going to put a ceiling on such a thing as this it could well be advanced at least a couple of weeks, because I believe there are many things that are still completely out of this constitution that must be put in, and I don't know of any committee that is working on it, and some of the things like delegate proposals. I see no reason for cutting off any delegate who has some proposal he feels is necessary in the constitution. He should have adequate time to put it in.

PRESIDENT EGAN: Mr. Buckalew?

BUCKALEW: I want to ask a question. If the last day falls on Sunday, would we have until Monday to introduce a proposal?

PRESIDENT EGAN: That would be the ruling of the Chair. Mr. Victor Rivers.

V. RIVERS: I would like to speak once more. Practically all the members of the body have been extremely busy on committee proposals. For that reason, a number of delegates, including myself, have had no chance to do hardly any work on individual proposals, some of which I think are important and necessary. We have been devoting ourselves however to practically strictly committee work, and this practically would foreclose us from any delegate proposals having a chance to be introduced.

PRESIDENT EGAN: Mr. Barr.

BARR: My own experience in these matters of course is with the legislature, and every session I have ever attended we have had to rush during the last two weeks to get the bills through and many of them were not really very important ones, but of course you were allowed to introduce bills up to five or ten days before the end of the session, and there was always a rush of bills at the last minute. Now, it seems to me that if we have two weeks vacation to think about it, and four days to submit these proposals, that would be ample time. The committees have pretty well covered all these subjects although we may overlook something. Anyway, if something is overlooked and it is important, and this body recognizes it, it could be introduced by suspension of the rules or better yet, by submission to a committee and have them report on it. I don't believe we will ever get through with this Convention in 75 days if we submit proposals right up to the last day.

KILCHER: Mr. President, I don't see where individual proposals will cause a great loss of time to the Convention at any date after New Year's because of the following reasons -- the committees can decide how much attention they will pay to proposals, how much attention they will not pay. Some committees in the past have spent quite a lot of time with individual proposals. Others have barely paid attention to them. They can do so in the future, but the closer they get to the deadline the more they will be reluctant to be much deviated by delegate proposals. Yet I think the delegates should have the right. There is one advantage in delegate proposals. We will save time on the floor actually with having them around up until way into January, because the committee does not necessarily have to pick them up. If they are a very good idea maybe they will, but in the normal procedure of introducing delegate proposals, they will be on the desk without using actually floor time to get acquainted with the matter and in case a committee should pick up a delegate proposal, the Convention would already be conversant with the matters. It would not waste any time at all,

except the delegate who sits up at night and draws up his proposals, and I think it is a minority right. It is essential that we have the right to introduce delegate proposals. I can't see anything to do with the fear that somebody is trying unduly to obstruct and to make it impossible to meet the deadline.

MCLAUGHLIN: I move the previous question.

HERMANN: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed by saying "no". The previous question has been ordered, and the question is, "Shall January 8 be set as the cutoff date for the introduction of individual delegate proposals?"

V. RIVERS: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

TAYLOR: A two-thirds vote?

PRESIDENT EGAN: No, a majority vote.

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

Yeas: 31 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cooper, Davis, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, King, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, Rosswog, Sundborg, Walsh, White, Wien, Mr. President.

Nays: 21 - Boswell, Cross, Emberg, H. Fischer, Harris, Hurley, Johnson, Kilcher, Laws, Londborg, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Sweeney, Taylor, VanderLeest.

Absent: 3 - Doogan, McCutcheon, Nerland.)

CHIEF CLERK: 31 yeas, 21 nays and 3 absent.

PRESIDENT EGAN: So the motion has passed and the motion is ordered adopted. Mr. Kilcher.

KILCHER: Point of order. Is that not actually an addition to the rules, Mr. President?

PRESIDENT EGAN: Mr. Kilcher, the Chair was going to bring that to the attention of the body. The question was raised just before the vote. Rule 46 says "The Convention may set a date after which no proposal shall be introduced except by a committee." Therefore, it takes only a majority vote because it is covered in the rules and direct authority is given to the Convention specifically. Mrs. Hermann.

HERMANN: There are two more minor items in the report to the Committee on Rules. The Committee will hold daily meetings immediately following the noon recess each day to set the calendar for the following day. The meetings will be held in the gallery. The Committee also reports progress on Mr. Kilcher's request that it reconsider Rule 35, and we will have a report on that very shortly. That is the rule covering the previous question. I move the adoption of the entire report.

TAYLOR: I second the motion.

R. RIVERS: I ask unanimous consent.

PRESIDENT EGAN: Is there objection? Hearing no objection it is so ordered. If there is no objection the Convention will stand at recess for two or three minutes while the Chief Clerk ascertains whether there are any committee proposals ready in the boiler room. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there other committee reports? Mr. Victor Rivers.

V. RIVERS: Mr. President, the Committee on the Executive Branch has two proposals, both of which are committee proposals, and they relate to certain work which is tied to the proposal on the Executive Branch. Now the proposal on the Executive Branch has not yet been completed. These are two supplementary proposals that go along with the main proposal.

PRESIDENT EGAN: The Chief Clerk will please read the two committee proposals for the first time.

CHIEF CLERK: "Committee Proposal No. 11, introduced by the Committee on Executive Branch, ORDINANCE ON THE FIRST ELECTION OF THE GOVERNOR AND THE SECRETARY OF STATE." "Committee Proposal No. 12, introduced by the Committee on the Executive Branch, ARTICLE CONTAINING GENERAL AND MISCELLANEOUS PROVISIONS."

PRESIDENT EGAN: The proposals are referred to the Rules Committee for assignment to the calendar, and the delegates will note that these proposals bore the numbers "11" and "12" respectively. There are other proposals that have been assigned

numbers lower than those numbers, but they have not yet been run off in the boiler room. Mr. Sundborg.

SUNDBORG: I would like to inquire if one of those proposals, since it was in the form of an ordinance, should it not be referred to the Ordinance Committee? Mr. McNealy, the Chairman of that Committee, yesterday asked the Rules Committee to surrender Proposal No. 4 because it was brought in the Committee on Resolutions in the form of an ordinance, and I believe Mr. McNealy's point was quite well taken that since we do have a committee with that responsibility and they may later be charged with the responsibility if something happens to be wrong with the form of the matter, that they should look it over. Is it going to be a general practice that ordinances can go on the calendar without reference to the Ordinance Committee?

PRESIDENT EGAN: Which one were you referring to, Mr. Sundborg?

SUNDBORG: The first one read, No. 11.

MCNEALY: If I might state, it is not the intention of the Committee on Ordinances to be looking for work, but the only expert which our Committee has had has been an expert on legal research, and we have amassed a large number of court decisions, and in the report which we will submit to the delegates and will be on their desks Monday, we have pointed out the court actions taken against new constitutions, and the cases run into the thousands, and fully 90 per cent of them are directed against the ordinances and transitional measures, and we have been endeavoring to adopt or write in ordinances on which we have the precedent of prior court decisions, and that is the only thought we had in mind with regard to that particular subject.

PRESIDENT EGAN: If this Executive Committee Proposal No. 11 is in the form of an ordinance, if there is no objection, the Chair would re-refer the particular proposal from the Rules Committee to the Ordinance Committee. Are there other committee reports at this time? Are there reports of select committees? Are there any proposals to be introduced? Are there any motions or resolutions? Is there other unfinished business? Mr. McNealy?

MCNEALY: Mr. President, this is actually not unfinished business, but I missed it along sometime yesterday morning. I would move and ask unanimous consent that the secretariat write a short letter to Vernon D. Forbes, Judge of the District Court for the Fourth Division, thanking him for the use of the law library for the benefit of the Convention. A number of the delegates have used it, and some of the secretariat who he has made a place in the library and since the library is under his supervision, he is not required to do that, I believe a letter of thanks would show our appreciation.

PRESIDENT EGAN: If there is no objection, such a letter will be written to Judge Forbes. Is there other unfinished business? Mr. Harris.

HARRIS: Mr. President, Mr. Sady is not with us this morning due to the death of his father in the states. I was wondering if this body should not write some letter to Mr. Sady expressing sympathy and condolences of this body.

PRESIDENT EGAN: A letter will be written, Mr. Harris, along with your suggestion. If there is no further unfinished business, the Convention will proceed with the second reading of Committee Proposal No. 3. The proposal has been read in its entirety for the second time, is that correct?

CHIEF CLERK: Yes. We are on Mr. Johnson's amendments.

PRESIDENT EGAN: We have an amendment by Mr. Johnson before us at this time.

CHIEF CLERK: No, it was just next. We acted on the last one but I have several.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment? Mrs. Hermann?

HERMANN: Mr. President, I was probably asleep yesterday when the announcement was made in regard to that vote on whether the percentage was raised to fifteen or left at eight, and I would like to know what was done about that, what the vote was on it?

PRESIDENT EGAN: Would the Chief Clerk please read the vote.

CHIEF CLERK: 25 yeas, 23 nays and 7 absent.

PRESIDENT EGAN: And so the percentage was raised to fifteen per cent, Mrs. Hermann. The Chief Clerk will please read the proposed amendment by Mr. Johnson.

CHIEF CLERK: "Page 1, Section 4, line 5, strike the word 'constitutionality' and substitute in lieu thereof the word 'form'."

JOHNSON: I move the adoption of the amendment.

MCLAUGHLIN: I second it.

PRESIDENT EGAN: The motion is open for discussion. Is there discussion of the proposed amendment? Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I was prepared to submit a lengthier one, but I will recommend certain things. First of all, Mr. Chairman, in all of the 19 states that have this provision on

initiative and referendum, I don't think there is one state that has a provision requiring a determination of constitutionality. That is specifically so in two cases that were cited here yesterday. It was suggested that California has such a provision. California merely has a provision under Article 4, Section 1, "Prior to circulation of any initiative or referendum petition for signatures thereof a draft of said petition shall be submitted to the attorney general with a written request that he prepare a title and summary of the chief purpose and points of said proposed measure. Said title and summary not to exceed 100 words in all." There is no requirement that the attorney general give an opinion on constitutionality. In the Commonwealth of Massachusetts, Article 74, Section 1, "The mode of originating such petition shall first be signed by ten qualified voters of the Commonwealth and shall be submitted to the attorney general not later than the first Wednesday of the August before the assembling of the general court into which it is to be introduced, and if he shall certify the measure and the title thereof are in proper form for submission to the people, etc." Now the general court that is referred to is the legislature in Massachusetts that is the legislature in Massachusetts is known as the general court. The true court, the judiciary is the supreme judicial court but the general court is the legislative body. It is merely an old word that has existed through the years to apply. The evil of this thing is first of all, any ten men in substance can gather together on any question that they desire an opinion on constitutionality, and they can submit it in a petition to the attorney general. I don't say that all these ideas are going to originate in the bars, but I say that any ten men when they have exhausted the possibility of the football scores, might well determine that they might send a petition with ten names signed to it to the attorney general, and the attorney general will then have to give a decision on the constitutionality of any proposed "legislation". What is the evil? The evil goes farther than that. The attorney general would be burdened then with answering questions and he would be required to do it and any lawyer here or any civilian knows that when a question of constitutionality arises it takes quite some time under any system to determine whether or not it is not only legal but in conformity to the constitution. The attorney general would have to have the largest staff conceivable in the executive branch of government to handle all of these problems. More than that, we have in the following sentence, "The certification as to its constitutionality would be determined by the courts." In only one state I believe, forgive me, maybe there are two, I don't know what the other one is, is there a provision in the constitution whereby courts can be required -- in Massachusetts under one of the articles of its constitution, the supreme judicial court which is the equivalent of our supreme court -- upon petition of the governor or legislature is required to give an opinion on the constitutionality of proposed legislation. Why has it not been adopted in other

states? There is a practical reason for it. Most courts do not, like the United States Supreme Court, do not like to determine constitutionality on moot or abstract questions because constitutionality normally can be determined not on the theory, not on the words, but on the effect, and courts usually insist that legislation, they want to see the effect of legislation before they can determine whether or not it is in violation of some constitutional prohibition. Generally, throughout the United States, the request for opinions, advisory opinions, are frowned upon by the judiciary. And to inject into this constitution an advisory opinion, and in substance that is what we are requiring, the courts to give advisory opinions on constitutionality on academic questions, may in substance destroy the effectiveness of many of our appellate courts. They cannot anticipate the effects of most legislation. The additional evil of this legislation is the fact that in substance they don't ask that after all the petitions are filled out, that is we secure the 15 per cent, that is if someone is opposed, let us say we have a piece of legislation, someone desires to secure fluoridation of water throughout the state; the legislature has opposed such a principle. All you need is ten people in favor of fluoridation and they will get a lengthy opinion from the attorney general. They can take the academic matter into the court and determine its constitutionality and on what basis, maybe only ten desire fluoridation. At least in theory you should require these people to get the eight per cent, at least before they ask the opinion of the attorney general. As this thing stands now though, there is another evil that is obvious. Supposing the ten do submit the question to the attorney general, and they say "Is this proposed petition in conformity with the constitution?" The attorney general says "Yes, it is." Well, there is no court review then. They go ahead and secure their other 15 per cent. They have the act passed and all of a sudden someone comes in and attacks the act. The supreme court on review says "unconstitutional". Has the opinion of the attorney general been worth anything? No, not at all. Bluntly, I think this thing is too dangerous. It has been a bit distorted and they have inserted one word "constitutionality" in there. Most states require certification, that is a mere ministerial act. I think frankly, that is the only thing we should require, too. The suggestion that we change the whole system of judicature in the United States so ten or fifteen per cent of the people can receive gratis an opinion on constitutionality is unjustified. I might point out in this case that here the people seeking the referendum or petition can get an opinion on constitutionality, and yet the legislature nor the governor or elected officials can secure the same thing. I am entirely in accord with Mr. Johnson's motion that it be stricken.

PRESIDENT EGAN: Is there further discussion? Mr. Smith.

SMITH: Without endorsing all of Mr. McLaughlin's argument I too am in favor of the amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: I am in favor of it, but I would like a little information. This paragraph speaks of only the petition. I can certainly see the reason for having it certified only as to form, but then Mr. McLaughlin said that he had a longer amendment, that he had proposed making an amendment so that the attorney general would certify as to the measure's constitutionality before it is put on the ballot. I think somebody should pass on that because there is no use having an expensive election and then find out it doesn't conform with the constitution after it passes.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: What I had proposed striking was the first two sentences of Section 4. That is, I would strike, "Prior to general circulation, an initiative petition shall be signed by ten qualified electors as sponsors and have the constitutionality certified by the Attorney General. Certification shall be reviewable by the courts." I moved to strike both on the grounds that I figured there was no sense merely requiring that the attorney general certify the constitutionality. I feel that if eight or fifteen per cent of the people are sufficiently interested to secure those petitions, they can do what we normally do, they can hire their own attorneys to get his opinion as to constitutionality. Securing the bare opinion of constitutionality from the attorney general accomplishes nothing because the attorney general might well be wrong, and under those circumstances I was prepared to ask that both sentences be stricken on the grounds that no other amendment is possible, and if Mr. Johnson consents, I would request that he consent to the amendment of his motion to strike the first two sentences of Section 4.

JOHNSON: I have no, objection to that.

MCLAUGHLIN: I ask unanimous consent.

PRESIDENT EGAN: He asks unanimous consent that the proposed amendment be amended so that the first two sentences of Section 4 be stricken. Is there objection to adoption of that?

TAYLOR: I object.

MCLAUGHLIN: I so move.

STEWART: I second the motion.

TAYLOR: Mr. President, I, think Mr. McLaughlin shoots some arrows in the air and I am wondering where they are going to drop. I think he paints a very black picture of this where possibly those somber hues are not required. He painted a word

picture, but it seems to me the colors have kind of run together, and it is a little bit confused and possibly people are not getting the proper idea. Now the Committee considered all the matters that Mr. McLaughlin has spoken to you about, and prior to the general circulation, having the sponsors submit that to the attorney general to ascertain whether or not it is properly designated as to the measure which it is expected to have the electors vote on. Well, at the time that the attorney general has got it, he is also asked to pass upon the constitutionality of the measure if it would be enacted, which he has the right to do because it is something that affects all the people of the state. If he says, "Well, I don't believe this is constitutional," he doesn't have to go into a whole long rigmarole. So then if he says it is not constitutional, then they have the right to go into court and they have a dispute, and there is such a thing as a declaratory judgment. They can go into the courts and take exception to the attorney general's opinion, and it is not a moot question by any means. It is an actual abiding question before the court. And the court will pass on it as to whether the matter would be constitutional if it did pass. Now, of course, we know that this doesn't spell out the details of all this is going through. The legislature will have to implement this act. I cannot see any reason we could not leave this matter in there as it is because the picture is not as black as Mr. McLaughlin paints it.

MCLAUGHLIN: Mr. Chairman, on reconsideration, I think that so that the article will be maintained in logical integrity, I request that my amendment to Mr. Johnson's amendment be withdrawn and with the consent of my second, and I do request that Mr. Johnson's amendment pass.

PRESIDENT EGAN: Mr. McLaughlin asks unanimous consent that he be allowed to withdraw his proposed amendment to the amendment. Mr. Ralph Rivers.

R. RIVERS: I think that the attorney general should certify as to both constitutionality and form.

PRESIDENT EGAN: Mr. Ralph Rivers, are you objecting to the withdrawing of Mr. McLaughlin's proposed amendment to the amendment?

R. RIVERS: Oh, no.

PRESIDENT EGAN: If there is no objection, Mr. McLaughlin's proposed amendment to the amendment is ordered withdrawn. Mr. Ralph Rivers.

R. RIVERS: I think the attorney general should pass on both the constitutionality and form. Many people, some of humble brackets that don't know any law, and others that have a big

idea, some of the wheelers and dealers are going to figure out something and go to the attorney general, and if he tells them that it is not constitutional and in many instances it is quite apparent whether it is constitutional or not, and the answer is simple. Those people will be guided by the attorney general's opinion and they will forego circulating petitions all over the Territory and getting into everyone's hair. I think the thinking of the Committee is very good when they provide for a screening of these ideas before the circulation of the petitions. I think, however, that the attorney general ought to advise them as to form as well. Later he has to draft a proposed title that will embody the subject matter of the proposed legislation, and if they misworded it or botched it or need a little assistance in straightening out the wording, then they should submit it to him both for constitutionality and form, so I am "going to oppose Mr. Johnson's proposed amendment to strike constitutionality" and substitute the word "form" and I am going to propose adding the words "and form" after the word constitutionality". Maybe the body would rather vote on Mr. Johnson's proposal the way it is now, and I will make mine later.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I am going to have to oppose the amendment because when I first saw this -- lawyers, most of them, very few of them enjoy looking up law, and I immediately had the thought that I always know at least ten other attorneys if we get stuck with a constitutional question, why should we have to look it up ourselves if we can get ten signers and have the attorney general do it for me, so I am going to have to oppose the amendment.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I believe Mr. McNealy is arguing that he is going to support the amendment. The amendment would strike the word constitutionality" and substitute the word "form". Was your argument in the opposite direction?

MCNEALY: I would oppose it because by eliminating the word "constitutionality" it might cause me to have to look up some law some time myself.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?"

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 33 - Awes, Barr, Boswell, Buckalew, Cooper, Emberg, Gray, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Kilcher, Laws, Lee, McLaughlin, McNealy, McNees, Marston, Nolan, Nordale, Poulsen, Reader, Riley, Robertson, Smith, Stewart, Sundborg, VanderLeest, White, Wien, Mr. President.)

TAYLOR: I object to someone prompting a vote.

WIEN: Mr. President, may I ask that it be read. I did not understand.

PRESIDENT EGAN: We have started the roll call, Mrs. Wien. The Chair is sorry. Once the roll has started it is not in order to have the question read.

WIEN: I would just like to go on record as saying I do my own thinking and I was not being prompted as to my vote but rather as to the wording of the amendment.

PRESIDENT EGAN: The question is the adoption of Mr. Johnson's amendment.

(The Chief Clerk continued the roll call:

Nays: 18 - Armstrong, Coghill, Collins, Davis, Doogan, H. Fischer, Hinckel, King, Knight, Londborg, Metcalf, Peratovich, R. Rivers, V. Rivers, Rosswog, Sweeney, Taylor, Walsh.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 33 yeas, 18 nays and 4 absent.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment is ordered adopted.

BARR: Mr. President, I move the for the adoption of the amendment which I have placed on the Chief Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment of Mr. Barr's? The Chair would state that it is up to a delegate if he has an amendment on the Chief Clerk's desk to rise and say so.

JOHNSON: In that event I have several amendments which I want read.

PRESIDENT EGAN: Mr. Barr has been recognized.

JOHNSON: I understand that.

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BARR: I believe that I failed to state where this should be placed. On page 1, line 16, after the words "Attorney General", unless somebody has a better place.

CHIEF CLERK: Is this the wording then? Page 1, line 16, after the word "Attorney General", is that a new sentence?

BARR: Yes.

CHIEF CLERK: "After the required number of signatures to the petition have been obtained, the proposed legislation shall be submitted to the Attorney General who shall edit it and place it in proper legal form.

BARR: I move for the adoption of the amendment.

ROBERTSON: May we have it re-read please?

CHIEF CLERK: "After the required number of signatures to the petition have been obtained, the proposed legislation shall be submitted to the Attorney General who shall edit it and place it in proper legal form.

BARR: Mr. President, I see now that coming after this sentence when I say "required number of signatures", it could be taken to mean the ten, and I actually mean the fifteen per cent.

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for one minute.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us an amendment by Mr. Barr.

BARR: Mr. President, the wording of the amendment is the same, but the placement in the proposal is a little different. I would like unanimous consent to amend my amendment. It would be on page 2, line 3, after the word chosen", add a new sentence, otherwise the wording is the same.

PRESIDENT EGAN: Would it be better, Mr. Barr, if you asked to withdraw your original amendment and it be offered again? There was no second to the other motion you had, so I believe you are in order.

BARR: Then I move the adoption of the amendment which I have on the Secretary's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment?

CHIEF CLERK: "Page 2, line 3, after word 'chosen' add a new

sentence 'After the required number of signatures to the petition have been obtained, the proposed legislation shall be submitted to the Attorney General who shall edit it and place it in proper legal form.'

PRESIDENT EGAN: Mr. Barr moves the adoption of the amendment. Is there a second to the motion?

PERATROVICH: I second the motion.

PRESIDENT EGAN: The motion is open for discussion. Mr. Barr.

BARR: Mr. President, before the legislature had a Legislative Council, the attorney general actually wrote most of the legislation at the request of some member. He acted as a counsel for the legislature. At the present time he still does some of that and the Legislative Council, I would say does the majority of it. It seems to me that before we have an expensive election somebody should edit the proposed legislation to see that it is in proper legal form, meaning of course that it is constitutional and in the proper form usually accepted by the legislature, and the attorney general should properly be the man to do that job since he is the legal counsel for the governor, and the legislature. That would avoid any possibility of the people passing on some measure that was later judged unconstitutional or illegal for some other reason. If we asked the attorney general to do this after the 15 per cent of the electors have signed it, there is no chance then of the attorney general being put to the unnecessary task of editing or passing on numerous bits of legislation which may not pass or which may not obtain the required number of signatures.

PRESIDENT EGAN: The Chair would like to call attention to the delegates with respect to this particular amendment that if anyone is laboring under the impression that the particular amendment deals with constitutionality, it does not, it deals with proper legal form, which is aside and different from constitutionality. Mr. Marston.

MARSTON: I would like to have some consideration for the people. We ask in this petition here that the attorney general pass on it before 4,000 people have to go out and sign it. I think the people should have consideration and let the attorney general work a little bit.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to call Mr. Barr's attention to the fact that following the insertion of that amendment of his we have the repetition of the same thing in a sense because we have the words then, "Petitions shall be filed with the Attorney General who shall prepare a ballot title, and the adequacy of the ballot title shall be reviewable by the courts." That is all that

Mr. Barr wants to see, that the thing is in the proper form, then you go ahead and say it again in here that you want it in the proper form. It seems to me that you are piling that up a little bit high here.

PRESIDENT EGAN: Mr. Barr.

BARR: Well, I am afraid that Mr. Taylor is a bit confused. If he will read the first paragraph as Mr. Johnson amended it, it says that prior to general circulation, an initiative petition will be signed and have the form certified by the attorney general, that is speaking about the petition itself. But then after the petition is circulated and the people have read this proposed legislation and have approved of the subject matter, then the proposed legislation shall go to the attorney general for proper editing. We are speaking of two different things, the first thing the petition and the second thing, the legislation itself.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, the only thing which is binding in this case and which becomes the law is the matter that is on the ballot. Mr. Barr would have the attorney general, after perhaps 4,000 people have signed a petition, change the wording of a petition which they have signed, and I think the petition is of no value after that point. The petition is simply a petition to place a certain subject on the ballot. I think the proposed article as it is written is proper. The matter that goes on the ballot title is what becomes the law if it is adopted by the majority of the electors, and we don't care what the petition says. The petition was just a request that this matter be placed on the ballot. I think what we want to be sure is in proper form is the ballot title. I think the committee has provided that here, and there is no necessity for Mr. Barr's addition.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, what Mr. Sundborg says is true. We have already provided for the proper form of ballot and petition. But the people are voting on the subject matter of the proposed legislation. They know what they want to place on the ballot, but if somebody writes up a proposed bill or law to be submitted, it may not be in proper legal form. It may be unconstitutional or may be several things wrong with it, but if the attorney general passes on that before it actually goes before the legislature or for referendum, it is more likely to be passed and not judged illegal later.

WHITE: Point of order. I notice that is the third time Mr. Barr has spoken.

PRESIDENT EGAN: Your point of order is well taken. Mr. Ralph Rivers.

R. RIVERS: Mr. Barr has posed a serious gap in this whole procedure. A subject matter is established in the petition. The attorney general drafts a title of what would be a proposed piece of legislation to go on a ballot along with a summary of the subject matter. The people vote on it and adopt it. Who drafts the bill, spells out the details with the particular provisions? Mr. Sundborg has said that all that becomes the law is what the people vote upon. They vote upon this draft of a title by the attorney general with a summary of the purpose of the thing. I would like to know who drafts the bill. A title merely has to be broad enough to cover the general purpose and subject matter. Who spells out the details? What is it that becomes the law? I would like to have it that the petition should be in bill form and approved as to form and constitutionality by the attorney general.

PRESIDENT EGAN: Mr. Ralph Rivers, you may have raised a question there that does need some consideration, and it might be in good order if we did have a recess for about 15 minutes at this time in order to allow the attorney members and Mr. Barr and others who are interested -- Mr. Marston -- to determine whether that question is properly spelled out in this particular proposal and what kind of an amendment is necessary.

TAYLOR: The speaker just spelled out too many times.

PRESIDENT EGAN: The Convention will stand at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: May we revert to the reports of standing committees?

PRESIDENT EGAN: If there is no objection, the Convention will revert to standing committee reports.

SWEENEY: Your Committee on Engrossment and Enrollment, to whom was referred Committee Proposal No. 2, has compared same with the original and finds it properly engrossed and the first enrolled copy in proper form. I move and ask unanimous consent that the report be adopted.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the report relating to Committee Proposal No. 2 of the Engrossment and Enrollment Committee be adopted. Is there objection? Hearing no objection it is so ordered. Mr. Sundborg.

SUNDBORG: Is it now automatic that the Chair refers Committee Proposal No. 2 to the Committee on Style and Drafting?

PRESIDENT EGAN: That is correct, Mr. Sundborg. The Chair now refers Committee Proposal No. 2 to the Style and Drafting Committee. Mr. Barr.

BARR: Mr. President, I met with some of the attorney members on the matter of this amendment of mine and at first they did not exactly agree, but with great effort, bloodshed was avoided. Finally Mr. Rivers made some suggestions which incorporated my thought but overcame some of the objections on the part of the other attorneys, and it was suggested that he write an amendment to incorporate his ideas. So for this purpose I ask unanimous consent for the withdrawal of my amendment.

PRESIDENT EGAN: Mr. Barr asks unanimous consent for the withdrawal of his amendment for the purpose of incorporating his ideas in an amendment by Mr. Rivers. Is there objection? If there is no objection the amendment is ordered withdrawn.

R. RIVERS: It will take me a couple more minutes to complete what I am writing.

JOHNSON: I have some amendments.

PRESIDENT EGAN: Mr. Ralph Rivers, would you ask for time or let us go on with another proposed amendment?

R. RIVERS: You might work on one more.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Johnson's amendment.

CHIEF CLERK: Do you want this one taken up next?

JOHNSON: Yes, please.

CHIEF CLERK: "Page 2, line 3. Section 4, after word 'chosen' add new sentence, 'The petition shall be from two-thirds of the voting precincts.'"

JOHNSON: Mr. President, I move the adoption of the amendment.

PRESIDENT EGAN: "The petition shall be from two-thirds of the voting precincts" -- where, Mr. Johnson, of the Territory?

JOHNSON: Of course it would be from the state.

PRESIDENT EGAN: The Chair stands corrected.

CHIEF CLERK: Do you want to add that?

JOHNSON: It is not necessary.

PRESIDENT EGAN: Do you move the adoption of the proposed amendment?

JOHNSON: I do.

ROBERTSON: I second the motion.

JOHNSON: I might explain, Mr. President, that it occurs to me that under the present wording that a petition could be circulated in one large population area and the required number of signatures be obtained from that one population area, and I believe that it would be better or equitable to have the petitions circulated in at least two-thirds of the voting precincts and signatures obtained all around the state rather than just in one locality.

PRESIDENT EGAN: Mr. Marston.

MARSTON: We went all through this, and in this big land of Alaska we said the other day one voting precinct was bigger than 40 of the states, and we concluded it was not fair if we want the initiative to work, to chase them all over the great land of Alaska to get these petitions. You nullify it. Here is one man with five petitions here. It is not improving this thing. If you want to nullify it, this is one way to do it. We worked on it for about four weeks, good men, even if I was on there, the rest of them anyway, and we decided that some of these people -- we had it in there. We took it out. It was too big a land to chase them over the mountains and across the rivers and the oceans to get this scattered vote, so I wish if you want this initiative and referendum you would hold back on a lot of these amendments. They are not improving it. That is the reason we did not put it in there. We considered Mr. Johnson's amendment carefully. I would like to hear some of the other Committees on this.

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

DAVIS: May I ask Mr. Johnson a question? If I understood your explanation correctly, Mr. Johnson, what you intended was that the petition should be circulated or that signatures should be secured from at least two-thirds. It seems to me the form does not quite carry out what you are trying to do. I am in favor of the suggestion that I think you are trying to make there.

JOHNSON: We could add the words "shall be circulated in at least two-thirds of the voting precincts." I will accept Mr. Davis' suggested amendment, and insert, "The petition shall contain signatures from at least two-thirds of the election districts of the State."

PRESIDENT EGAN: Mr. Davis, do you offer that proposed amendment?

DAVIS: Yes.

PRESIDENT EGAN: Is there objection to Mr. Davis's proposed amendment to the amendment? Mr. McLaughlin.

MCLAUGHLIN: Are you substituting the word "circulating" and do not require signing, Mr. Davis?

DAVIS: Either "circulated" or "signatures should be secured from". Either one would be all right from my standpoint. But as it reads it says, "it shall be from" and I think it is meaningless.

MCLAUGHLIN: I am just anxious to know what the amended amendment is.

DAVIS: I will say "circulated" as an amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I have the same question in mind, and in my mind it would have been at least two-thirds of the voting precincts that would be represented, and that would indicate at least one vote from at least two-thirds of the voting precincts in Alaska.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can certainly see a value in having signatures from that many of the precincts. That would be one of the best ways to get the people all over the State of Alaska acquainted with what is coming up, otherwise many people will have to depend on radio or newspapers, etc., to find out and first thing you know there is a special election and a lot of them will have the initiative before them to vote and come to the polls and probably have not had a chance to talk it over and can't read, and we are going to have a lot of confusion, but if it can be circulated around I think it is going to stimulate a lot of interest and a lot of study on the initiative.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: I am partially in favor of Mr. Johnson's motion, and I am against it for the use of the phraseology "of all the voting precincts", which would be a difficult job. I would like to amend the motion and make it similar to the Missouri Constitution, what they say on the matter. I would like to amend the motion and say "the major political subdivisions" and put the word "each" before that. In other words, you have Nome, Fairbanks, Anchorage, and Juneau, and you have to get two-thirds of your signatures from those major areas, and you won't work

a hardship on the people with the initiative.

PRESIDENT EGAN: Mr. Metcalf, at the present time the particular motion cannot be further amended in its present state. There has already been an amendment to the proposed amendment offered and an amendment to the amendment to the amendment the Chair would hold would be out of order at this time. Mr. Stewart.

STEWART: Mr. President, just one question of information. Would the word "circulating" include posting in a public place?

DAVIS: Mr. President, in order to get away from the confusion which I caused here, I would like to withdraw the proposed amendment, putting it back to Mr. Johnson's amendment, then we can start over again.

PRESIDENT EGAN: If there is no objection, Mr. Davis asks unanimous consent to withdraw his proposed amendment to the amendment.

MCNEALY: I object.

PRESIDENT EGAN: That will take a motion before we can discuss it further. Mr. Davis.

DAVIS: I move that I be allowed to withdraw my proposed amendment to Mr. Johnson's amendment.

JOHNSON: I second.

MCNEALY: I withdraw my objection.

PRESIDENT EGAN: The proposed amendment to the amendment was withdrawn. Mr. Metcalf.

METCALF: I should like to read the amendment to Mr. Johnson's motion here.

PRESIDENT EGAN: If you could get it in writing. The Convention will sit at ease for a minute or two. The Convention is at ease. The Convention will come to order. Mr. Johnson.

JOHNSON: Mr. President, I ask leave by unanimous consent to withdraw my original amendment and substitute in lieu thereof a different wording which I have placed on the Secretary's desk.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that he be allowed to withdraw his original amendment and substitute another amendment. Is there objection? If there is no objection it is so ordered, and the Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Page 2, line 3, Section 4, after word 'chosen' add a new sentence, 'The petition shall contain signatures from at least two-thirds of the election districts of the State.'"

JOHNSON: I move the adoption of the amendment as read.

ROBERTSON: I second it.

PRESIDENT EGAN: The motion is open for discussion. Mr. Smith.

SMITH: Mr. President, my recollection of the Committee discussion on this question was that under Section 3 the legislature would have the authority to require that signatures be obtained from as many legislative districts as they might deem necessary. The Committee felt, that is my version of the Committee feeling was, that due to the changes which will inevitably come, that the legislature could safely make those requirements. They could change those requirements to meet changing conditions and, therefore, I am opposing the amendment.

TAYLOR: I would just like to substantiate the remarks of Mr. Smith. We went over this quite carefully. We argued pro and con as to whether we should put anything in about where the petition was to be circulated, how many names to it, studied the other states' provisions along these same lines, and we felt due to our geographical limits that it would be better to leave that to the legislature. Now that is an untried thing in Alaska, and if we put this in here the legislature then would be unable to change it. It would take a constitutional amendment to make any change in the method of getting the signatures or where you got them from. So we thought we would leave this thing in the fluid stage so if there was an attempt to initiate legislation by this method, and they found out that the provision by law pursuant to the article was unwieldy, cumbersome, and made it practically impossible to get a measure through, that the legislature could change it at the first session if they realize it should be done. So we purposely left that out. We felt it would be better to leave it fluid so by trial and error we can find out what is the best manner to handle this, so I would think that the amendment should be defeated.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: I was going to state for the advocacy of the delegates that the original wording we had in there was that not over 25 per cent of the signatures on a petition should come from any one political subdivision, and we all agreed that it would probably be adequate but as Mr. Taylor has said, we finally decided that we might be wrong and it would be better to leave it to the legislature so it could be amended or changed without all the trouble of going through constitutional

amendment.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Line 25 on page 2, actually Section 5, says this measure of the initiative shall not pertain to local or special legislation. Therefore, I don't think the amendment is in any way, shape or form out of order. If the people of the state at-large are to be affected by eventual legislation, then I believe that petition should be distributed within at least two-thirds of the voting precincts.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: There seems to be a feeling here that this is making it too hard to get an initiative. I would like to call the attention to the initiative provision in the State of Missouri where they not only ask that it be circulated in two-thirds of the congressional districts of the state, but that it be signed by a certain per cent of the legal voters. Now in the case of the constitutionality amendment it is eight per cent. In case of the law it is five per cent, which I think would compare to our fifteen per cent of those who voted. This is five per cent of the legal voters and it shall be signed by five per cent of the voters in each of two-thirds of the districts, so they certainly have their initiative a lot harder than we are proposing here.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I think we are losing sight of one of the main things to be considered in connection with this proposal. These amendments and others that have already been adopted, as well as some of the sections themselves, are clearly attempts to replace fundamental law with statutory law, and I think that the whole thing of setting up the procedure for initiative and referendum, which is now being clumsily done by the body, should be left in the hands of the legislature. I have said once on this floor, if I have said it once I have said it a dozen times and probably will say it that many more, we have got to leave things to the legislature that belong among the legislature's functions, and instead of trying to write statutory law into the constitution of the State of Alaska let's get down to brass tacks and write the fundamental law on which the legislature may base its actions. I am against the amendment.

SUNDBORG: I have to take a view opposite to that of Mrs. Hermann's, something which I do not often do, for the reason that this provision would cover not only initiative petitions but referendum petitions, and I do not believe it proper to leave in the hands of the legislature the writing of basic provisions on how petitions which would override and defeat

actions which the legislature has taken would have to be handled. Now under your view it is open here if we don't mention it, and it is open to the legislature to put up any kind of a provision it wants, it could require that there would have to be signatures from every voting precinct in the state which would defeat it because it would be impossible to get such signatures, and I don't believe that if we are going to have the referendum at all which is the process for the people to say, "We don't want this law which the legislature has just passed." We don't want to leave it to the legislature to set up the ground rules of how those things are going to be handled. I think that the amendment as now submitted does not require very much. All it says is that the petition shall contain signatures from at least two-thirds of the election districts of the state. The Apportionment Committee is bringing out a report which is going to set up 24 election districts in the state. This would require that anyone who wants to get a matter on the ballot would only have to have signatures from 16 of those election districts. Say that we need 4,000 as it is in Alaska today, he could have 3,985 signatures from the City of Anchorage and he could get one each from the other 16 election districts and he's on the ballot. Now I don't think that is going to restrict very many initiative or referendum petitions.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I certainly agree with Mrs. Hermann. It seems to me a lot of delegates, and I have had the same idea myself up to this point, that you can't write into the constitution provisions that are going to take care of every imaginary evil that might come up. I think you can trust the legislature. We are going to trust the judges. We have created judges. We have given to the judges the power to incarcerate people and even hang them, and it is not any more illogical to trust the legislature. I might say that I offered an amendment which I think will cure all of this discussion, and I don't mean any reflection on Mr. Collins or his Committee, but I certainly agree with Mrs. Hermann. Now you can see the hassle we have gotten into over whether it is going to be ten or fifteen per cent, and it is all legislation, and if it proves to be unworkable you have got to amend the constitution to change it, and Mrs. Hermann is absolutely right.

MCLAUGHLIN: Without committing myself either way, I am just a little bit puzzled. Under Mrs. Hermann's suggestion it would all be left to the legislature. If the legislature exercises its authority under Section 3 prescribing the procedures to be followed in the exercise of powers of initiative and referendum, it makes it an emergency act, and you can't have a referendum on your referendum.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, the only value for the initiative and referendum procedure is if there is a clear channel for enactment of legislation by the people. That is, if it goes directly from the people bypassing the legislature. If you give the legislature the power to block that channel, then you just as well as have no initiative and referendum at all. Now this is the second time I have had to change my mind on the question that is concerned with this, but I will now support the amendment offered.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I think, in answering Mr. Smith's objections, he possibly loses sight of the fact that this Convention, if we adopt this proposal would be bound by it, as it says "No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein...by the people." They have got to pass the legislation. It has got to be introduced. It has got to be implemented by the proper legislative measure. Let us trust the legislature. Let us leave this just as much as basic law as we possibly can. Otherwise, we are coming out of here with a constitution that the voters will not ratify. Maybe some of these amendments are put in for the purpose of defeating the constitution.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I want to say that I agree, strange as it may seem, with what Mrs. Hermann has said here. I think a good deal that is in this bill as written is legislation. The amendment which Mr. Johnson offered and which I supported was a matter to amend something that is legislation in my opinion to make the thing clearer and more nearly responsive to the will of the people of the whole rather than one section. That was the reason for offering the amendment. I would agree right off that if this part of Section 4 could be stricken as legislation.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I resent the implication that I have offered any amendments for the purpose of defeating this constitution. I don't believe that Delegate Taylor had any right to make such an inference. I think that any delegate here has the right to offer amendments as long as they feel they are justified and it is part of the subject matter at hand. Now certainly in this instance, the constitutions that have been read to us, clearly indicate that this provision which is now before us by way of amendment is not unusual. There is nothing strange about it, and as Delegate Sundborg points out, it is not an impractical proposition because you can get, as he says, 3,995 signatures in Anchorage and get the rest of them, one signature from the other 15 voting precincts, so it is not an

impractical proposition. It still acts as an additional safeguard on the misuse of the initiative. Yesterday I was opposed to the initiative principle, but the delegation in the Committee of the Whole voted to support the principle, and it is now in our constitution and will be I assume, but I still think that we have the right to make it as strong as possible because certainly it can be very easily misused as has been pointed out, and a special election under the initiative could cost the taxpayers \$40,000 and you might have a number of those special elections every year, and it runs into money, and I don't think we are going to have any too much money after we become a state, at least not for awhile, so I believe it is a reasonable safeguard and that the amendment should be passed.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: Mr. President, I am a strong advocate of leaving matters to the legislature, but I want to point out that when you start writing legislation into the constitution then you have got to write more legislation in order to supplement the legislation that you already have written in, and I too want to call attention to Section 3, the last line where it states, "No law shall be enacted to hamper, restrict, or impair the exercise of powers reserved herein by the people. If this is left blank, the percentage of the voters who must sign the petition, and if it is left in the blank about what districts they shall be signed in, then I can foresee and very clearly there will be untold litigation, because if the legislature attempted to pass a bill and required fifteen per cent of the signatures, the people, or a small segment, would attack it on the grounds that it was hampering or restricting or impairing the voters. If the legislature attempted to say that the petitions had to be secured in certain districts they could always refer back to this clause here of hampering, restricting, or impairing. I think as long as we started writing legislation into this, unless the matter is clearly spelled out in the bill and left up to the legislature, then we must spell out these things in order to protect against future court action.

PRESIDENT EGAN: The Chair is going to adhere to the rule, Mr. Taylor, that each delegate is allowed two times around. Mr. Kilcher.

KILCHER: Point of information. I would like to address a question to Mr. Johnson. If Mr. Johnson's amendment should be adopted, would that leave enough power to the legislature later on to determine the percentage of signatures required in each of the two-thirds of the legal subdivisions?

JOHNSON: Offhand, I would say no, but it seems to me that it might be construed that if the legislature should determine later that each voting precinct would have to produce a proportionate share of the signatures, that might be in contravention

of the constitutionality. I am not enough of a constitutional lawyer to know, but my offhand opinion is that this provision as it is now before us would make it flexible, and if the legislature attempted to put any restrictions on that flexibility, that it would not be improper.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Personally I think that the legislature would be entitled to make further specifications that are not limited by any of the constitutional sections, and I hope that it will. and provided that I am right in my assumption, I am in favor of Mr. Johnson's amendment.

ARMSTRONG: If Section 4 is to stay in the act, it seems to me that we have to have this provision. I want to revert back to the thing that Mr. Marston constantly talks about, the people. I have a feeling so often that when I vote on the wrong side of an issue that I am voting against the people because that word has been underscored so emphatically. I think that to eradicate sectionalism and provincialism from Alaska we must have an expression from as many sections of the state as possible. I think one of the great things that is hampering us now is the feeling that one area wants to dominate another . area, and I will vote for this amendment because of my inner feeling that this is bridging all of these depressions of sectionalism. It is asking for a widespread opinion on a piece of legislation. If folks say "Well, we are not intelligently" enlightened on this enough so that we can sign this petition, then let them dig into it before they sign it. It will probably give a wider base of opinion when it comes to a vote. We can probably vote on it more intelligently. I will support this amendment if we are keeping in Section 4.

BOSWELL: I move the previous question.

HERMANN: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of the "question will signify by saying "aye", all opposed by saying no . The "ayes have it and the previous question is ordered. The question is, "Shall Mr. Johnson's proposed amendment be adopted by the Convention?" All those in favor --

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Page 2, line 3, Section 4, after the word 'chosen' add a new sentence, 'The petition shall contain signatures from at least two-thirds of the election districts of

the State.' "

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 38 - Armstrong, Barr, Boswell, Coghill, Collins, Cooper, Davis, Doogan, H. Fischer, Gray, Harris, Hellenthal, Hilscher, Johnson, Kilcher, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Nolan, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 13 - Awes, Buckalew, Emberg, Hermann, Hinckel, Hurley, King, Metcalf, Nordale, Peratrovich, Riley, V. Rivers. Taylor.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 38 yeas, 13 nays and 4 absent.

PRESIDENT EGAN: The "ayes" have it and the proposed amendment is ordered adopted. Mr. Hellenthal.

HELLENTHAL: Mr. President, I have an amendment which amends the other way. It is on the desk already. It is an amendment that tends to favor the use of the initiative whereas the last one somewhat curtailed it. So perhaps it might be well to consider this one now. It is in relation to the second line of Section 4.

R. RIVERS: I have already laid on the desk that redraft that the body was waiting for after that recess in connection with Section 4, on the whole procedure of Section 4. I was wondering if Mr. Hellenthal would yield and see what I drafted.

HELLENTHAL: I would be happy to.

PRESIDENT EGAN: Then the Chief Clerk will please read the proposed amendment that Mr. Ralph Rivers has offered.

CHIEF CLERK: "Page 1, Section 4, strike lines 13 to 18 inclusive, and lines 1 to 5 inclusive, on page 2 and substitute the following: "Section 4. Prior to general circulation, an initiative petition containing a draft of the proposed law in bill form shall be signed by ten qualified electors as sponsors and have its legal sufficiency and form certified by the attorney

general. If certified to be sufficient the initiative or referendum petition containing a summary of the subject matter prepared by the attorney general may then be circulated and must be signed by qualified electors equal to 15% of the number of votes cast for governor in the preceding general election at which the governor was chosen. The petition may be filed with the attorney general who shall prepare a ballot title or proposition designating and summarizing the substance of the proposed law which proposition shall go upon the ballot as hereinafter provided.

BUCKALEW: I would like to say one thing. That amendment is as long as a proposal. I would not be in position to vote on that unless I had a copy.

PRESIDENT EGAN: Mr. Ralph Rivers, do you so move the adoption? R. RIVERS: I move the adoption of the amendment.

BARR: I second the motion.

BUCKALEW: Objection.

R. RIVERS: Mr. President, the only way we can clearly indicate what procedure which Mr. Buckalew is capable of comparing with what was previously written was to strike all of Section 4 appearing at the bottom of page 1 and the first five lines of page 2. Previously it spoke of the "ten qualified electors". We have had it scratched out to change "constitutionality" to "form". We have had certification spoken about. We did not have any procedure there as to what this petition should contain. I pointed out the gap that unless somebody drafted the bill and you passed upon a ballot title at the poll you would not have a law. We have provided the proposition here that the ten people who submit the petition include the proposed law in bill form at the very outset, and the ten people that have enough interest to study the subject and take action should at least draft the bill with the help of such counsels as they desire. The attorney general then looks it over. That is the petition indicating that they want this to be an initiative petition, he scrutinizes the proposed bill, passes on it as to sufficiency, and legal form. Then after that is done he certifies it. If he certifies it to be sufficient, then the attorney general prepares a summary of the proposed legislation which is to constitute the heading of the petition. You don't have to stick the whole bill draft on the petition because that would be awkward to pass that all around the Territory, but at least you have this proposed bill filed with the attorney general at that time for anybody who wants to refer to it or look at it. Then after the 4,000 signatures have been obtained the attorney general prepares a ballot title or proposition containing a summary of the subject matter, and that is what goes on the ballot, and after the people have voted favorably

on that proposition, the law is adopted. But what is adopted is a law that has been drafted and approved by the attorney general, as to sufficiency and form. I think I have filled the void that we were talking about before the recess and cured Mr. Barr's objection and actually made a procedure here that would result in a specified law.

JOHNSON: May I ask Mr. Rivers a question?

PRESIDENT EGAN: If there is no objection.

JOHNSON: Is it your intent by the amendment as stated now to eliminate the contents of the amendment which we have just adopted previously, because that is included in the words that were stricken out?

R. RIVERS: I drafted this before that, but I had no such intention. I asked unanimous consent to include the language of the last amendment.

PRESIDENT EGAN: Mr. Ralph Rivers, Mr. Buckalew raised a question there about the length of the proposed amendment, and it would seem inasmuch as although you have explained what it intends but with an amendment that long where the members can't remember all the words and where they fit, that it would be well if the membership had a copy of the amendment before them, if that is their desire.

BUCKALEW: Mr. President, if I am the only one who does not understand I will concede.

GRAY: I will agree with Mr. Buckalew.

R. RIVERS: Mr. President, I ask unanimous consent then that my amendment be held in suspense while the body proceeds with other amendments with the general knowledge that what my amendment proposes, and that after 1:30 perhaps we can have a copy for everybody.

PRESIDENT EGAN: It is just that if an amendment of that length were adopted, and later somebody would say, "I didn't realize how the wording was." If there is no objection the motion for adoption of Mr. Rivers' particular amendment could by unanimous consent be held over and we could proceed with other amendments to the proposal, if that would be the desire of the delegates, until such time as copies of this proposed amendment could be made available.

PRESIDENT EGAN: Mr. Riley.

RILEY: Would it be in order to ask for about a one-minute recess to enable Mr. Johnson and Mr. Rivers to reconcile content of these two amendments if any reconciliation is in order?

PRESIDENT EGAN: If there is no objection the Convention will stand at recess for a minute or two.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Laws.

LAWS: I move you that we recess until 1 p.m.

PRESIDENT EGAN: Mr. Laws moves that the Convention stands at recess until 1 p.m.

LAWS: Pardon me, I mean 1:30 p.m.

RILEY: Objection.

PRESIDENT EGAN: Objection is heard.

KNIGHT: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess until 1:30 p.m.?" All in favor of standing at recess until 1:30 p.m. will signify by saying "aye", all opposed "no". The motion has failed.

KILCHER: I move that Article 1 of Committee Proposal No. 3 be recommitted.

PRESIDENT EGAN: Mr. Kilcher moves that Article 1 of Committee Proposal No. 3 be recommitted to the Committee on Direct Legislation.

RILEY: I second the motion.

BUCKALEW: Question.

SMITH: I can see no reason, I can see nothing to be gained by resubmitting this proposal to the Committee. I think that we would simply have to go through all of this once again. I believe it would be a complete waste of time, and therefore I oppose the motion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I feel the same way as Mr. Smith. I talked with the Chairman of the Committee a few moments ago, and the rereferral of this to the Committee is a useless gesture because I doubt that we would act upon it. It will come out the way it is.

COLLINS: As Chairman of the Committee, I wish to state after consultation with the members of the Committee that we came in here with our report. We settled our minds on the differences

that were suggested to us. We worked tirelessly hour after hour. We centered our differences of opinion in this report, and we decided to send that report to this body, which was necessary, and let them introduce amendments to this report that we submitted. Now I think it is useless to even attempt to send this report back to this Committee because we will have to come back with the same report. How can you expect if 55 members cannot decide on an issue, a germane question, how do you expect seven men to decide it? It will be the same thing over and over again. We will have to come back here and subjugate ourselves to the sharp shooters of this Convention. I oppose a recommitment.

PRESIDENT EGAN: Mr. Riley.

RILEY: In seconding Delegate Kilcher's motion a moment ago I have not underestimated or minimized the work of the Committee, but it occurs to me that we have any variety of amendments ahead of us on Section 4 at least and possibly on other sections, and in that knowledge it seemed reasonable to expect that those people who are advancing those particular amendments might meet with the Committee and somehow resolve this matter a little further than it has been on the floor now. I think it would save considerable floor time.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I feel that if Mr. Kilcher may amend his motion, I feel that everybody has been tied up pretty much in their own committees and they have been released. I believe, as Mr. Collins says, there is no point in resubmitting this back to the Committee, but there is a lot of new thought and a lot of new ideas expressed. Would it be out of order to submit these articles to a special committee? I leave that as a suggestion to Mr. Kilcher, if that is what he had in mind.

COLLINS: I think the only way to clear this, Mr. President, is to go back in the Committee of the Whole.

PRESIDENT EGAN: Mr. McNeese.

MCNEESE: I would like to support here the thought that if we are going to arrive at any conclusions on any of these articles that come before this body from the committees, only by one way, and this is working them over, and this I think is the best way to work them over is here in general discussion, whether in the Committee of the Whole or in plenary session. I would like to support this article that Mr. Collins has brought out, but I do think it is our prerogative to take it apart and put it back together again and incorporate the thinking of 55 people in it. We can't expect seven men to carry the load, yet the 55 are carrying the load for the entire Territory. I feel that this is the only way we can arrive at the solution

to it. If it is going to take time, it is going to take time.

HERMANN: I have several times risen to address the assembly on the matter of the time urgency that we have. I think if you put this back in Committee you are going to have to recess your plenary sessions to let the Committee meet again. We are going to go all through this falderal that we did before, of waiting for a committee report to come out and marking time while we do it. I don't think we will achieve a single thing by referring this back to the Committee except use additional time, and we will all be up again saying our two bits worth just like we have today.

PRESIDENT EGAN: Mr. White.

WHITE: I think something can be gained by postponing at least part of this article a little. Now we have one long amendment that as I understand it will have to go through the boiler room and presented to each delegate before we are even prepared to discuss it. I know of another amendment that would seek to retain the intent of the body here as shown by the amendments already adopted but would also considerably shorten this section. I wonder if Mr. Kilcher, the maker of the motion, would agree to withdrawing it and submitting a new one which would state that further consideration of Section 4 would be deferred until 1:30?

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, in making my motion I had the time at heart that is getting shorter every day, and I intended this vote to be a vote of confidence in the Committee on Direct Legislation, because I think they are perfectly competent. They have done a good job in good faith. We have had a Committee of the Whole, we have had a lot of deliberations. Yesterday we were bogged down in more than one way. We were tired. Today we are approaching the same situation. There are conflicting and contradictory and overlapping amendments on the Chief Clerk's desk. Others are coming up. I just trust and rely on the good will of the Committee that they will be able to incorporate some of these ideas that they realize that we expect them to be flexible. We expect the same thing of other committees in the future, that in perfectly good faith they will, after the thing has come on the floor and after everybody's opinion is known, they should take these conflicting amendments and work them over and try honestly to see if they could incorporate some of them, and I for one am certain that the majority of the delegates here then, when the proposal comes back, will recognize the committee's good will and will vote on these things and we will have saved a lot of time that we otherwise will spend on the floor, because we have noticed that if too many amendments come in things get torn up so bad that it gets more and more confusing and bogged down, the

mental processes slow down, it is a terrific waste of time. If we recommit in such situations and trust to the Committee, I will take the words of them from then on. They are a clearing house so to speak and they on their own time, I admit it means to burden them further, but we are willing to burden them and take the work. I am willing to be burdened in my committee later on, but we will save floor time for everybody and in that sense alone I make the motion.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I realize the Committee's feeling. They have worked on the thing and have arrived at this compromise. Why would it not be sensible for everybody who has an amendment for this section to write it down and then everybody and his amendments go back here and hash it out and rewrite the section to suit themselves and then bring it back as an amendment, and then go on from there?

HILSCHER: Mr. President, Mrs. Nordale has given us a bright light and a ray of hope here. I was practically ready to rise to ask that we suspend operations until 1:30 until we could bring in 55 beautiful chartered certificates from the society dedicated to the charm and beauty of the human voice. We are all going to yack yack on this thing endlessly. I think that Mrs. Nordale has a very good point, without committing the Chief Clerk, I see she has a stack of amendments there. There will be undoubtedly a great many more, and it would be well if Mrs. Nordale's suggestion was to be seriously considered by this body.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. President, approximately a week ago, if you recall, I was accused of lobbying when I announced during the hearings on the judiciary bill that we desired to hold a special meeting during the noon recess and we designated that we desired to hear every man who had entered verbally, any objection on the floor to the judiciary bill. After our noon recess and in the course of our Judiciary Committee hearing, all our difficulties were resolved by logic and not by lobbying. The bill went through a bit easier. I am disposed to vote against Mr. Kilcher's amendment because I think the Committee has worked hard, and as expressed by the Chairman, I don't think there is any point of involuntarily tossing the bill back to him, but I do think if the Committee on its own motion, just before someone moves for adjournment until 1:45, should announce a committee hearing and invite all those people who have amendments to come, that on their own motion and voluntarily they might be able to solve many of the problems they have confronting them. But I am forced to oppose a formal recommitment of the bill. Without their consent I think it means nothing and is a waste of time.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I rise in defense of this Proposal No. 3. The trouble is not with the Committee. The trouble is with the group right here. It is a good bill, we brought out and it is well worked out, and I am definitely in favor of Delegate Nordale's proposal that these people get together. This bill has suffered no differently than any other bill here. It has had the same result, and we jump too quickly here without thinking. We have some mills to grind out proposals. You can trace them back. They come right through all the time. Let them study this one. I propose that Nordale's proposal be put through. I am backing it.

PRESIDENT EGAN: Mr. Barr.

BARR: Like others, I have confidence in the work of the Committee, and I think it should not be submitted to the special committee and do away with all the experience that this Committee has gained in working on the proposal, and I agree with Mrs. Hermann that if it is referred to Committee again, and it comes out on the floor, it will still be amended, we will still have to work it over and consider it. I don't believe it should be referred to Committee. Although, as Mrs. Nordale suggests, that these people who have amendments to propose would get together with the Committee and they might find out that the Committee has some good reasons for not incorporating that thought into the proposal and they would not have to submit the amendments. I move that after we vote on Mr. Kilcher's motion that we recess until 1:45.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I think we were doing fine here up until we jumped the gun and under the guise of Style and Drafting decided to sum up the first twelve sentences. They were in crude form following the amendments, but the principles were clear. I personally think Mr. Rivers' motion, desirable though it may be, was entirely out of order. We are not concerned with the form or the style so much at this stage of the proceedings. We are concerned with the principles, and once they are established the form will follow as a matter of course. Now I personally think that the first six lines of Section 4 and the next nine lines are pretty well established with one or two minor points, and I personally think that there will probably be two amendments attacking some of the rest of Section 4 or suggesting some very good modifications and then we'll be through. The mere fact that a lot of amendments pile up on the Clerk's desk, that does not mean the bill is poor, it doesn't mean that poor work has been done by anybody. I will be willing to wager that most of those are duplicates and that when decisions are made on one or two cardinal points that they will be withdrawn or else summarily defeated by this body.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I rise to be heard. I don't concur with Mr. Hellenthal that my proposed amendment is out of order. I pointed out a gap, a complete gap on who is to draft the bill and what was going to be the law and to try to avoid confusion and say we strike this word and another word and interlineate some other words, I suggested striking about ten lines and rewriting those ten lines in the best form I knew how to put it in. I think this body has made some progress. We are pretty well agreed on the basic part which is that of Section -. I think we are going to wind it up fairly rapidly after we get going on it again. I might suggest, however, that we ought to take amendments one section at a time and only have them brought to the Clerk's desk as each section is called. Otherwise (which is the procedure that I remember pertaining in the Legislature) if we establish something basic on an early section that is going to obviate the dropping in of a whole bunch of amendments pertaining to later sections which may never be dropped in if we can only proceed section at a time and only allow those amendments to be placed on the Clerk's desk a section at a time.

PRESIDENT EGAN: You are correct, Mr. Rivers. Mr. Collins.

COLLINS: Let us go back to the motion that was made here and duly seconded. In answer to Mr. Kilcher's statement that we, the Committee, refer this to the Committee that has already submitted it here, we did submit this report. We read the commentaries on it. We spent time after time in answering every question that was propounded to the Committee, and I say Mr. Taylor answered them. Now you say it will save time going back in the Committee and the proponents of the different amendments will meet there with the Committee. What is the difference? There is a vast difference of meeting here and accepting those amendments in this hall where we have the room and have the air than to meet in a little cubby hole above us here. There is no room, no air, and the same questions will be presented to us that will be better presented to the body here. And I say the only way to determine that is to go in the Committee of the Whole, as a usual thing, and let each individual submit his amendments and let the 55 members of this Constitutional Convention decide on it, giving each member his right. Put it before the body of 55 and not before the body of seven.

SUNDBORG: I move the previous question.

BUCKALEW: I second the motion.

KILCHER: I object. Point of order. I understood that before the previous question and the motion is seconded one can get up and object.

BARR: The Chair had not recognized Mr. Kilcher up to that time.

PRESIDENT EGAN: If the motion was objected to, it would just require the second to put the motion as a motion, Mr. Kilcher. You could object which you did, but when Mr. Buckalew seconded the motion, it put the motion before us.

KILCHER: What I was driving at, according to the rules, the maker of the motion has the right to speak.

PRESIDENT EGAN: That is correct, but if it is their desire to make a motion for the previous question, it is their privilege to do so, if they wish to do so, and it has been moved by Mr. Sundborg, seconded by Mr. Buckalew, that the previous question be ordered. The motion is in order.

DAVIS: I would like to inquire if Mr. Kilcher wants to make a closing argument, is that the reason for his objection?

KILCHER: Yes.

PRESIDENT EGAN: Mr. Sundborg, will you hold the motion?

SUNDBORG: I will hold up the motion if he makes it very brief.

PRESIDENT EGAN: Mr. Sundborg withdraws his motion.

TAYLOR: I think it would be in order to advise Mr. Kilcher that he doesn't have to close.

PRESIDENT EGAN: Mr. Kilcher, you have the floor.

KILCHER: The motion to recommit is not made in a mood that implies that the proposal is poor, like somebody awhile ago intimated. It is the other way around, as I said before. It reflects well on the proposal, and I just expected that the same consideration that has been given the proposal in committee can also be given the amendments, and it is solely made in the interest of saving time. Next month, in January, we will have very little committee work any more, and we will have however a scarcity of time on the floor, and the oftener, under the right circumstances, we recommit something to committees we clear space on the floor because we will always have proposals that we can work on. Like in this instance I had suggested we recommit Article 1. Independently of this, we could work immediately on Article 2 and with the Committee's good will and with the good will of those who have amendments pending to work together with the Committee, I am certain we could establish a good precedent, that the Committee will come back with the air cleared, with some of the amendments eliminated and others accepted by the Committee because of what they learned and heard on the floor, and then we can go on with our work,

and we will have saved a lot of time, and we will need that next month.

SUNDBORG: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Kilcher's motion to commit Article 1 of Committee Proposal No. 3 back to Committee be adopted by the Convention?" All those in favor of adoption of the motion will signify by saying "aye", all opposed by saying "no". The "noes" have it and the amendment has failed. Mrs. Hermann.

HERMANN: Before I make this motion for a recess, I want to remind the Rules Committee that we are meeting immediately after we do recess.

HELLENTHAL: The Committee on Apportionment will meet upstairs immediately following this recess.

MCNEALY: The Committee on Ordinances will also meet immediately following recess.

PRESIDENT EGAN: The Committee on Ordinances will meet immediately following recess. Mr. Smith.

SMITH: The Committee on Resources, for as many as them as can, will get together immediately following the recess.

PRESIDENT EGAN: Are there other committee announcements? Mrs. Hermann.

HERMANN: I move that the assembly stand adjourned until 1:30 p.m.

PRESIDENT EGAN: Mrs. Hermann moves and asks unanimous consent that the Convention stand at recess until 1:30 p.m.

LAWS: I object.

SUNDBORG: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess until 1:30 p.m.?" All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

BUCKALEW: Mr. President, I have an amendment to offer. (Mr. Buckalew brought his amendment to Clerk's desk.)

PRESIDENT EGAN: Is there an amendment pending at this time? Mr. Ralph Rivers.

R. RIVERS: May we be at ease for a moment while the copies are passed around.

PRESIDENT EGAN: If there is no objection we will be at ease while the copies are passed around. Mr. Rivers' amendment is already pending, Mr. Buckalew, and the Chair would like to state that the amendments will have to follow in order down through the sections. Now after we get through amending all of the sections you can go back and amend again, but we won't jump from 4 to 6 and then back to 1 and 2. Does everyone now have a copy of the proposed amendment? Mr. Robertson?

ROBERTSON: Mr. President, I ask for a question of information. If Delegate Ralph Rivers' amendment should be adopted, is it still in order to make an amendment, to offer an amendment to the original Section 4 in the part embodied in this amendment?

PRESIDENT EGAN: If this amendment was adopted, would it then be in order to amend this particular amendment after it was adopted, is that your question?

ROBERTSON: That would probably be involved. I was wondering if it would be in order to make an amendment --

PRESIDENT EGAN: Mr. Robertson, if your proposed amendment, while it might involve changing words in this particular amendment that might be adopted, if it would change the sense of something of the interpretation, it would be in order. Mr. Ralph Rivers.

R. RIVERS: Mr. Robertson discussed this. He has in mind a number that would change the number of sponsors from ten to some other number.

PRESIDENT EGAN: That would be in order, Mr. Robertson. Was your motion seconded, Mr. Rivers?

R. RIVERS: Yes, it was. In the redraft we have done a little editing, so I now move its adoption in the form now submitted.

PRESIDENT EGAN: The proposed amendment would have to be read. The Chair did not get a copy of the proposed amendment. Mr. Rivers, it might be well then if you withdraw the original amendment.

R. RIVERS: I withdraw the amendment as it was originally submitted.

PRESIDENT EGAN: Mr. R. Rivers asks unanimous consent that his original amendment be withdrawn.

R. RIVERS: I now move the adoption of the amendment in the form presently presented and before you.

PRESIDENT EGAN: The Chief Clerk will read the proposed amendment.

CHIEF CLERK: "Page 1, Section 4, strike lines 13 to 18 inclusive, and lines 1 to 5 inclusive, on page 2 and substitute the following: 'Section 4. Prior to general circulation, an initiative petition containing a draft of the proposed law in bill form shall be signed by ten qualified electors as sponsors and have its sufficiency as to form certified by the attorney general. Denial of certification shall be reviewable by the court. If certified to be sufficient the initiative or referendum petition containing a summary of the subject matter prepared by the attorney general may then be circulated and must be signed by qualified electors equal to 15% of the number of votes cast for governor in the preceding general election at which the governor was chosen. The petition shall contain signatures from at least two-thirds of the election districts of the State. The petition may be filed with the attorney general who shall prepare a ballot title or proposition designating and summarizing the substance of the proposed law which proposition shall go upon the ballot as hereinafter provided.

PRESIDENT EGAN: Is there a second to the motion by Mr. Ralph Rivers?

BARR: I second the motion.

PRESIDENT EGAN: It has been moved and seconded, and the motion is open for discussion. Mr. Taylor.

TAYLOR: I have an amendment to offer. It is on the desk, an amendment changing "15" as a per cent in the unnumbered lines here, but it is the last word in the original proposal, changing the 15%" to "10%".

PRESIDENT EGAN: Your amendment is out of order at this time. This motion is before us. A new amendment is on the floor at this time.

TAYLOR: Amending the amendment though.

PRESIDENT EGAN: Amending the "15%" to "10%"? Mr. Taylor then offers an amendment to the amendment seeking to change to read "10%". Is there a second?

MARSTON: I second the motion.

SWEENEY: I object.

PRESIDENT EGAN: The question is on the amendment to the amendment seeking to make it ten per cent of the number of votes cast. Mrs. Sweeney.

SWEENEY: This matter was voted on in the Committee of the Whole last night, and in coming into the plenary session we adopted the oral report of the Committee. Now I don't feel that we can vote on that issue again any more than we can vote on the 19 or 20 years again.

PRESIDENT EGAN: Mrs. Sweeney, the Chair does not recall that we ever voted on ten per cent. But anything that happened in the Committee of the Whole session would just come to the plenary session as a recommendation. That is all. Mr. Sundborg.

SUNDBORG: Mr. President, I believe Mrs. Sweeney's recollection is perhaps incorrect and that we did in plenary session amend from the figure eight to fifteen per cent. I don't believe we discussed that matter at all in Committee of the Whole.

PRESIDENT EGAN: No one could again offer the amendment and be in order to make it eight per cent, Mrs. Sweeney, but the Chair will have to rule that the particular amendment to the amendment offering ten per cent as the figure is in order. Mr. Taylor.

TAYLOR: I would like to speak briefly. I think this has been argued pro and con at the time that the original proposal was eight per cent. I think a number of the Committee have spoken against the fifteen per cent on the grounds that it would positively make it impossible or so difficult to circulate a petition for an initiative that it would render the law inoperative. Now as Mr. Londborg said, this morning he was reading some statistics in Missouri, and to initiate a law it only requires five per cent. Now, of course, we realize that in Missouri it is much easier to get petitions circulated. The transportation problem is nothing. The people who circulate them can drive around different places and counties and get them signed. Here with the vast distances and the difficulties of transportation, it would be a little bit difficult. So that would leave us, if we adopt the ten per cent, still twice as high as the State of Missouri where transportation is very easy. So I think ten per cent would be a good compromise.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think if we read the Missouri Constitution carefully we will find that it is "five per cent of the qualified electors". We are only asking for a certain per cent of the governor's vote. There is a lot of difference because I don't think half or maybe a third of the people who can vote go out and vote. So actually five per cent in Missouri would be

equivalent to maybe fifteen or twenty per cent here. Not only that, they also require five per cent of the electors in each of two-thirds of the voting precincts. We are saying that they can get all but fourteen, I believe it is, in one precinct and then just go out and spot enough so that they qualify in the two-thirds in the other.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I don't go along with Mr. Taylor that this is going to be such a difficult task to get the fifteen per cent. Every petition will have at least ten sponsors, and if they know it is going to have to come from two-thirds of the legislative districts, those ten sponsors will in all likelihood come from ten different districts or maybe five. If you have 4,000 votes to get it requires each sponsor to secure 400 votes, and I believe it should be left at fifteen per cent.

MARSTON: The 19 states who have the initiative and referendum laws have averaged a little below eight per cent requirement. We went over this document and this figure with the experts here. It was in keeping with their thinking, and eight per cent is higher than the average of the 19 states who have this, and it is the right number. I want to warn the people here of one thing I see coming up. The person or persons who are issuing most of these amendments are people against initiative and referendum. I know that.

PRESIDENT EGAN: The Chair will have to hold from here on that the Chair will have to declare any one out of order if they allude to the motives behind any delegate.

MARSTON: Can I say who is for and against? It has been said on the floor.

PRESIDENT EGAN: This does not particularly refer to your statements, but the Chair is going to have to hold firm on allusions as to what might be the motives of other delegates on the floor.

MARSTON: Eight per cent is above the average required. If you want the initiative and referendum to work, if you want the people of Alaska to have a chance to initiate and recall laws, keep it at eight per cent. That is the right figure. Ten per cent would be plenty high. Fifteen per cent rules it out. It is not effective.

PRESIDENT EGAN: Mr. Harris.

HARRIS: I am both in agreement and in disagreement with Mr. Taylor's proposal. Ten per cent at the present time with our present voting population perhaps would be a little low. Also, I have an amendment on the desk, and if Mr. Taylor would adopt the latter part of my amendment, I think maybe we would

straighten this situation out. I would go ten per cent provided however that no petition shall have less than 5,000 signatures.

SUNDBORG: Question.

COOPER: I move the previous question.

PRESIDENT EGAN: Mr. Cooper moves the previous question.

BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye", all opposed "no". The ayes have it and the previous question has been ordered. The question is, "Shall Mr. Taylor's proposed amendment to the amendment be adopted by the Convention?"

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 29 - Coghill, Collins, Davis, Doogan, Emberg, H. Fischer, Harris, Hermann, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, VanderLeest.

Nays: 21 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Gray, Hellenthal, Johnson, Laws, Londborg, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 5 - Cross, V. Fischer, Hilscher, McCutcheon, Nerland.)

MCNEALY: I would like to change my vote to "yes".

AWES: I just wanted to inquire as to if my vote was listed as "no". I said both.

CHIEF CLERK: Yes, it was.

PRESIDENT EGAN: Did Mr. Barr want to change his vote?

BARR: No, I wanted to inquire about Miss Awes.

CHIEF CLERK: 29 yeas, 21 nays and 5 absent.

PRESIDENT EGAN: And so the "ayes" have it and the proposed amendment to the amendment has been adopted by the Convention.

MCNEALY: Mr. President, at this time I would like to give notice of reconsideration of my vote on the following Convention date.

TAYLOR: Mr. Speaker, I move that the rules be suspended and that Mr. McNealy's reconsideration of his vote be brought out at this time.

V. RIVERS: I second the motion.

PRESIDENT EGAN: Mr. McNealy serves notice of reconsideration of his vote. Mr. Taylor moves that the reconsideration of Mr. McNealy's vote be considered at this time. Mr. Victor Rivers seconded the motion. The question is, "Shall the reconsideration of Mr. McNealy's vote on the amendment just adopted by the Convention be considered at this time?" The Chief Clerk will call the roll.

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

Yeas: 32 - Armstrong, Awes, Barr, Coghill, Collins, Davis, Doogan, Emberg, H. Fischer, Harris, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, VanderLeest, White, Mr. President.

Nays: 18 - Boswell, Buckalew, Cooper, Gray, Hellenthal, Hermann, Johnson, Laws, Londborg, McNealy, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, Wien.

Absent: 5 - Cross, V. Fischer, Hilscher, McCutcheon, Nerland.)

CHIEF CLERK: 32 yeas, 18 nays and 5 absent.

R. RIVERS: Mr. President

PRESIDENT EGAN: The Chair has not announced the outcome as yet.

R. RIVERS: I am sorry.

PRESIDENT EGAN: So the motion has failed of passage and Mr. McNealy's reconsideration is ordered held over until tomorrow. Mr. Ralph Rivers.

R. RIVERS: Mr. Chairman, what I have in mind is that that motion to change the fifteen per cent to ten per cent would have been in order even after my amendment had been acted upon, so I trust that we can now go ahead and act on the main amendment reserving over until tomorrow the reconsideration as to that percentage. Am I correct?

PRESIDENT EGAN: That would be possible to act upon, Mr. Rivers, that does not affect your amendment. Your amendment in its present form does not affect Mr. McNealy's reconsideration.

R. RIVERS: Then I ask unanimous consent that we proceed to consider the amendment which I have submitted.

PRESIDENT EGAN: Although the amendment, while it was offered as an amendment to your amendment, the fifteen per cent still stays in the actual bill, but technically --

R. RIVERS: The reconsideration of the percentage still goes over until tomorrow?

PRESIDENT EGAN: That's right. We could vote on the original amendment. Mr. Gray.

GRAY: It appears that there is a stalemate on this reconsideration which is something I don't think was the intent of some of the body here, and for that point I would like to move at this time to rescind our former action, now that I realize what this reconsideration vote means.

PRESIDENT EGAN: Mr. Gray moves that the Convention rescind its action in adopting a figure of ten per cent.

GRAY: No, the reconsideration vote.

PRESIDENT EGAN: The Chair will hold that you cannot rescind the reconsideration vote.

TAYLOR: I think, Mr. President, as Mr. Rivers pointed out, if we go ahead with the amendment offered by Mr. Rivers, leave it as it is, fifteen per cent, and then tomorrow morning we vote on whether it will be the fifteen or the ten.

PRESIDENT EGAN: That is right. Mr. Hellenthal.

HELLENTHAL: I think this is an excellent amendment. It incorporates all of the matters that were brought before the body this morning. It incorporates some that were not which are excellent. It limits the court review to denial of certification which certainly makes it easier to sponsor a worthwhile initiative, and I think that after all the debate that we should speedily work on this amendment and adopt it.

PRESIDENT EGAN: Mr. White.

WHITE: Point of inquiry, Mr. Chairman, did Mr. Buckalew ask to have his amendment circulated?

PRESIDENT EGAN: Did Mr. Buckalew ask to have his amendment circulated? Not that the Chair recalls.

BUCKALEW: No, I did not.

WHITE: That is not up before us at this time?

PRESIDENT EGAN: That is not up before us at this time, Mr. White, but he, so far as the Chair knows has not asked that anything be circulated. We have before us the amendment as offered by Mr. Ralph Rivers.

WHITE: Mr. President, pursuing my inquiry, I would like to ask of the Chair that since we moved this matter over until 1:30 so the people could get together and the amendments that were too long to be understood could go through the boiler room, why we might not have Mr. Buckalew's proposed amendment circulated, because I feel it bears on our vote that we might make on Mr. Ralph Rivers' amendment. I think we must understand what is going to be in the second in order to vote intelligently on the first. Since his work has been done and is in order, I ask that it be circulated.

PRESIDENT EGAN: It would be in order to consider that at this time, by unanimous consent or two-thirds vote of the body because we have the question before us of Mr. Ralph Rivers' amendment. Mr. Buckalew's amendment has no status whatever at this time.

BUCKALEW: It has my name on it. I take exception to the Chair's remark. (Laughter)

PRESIDENT EGAN: The question is on the adoption of the amendment that we all have before us, an amendment to Committee Proposal No. 3 by Mr. Ralph Rivers. If there is no discussion the question is, shall the amendment be adopted by the Convention?" Mr. Coghill.

COGHILL: I rise to a point of order.

PRESIDENT EGAN: Your point of order, Mr. Coghill.

COGHILL: According to Robert's Rules of Order affirmative votes on the following cannot be reconsidered, and one of those is to amend Robert's Rules of Order on page 158.

PRESIDENT EGAN: The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The point of order was not well taken. We have before us the amendment as offered by Mr. Ralph Rivers. The question is, "Shall the amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 45 - Armstrong, Awes, Barr, Boswell, Collins, Cooper, Davis, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, Wien.

Nays: 4 - Buckalew, Coghill, White, Mr. President.

Absent: 6 - Cross, Doogan, V. Fischer, Hilscher, McCutcheon, Nerland.)

CHIEF CLERK: 45 yeas, 4 nays and 6 absent.

PRESIDENT EGAN: And so the proposed amendment has been adopted. Mr. McNealy's reconsideration by general consent is still hanging with this particular proposal. Mr. Robertson.

ROBERTSON: I have an amendment to this particular section.

PRESIDENT EGAN: The Chief Clerk may please read the proposed amendment as offered by Mr. Robertson.

CHIEF CLERK: "Amendment to Section 4. Delete 'ten' and insert '100' in lieu thereof."

ROBERTSON: I move the amendment be adopted.

PRESIDENT EGAN: Mr. Robertson moves that his amendment be adopted.

JOHNSON: I second the motion.

PRESIDENT EGAN: The question is, "Shall Mr. Robertson's --"

ROBERTSON: My thought is that 'ten' is entirely too insufficient a number. I don't believe there is a statute on the books today that you can't find ten disgruntled people who said a law is no good and who would not be willing to petition and have it annulled and repealed or revoked. I don't think the initiative referendum should be made too easy. I think there should be some difficulty, after our legislature has sat in solemn session and tried to put over laws or rejected passage of certain laws. I don't think that any ten people should come along and be able to start a movement and to get a law enacted or a law repealed, and I believe that, as a great many believe, that 100 is a much fairer number than ten. My recollection is that we had something like 27,000 votes at the last election, something like that. One hundred is much less than one per cent of the total number of votes then. I hope the delegates of the Convention will adopt this amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I don't believe that Mr. Robertson from his talk realizes that only applies to initiative petitions which will initiate a law and it does not apply to a referendum, and then these ten qualified electors must have a bill drawn, must be in bill form and submitted to the attorney general, and that is all that is to show whether the bill is in form, if it is sufficient under the law as to a proper bill, If the bill is drawn as Mr. Rivers put in there, the petition, the first petition goes inside and it contains a draft of the proposed law in bill form just as it is going to be in the legislature, so the attorney general can then pass upon its sufficiency as a bill of the Territory or the state in which it is drawn, so I don't think it should be made unduly hard to do that. I think ten is enough. I think that the amendment should be voted down.

UNIDENTIFIED DELEGATE: Question.

ROBERTSON: I do understand thoroughly that the ten and the 100 I am speaking about are the sponsors for the original initiative petition, and I realize that after it is passed upon by the attorney general they must go out and get this 15 per cent endorsement thereof by signature, but I still submit that ten is an insufficient number to be able to attack any law or to initiate new laws in the Territory when we have a legislature for that very purpose.

PRESIDENT EGAN: Mr. Barr.

BARR: I also understand this applies only to the initiative and that is why I am for it. We should not make it too easy because it is so easy to get signatures to a petition. Right here in this body on any amendment we voted on which did not pass unanimously, I could get ten signatures to try to overthrow it. Any ten people who did not agree with a law that has been passed are willing to sign such a petition. I would not object to having 500 voters sign it because they do have another method of initiating a bill. The legislature can introduce it or a member can introduce it by request, so if we use a second method, the initiative there should be some restrictions on it. It is going to cost us money if we use that, therefore we should make it difficult so it could not be used too often.

METCALF: I speak briefly. I know our original draft of the initiative and referendum was not perfect. I should like to make friends for this. This business of getting through on the floor is a matter of give and take, and we must all remember that. I feel the same as Mr. Robertson. I think it would be easier for a person to get a hundred signatures on the petition than it would be to have somebody in the attorney general's office to spend two or three days looking up the law on the matter. So for the sake of harmony and making friends for the . initiative and referendum I favor Mr. Robertson's opinion.

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

ROBERTSON: Roll call.

STEWART: May we have the amendment read.

PRESIDENT EGAN: The Chief Clerk will please read the amendment again.

CHIEF CLERK: "Section 4: delete 'ten' and insert '100'."

PRESIDENT EGAN: The Chief Clerk will please call the roll as to the adoption of Mr. Robertson's amendment.

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

Yeas: 33 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Doogan, Emberg, Gray, Hellenthal, Hurley, Johnson, Laws, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Poulsen, Reader, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 17 - Davis, H. Fischer, Harris, Hermann, Hinckel, Kilcher, King, Knight, Lee, McNees, Marston, Nordale, Peratrovich, R. Rivers, Sundborg, Sweeney, Taylor.

Absent: 5 - Cross, V. Fischer, Hilscher, McCutcheon, Nerland.)

CHIEF CLERK: 33 yeas, 17 nays and 5 absent.

PRESIDENT EGAN: The "ayes" have it and the amendment is ordered adopted.

BUCKALEW: I have an amendment to offer.

PRESIDENT EGAN: Mr. Buckalew has an amendment to offer. Will the Chief Clerk please read the amendment.

CHIEF CLERK: "Committee Proposal No. 3 be amended as follows: Strike the first five sections and in lieu thereof insert:

'Section 1. The power of initiative and referendum is reserved to the people. The legislature shall provide by law the necessary procedure to accomplish these purposes.

'Section 2. A valid initiative or referendum petition shall be signed by qualified electors equal to 15% of the number of votes cast for Governor in the preceding general election at which the Governor was chosen. The petition shall contain signatures of qualified electors resident in at least two-thirds of the election districts of the state. Neither the initiative nor referendum may be used as a means of making appropriations for public funds, nor for local or special legislation.'

Change '6' on page 3, line 2 to '3'."

PRESIDENT EGAN: The Chair would have to hold that at this time such an amendment is not in order for the reason that Mr. McNealy's reconsideration of the amendment to the amendment is holding over until tomorrow, and in this proposed amendment of Mr. Buckalew's the percentage figure is contained therein and consequently the amendment of this kind is out of order until after we have considered Mr. McNealy's reconsideration tomorrow. Are there other amendments?

R. RIVERS: I have an amendment to offer.

PRESIDENT EGAN: The Chief Clerk may read the amendment.

CHIEF CLERK: "Section 3, line 10, delete the words 'authority reserved' and substitute the word 'provisions'."

R. RIVERS: I move the adoption and ask for unanimous consent.

I would like to explain it.

PRESIDENT EGAN: What was the line?

CHIEF CLERK: Section 3, line 10. page 1.

PRESIDENT EGAN: Strike the words "authority reserved"?

R. RIVERS: And substitute the word "provisions". So the section would read: "The legislature shall prescribe the procedures to be followed in the exercise of the powers of initiative and referendum, subject to the specific provisions herein." It now says "subject to the specific authority reserved herein." The Section 3 is on the subject of the procedures to be followed in the exercise of those powers. The powers reserved herein are up in Section 1. Now the power of the legislature is not subject to the authority reserved herein. The power of the legislature is subject to these procedural provisions herein, and I think that it now causes a little confusion and is an obscure reference. We know when they say "subject to the specific provisions herein" we are talking about the framework that is provided for in Section 4.

PRESIDENT EGAN: Mr. Rivers, do you move adoption of your proposal?

R. RIVERS: I asked for unanimous consent.

PRESIDENT EGAN: Mr. Rivers moves and asks unanimous consent that the amendment be adopted. Is there objection? If there is no objection the proposed amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: Mr. President, I have an amendment to offer.

PRESIDENT EGAN: The Clerk will please read Mr. Victor Rivers' proposed amendment.

CHIEF CLERK: "Page 2, line 25. after the word 'legislation' strike the balance of the line and on page 3, strike line 1 and insert in lieu thereof the following: 'The referendum shall not be applicable to such laws as are necessary for the immediate preservation of the public peace, health or safety and laws making appropriations for the current expenses of the State government and for the maintenance of public institutions.'"

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

BUCKALEW: Objection.

SMITH: I second the motion.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment again.

(The Chief Clerk read again Mr. Victor Rivers' proposed amendment.)

PRESIDENT EGAN: The motion is open for discussion.

SWEENEY: May we have the last half again?

(The Chief Clerk reread the proposed amendment.)

ROBERTSON: May I ask a question of Delegate Victor Rivers?

PRESIDENT EGAN: You may, Mr. Robertson.

ROBERTSON: How do you think, Mr. Rivers, this adds to or better the present provision?

V. RIVERS: Well, the present act is geared to the emergency clause. Now who would determine what an emergency was, whether or not it carried an emergency clause or not, I don't know, but it might well be that some particular act that had a grave bearing on the public health or welfare or safety could be passed without an emergency clause, and I feel that any act that affects the public health, safety or peace or also affects the current operations of our institutions, the immediate effect upon them, I think should not be subject to a referendum. It puts a little sense I think in this use of the term "emergency act" because an emergency act, as we had discussed yesterday, could be declared when it actually was not, and some emergency acts that were actually, in effect, emergency could also be left without an emergency clause. This would pin down a limitation upon the breadth and scope of the use of the referendum for things that might materially upset our everyday functioning of government.

PRESIDENT EGAN: The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew.

BUCKALEW: Mr. President, I just noticed in the gallery we have visiting dignitaries from Caribou Creek, Mr. and Mrs. Ben Hitchcock.

PRESIDENT EGAN: We are happy to have you with us this afternoon, Mr. and Mrs. Hitchcock. We have Mr. Victor Rivers' proposed amendment before us at this time. Mr. Ralph Rivers.

R. RIVERS: I want to just ask for a point of information,

Section 5 starting on line 22, page 2, says that, "Neither the initiative nor referendum may be used as a means of making or defeating appropriations of public funds". In Mr. Victor Rivers' proposed amendment, the last several lines of his proposed amendment duplicates that subject of appropriations. Now the way Section 5 now stands the referendum may not be used in regard to any appropriations, and Mr. Rivers speaks of appropriations for maintaining of public institutions. If we are going to have it apply to all appropriations in one place we are going to have to skip the specific references later or else we have got to leave it open on appropriations generally with the exception of a few specified ones. So as an amendment to Mr. Rivers' amendment I move we strike all the language after the word "safety" and I ask unanimous consent.

V. RIVERS: I accept the amendment.

PRESIDENT EGAN: The amendment is quite long, and the Chair wonders if the delegates have a clear idea as to what is being accomplished.

R. RIVERS: I ask unanimous consent. Could the Clerk read it as it is.

PRESIDENT EGAN: Is there objection?

BUCKALEW: For what?

PRESIDENT EGAN: For the insertion of Mr. Ralph Rivers' amendment to the amendment as offered by Mr. Victor Rivers.

R. RIVERS: It is to delete the reference to appropriations which is already covered.

PRESIDENT EGAN: If there is no objection the proposed amendment to the amendment is ordered adopted. Mr. Stewart.

STEWART: May we have it read as it is going to be?

PRESIDENT EGAN: The Chief Clerk will now read the proposed amendment as it will be before us.

CHIEF CLERK: "The referendum shall not be applicable to such laws as are necessary for the immediate preservation of the public peace, health or safety and laws making appropriations for the current expenses of the State."

R. RIVERS: After the word "safety" everything is to be struck. PRESIDENT EGAN: Read the whole amendment once more.

CHIEF CLERK: "Page 2, line 25, after the word 'legislation' strike the balance of the line and on page 3, strike line 1

and insert in lieu thereof the following: 'The referendum shall not be applicable to such laws as are necessary for the immediate preservation of the public peace, health or safety.'"

JOHNSON: Mr. President, may I ask Mr. Victor Rivers a question?

PRESIDENT EGAN: If there is no objection, Mr. Johnson, you may.

JOHNSON: Mr. Rivers, from the language used now you have limited your amendment to just referendum. Did you intend to include initiative?

V. RIVERS: No, it was my intent to limit it just to the referendum.

JOHNSON: Do you think it would be advisable to include it?

V. RIVERS: No, I don't think it would be advisable to include the initiative.

PRESIDENT EGAN: Mr. Johnson, on that particular subject the Chair might state relating to emergency acts that was the way it originally read. Mr. Ralph Rivers.

R. RIVERS: Mr. President, to follow up the discussion on the advantage of this amendment over the previous wording, the previous wording said, "The emergency acts are not subject to referendum. We had quite a discussion yesterday as to the meaning of an emergency. Mr. Taylor concluded an emergency act was any act to which the legislature attached an emergency clause. The reason generally for an emergency clause is to speed up the effective date of the act, but not that any public emergency exists. Now one advantage of what is an emergency here is that the legislature could still go ahead and use the device of speeding up the effective date of any act without causing any confusion under this referendum procedure, so there is a real advantage there and it is not the intention to deprive the public of the referendum on every act that the legislature hooks an emergency clause on to. This defines what is the kind of an emergency to which the referendum would not apply, and it leaves all other acts in the hands of the legislature as to fixing the effective date without causing any confusion. So I strongly advocate the adoption of this amendment.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: As I construe this, no piece of legislation dealing with public peace, public health or public safety, at least I can't conceive of any that would be subject to the referendum, because the justification for any legislation dealing with peace, health or safety is an immediate need. This would, I

am not an anti-fluoridationist, this would certainly prevent the fluoridation people from having a referendum on a law permitting fluoridation of water, and I think it will just prevent the use of the referendum on anything dealing with health, safety and peace. I wonder if that is desirable.

PRESIDENT EGAN: Mr. Barr.

BARR: I don't think Mr. Hellenthal puts enough emphasis on the word "immediate". This merely defines an emergency measure, meaning a real emergency. For purposes of civil defense, in case of a natural disaster, or something of that kind. Otherwise, if that word "immediate" were not there then of course it would be as Mr. Hellenthal says. You could not have a referendum on any of those subjects. This only applies to immediate emergencies dealing with those things.

COOPER: Well, that in a way answers my question. However, in reference to Delegate Hellenthal's statement, the fluoridation people might propose a referendum. However, supposing the legislature proposed legislation requiring fluoridation and the people of Alaska did not want it. This would prohibit the people voting on referendum as far as the matter of public health or safety or peace is concerned.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: We are not dealing only with the word "immediate". We are dealing with the words "immediate preservation" of the public laws that are necessary for the public peace and health and safety. Now that defines what is a real emergency. We have lived for all these years without fluoridation. There would never be such a law necessary for the immediate preservation of the health and safety. I think with these words "immediate preservation" you have clearly made it apparent what you are talking about, and the general subjects of health and safety and peace are still open for referendum.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I am inclined to agree with Mr. Hellenthal. The intent that we have in this clause is very good but actually the referendum, the need of the referendum, I believe the people are more concerned with measures affecting their peace, health and safety than they are probably any other one group. It is not what our intent is here. It is what the effect of this referendum will be. I believe that the peace, health and safety are three of the things that the people might most want their referendum. I am just a little afraid of the limiting factor of this clause, not from what we mean here but maybe ten years from now.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: It seems to me that any referendum concerning the health, peace and safety which could be returned to the people for the voting is not in the category of "immediate preservation". An immediate case would be where we have to appropriate money to take care of an area which is absolutely destitute, or where we have to submit funds for a burned out area. But anything that could take the time to be submitted to the people for a referendum does not fall in the category of the "immediate preservation" as explained here.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe Mrs. Sweeney is arguing for this amendment. I take it that way because in reading the bill it must be the immediate. If there is a war, disaster or flood or something, and the health and sanitary conditions was such that it required immediate action, a special session of the legislature could be called and steps could be used to take care of the refugees, the homeless people without food, whereas if a referendum was submitted on that particular thing it would take 180 days before you could have a vote on it, and the people would all be dead or be gone before that 180 days had elapsed, so this is as the name implies, it must be immediate preservation of the public peace and safety and health, something like that if it comes up.

PRESIDENT EGAN: Miss Awes.

AWES: I was just going to say that I think that the interpretation that Mr. Hellenthal has put on this, in effect, omits the words "necessary for the immediate preservation", and if you omitted those words you would have the same result as he says we have with this. The court, any court that interprets this section, is going to assume that those words mean something, and therefore I think that more than unlikely, practically impossible that any court would reach the interpretation Mr. Hellenthal has.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman. I agree heartily with Miss Awes. I think frankly that this amendment does improve the language and gets away from the possibility of an abuse where we substitute, where we describe them as emergency acts. Literally what has happened in these cases, let us say the legislature does pass an act on fluoridation and in substance someone starts a referendum. They start their referendum, they secure their petitions, they put it on the ballot; it is voted on. Let us say it fails, you have no problem. Let us say that the referendum, in substance, negatives the law. Then the question is up substantially for the courts. If the proponents of the act who passed it in the legislature insist that it was a law that was necessary for the immediate preservation of the public health,

peace or safety, then it would be a matter for judicial determination by the courts to determine whether or not that act is immune from referendum. You have held the referendum, and if you are right the courts will sustain you. Frankly, it does away with the possibility of the greater abuse of merely leaving the expression as emergency acts. There is one thing I suggest. I don't propose the amendment, but possibly to prevent an abuse, it might be possible if the proponents of this amendment so desire, to say the referendum shall not be applicable to such laws as are necessary and declared to be for the immediate preservation, so that at least you put your legislature on the spot. They have to specifically declare it. Merely declaring it is not going to necessarily make it necessary for immediate preservation, but at least you compel the legislature to declare it in the bill. I suggest it. I don't propose it.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Then if you say "declared to be necessary for the immediate preservation", then you are giving the legislature a chance to declare a lot of stuff necessary for the immediate preservation.

MCLAUGHLIN: I say I merely suggest.

R. RIVERS: I think it is better without that.

HELLENTHAL: May I speak a minute?

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. President, I think what we are quarreling about is the time when the immediate determination of immediate necessity is made. The way this reads, if this is an immediate necessity at the time the legislative act is passed, and there must be or it would not be passed, then there can be no referendum. Now if those words, "immediate" and "necessary" qualify the time of the passage of the legislative act, you are never going to have a referendum on matters relating to public peace, health or safety.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the amendment as offered by Mr. Victor Rivers be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye," all opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 40 - Armstrong, Awes, Barr, Boswell, Buckalew,

Collins, Davis, Doogan, Emberg, H. Fischer, Harris, Hermann, Hinckel, Hurley, Johnson, King, Knight, Lee, Londborg, McLaughlin, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Nays: 10 - Coghill, Cooper, Gray, Hellenthal, Kilcher, Laws, McNealy, Poulsen, Reader, Robertson.

Absent: 5 - Cross, V. Fischer, Hilscher, McCutcheon, Nerland.)

CHIEF CLERK: 40 yeas, 10 nays and 5 absent.

PRESIDENT EGAN: So the "ayes" have it and the motion is ordered adopted. The reason the Chair called for a roll call was that it was evident about half the delegates did not vote either way. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment.

CHIEF CLERK: "Section 1, line 2, insert period after first word 'laws' and delete remainder of lines 2 and 3."

ROBERTSON: Mr. President, I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Robertson moves the adoption of his proposed amendment on line 2, page 1, insert a period after the word "laws" and delete the rest of the sentence. Is there a second to the motion?

MCNEALY: I second the motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, the word "laws" occurs at two places in that line, and I wonder if Mr. Robertson would point out which one.

ROBERTSON: After the first word "laws". I am frank to state, Mr. President, that I personally fear very much that the initiative and referendum is one step in the destruction of the republican form of government, and while I firmly believe in the people and all people personally, and everyone else having a power by petition to propose laws, I don't believe that the people themselves -- I think it is not a representative form of government when we send back to the people themselves, despite their duly elected representatives in the Territory, to enact or reject laws. That is the purpose of my amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Point of order. Mr. Chairman, it was my understanding that we were to proceed section by section by section.

PRESIDENT EGAN: It seemed that we were doing to the last section, Mr. McLaughlin. No one had offered any other amendments to Section 6. We proceeded with Section 5. We are now back to Section 1. Mr. Hinckel.

HINCKEL: I rise to a point of order also. In effect this proposal which is now before us would be the same as striking the initiative from the article, and we have already voted that we would not do that.

PRESIDENT EGAN: Mr. Hinckel, the Chair feels that the effect of such an amendment as proposed by Mr. Robertson would in effect destroy the whole proposal and that your point of order on those grounds would be well taken, that the proposal, that such an amendment is not in order.

ROBERTSON: Very well, Mr. President.

HINCKEL: I have a point of information I would like to make also for the record. During the editing of this proposal we struck, I will read it, "The legislature may provide by law for a procedure by which the sponsor of initiative petition may be withdrawn at any time prior to its submission to the people." I am informed by some of the attorneys here that it is not necessary and that it can be taken care of, but I think it is important that it be in the record that that can happen. Otherwise, if the legislature decided that they would enact a measure similar to the proposed one that had been initiated, but they amended it to some slight degree, then it might be that they would still have to have a referendum on it, and I think that would be extremely silly and expensive, so I would like to have it somehow or other either in the article or understood in some manner so there could never be any question about the fact that an article passed by the legislature which covered the matter in substance would obviate the necessity of a referendum.

PRESIDENT EGAN: Mr. Hinckel, that would undoubtedly be a subject for some sort of an amendment, but on this particular question you raised the point of order on, the Chair would like to state that the Chair never likes to be in a position to have to rule in that way, but the particular amendment, Mr. Robertson, would have the effect, whether you intend it so or not, in the opinion of the Chair, of crippling this proposal to such an extent that it would in effect be killing the effect of the proposal.

ROBERTSON: Mr. President, I accept your ruling. I was not here

yesterday, and I did not know just how the conduct was carried on. I have another amendment I would like to offer to Section No. 4.

PRESIDENT EGAN: First, we are back to Section 1. Does anyone else have an amendment to Section 1? Mr. Londborg.

LONDBORG: Was not our decision to strike done in Committee of the Whole, to strike that Section 1? That was in Committee of the Whole. We never voted on that in plenary session, have we?

PRESIDENT EGAN: But Mr. Londborg, the Chair would have to hold that striking Section 1 would in effect kill this proposal, and an amendment that would in effect kill the proposal is out of order. The only way we can kill this proposal would be in its final vote on third reading. You cannot kill a proposal by amendment, and that is the reason that the Chair rules as such. It was not the intention I know of the maker of the motion, but that was the effect it would have had. Is there any other amendment to Section 1? Mr. Barr.

BARR: Mr. President, I have an amendment unless somebody can answer my objection. A point of information. I would like to ask, perhaps the Chairman of the Committee about this word used in Section 1. It says, "The people reserve the power by petition to propose laws and to enact or reject such laws at the polls." It seems to me that the legislature is the only one that actually enacts a law. The people here are proposing a law and then at the polls they approve of it. My amendment would be to change that word "enact" to "approve" and then they approve or reject such laws at the polls. It seems to me that is the proper word. Would some member of the Committee tell me why they used the word "enact"?

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: That is a standard definition of the initiative as used in a majority of the articles of the constitutions that we reviewed.

R. RIVERS: Mr. President, may I amplify? If the legislature does not pass this proposition which is drafted in the bill form, Mr. Barr, then the people are the ones that enact it by their affirmative vote at the polls.

BARR: Under the authority of the constitution it is enacted?

R. RIVERS: Yes, that is right.

BARR: That answers my objections.

PRESIDENT EGAN: Is there any amendment to Section 2? Mr.

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Buckalew.

BUCKALEW: I move for a 15-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention is at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to find out from the delegates, and perhaps we should wait until they all get here, the Convention will be at ease for a minute or two until the rest of the delegates arrive. The Convention will come to order. Mr. White, if there is no objection we will revert to the reports of the select committees.

WHITE: The Committee on reading the journal has the journal for the 36th Convention day, one correction to recommend: Tuesday, December 13, "on page 10, paragraph 4, first line, insert the word "when before "the Convention" and insert the words "considered adjournment it" after "the Convention". I ask unanimous consent that the Convention approve the journal of the 36th day with that correction. The 35th day we are holding off until the paragraph has been inserted.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journal for the 36th day be approved by the Convention with that correction. Mr. Davis.

DAVIS: Mr. President, I did not get the amendments. I wonder if he would give them again.

PRESIDENT EGAN: Would Mr. White read the proposed changes again?

WHITE: Page 10, paragraph 4, first line, insert the word "when" before the the Convention" and insert the words "considered adjournment it" after "the Convention".

BUCKALEW: Mr. White, we can't hear you.

PRESIDENT EGAN: Would you like to read it again?

WHITE: The first line would now read, "Mr. Boswell moved that when the Convention considered adjournment it adjourn until 9 o'clock."

PRESIDENT EGAN: Mr. White asks unanimous consent that the journal of the 36th day as corrected by the special Committee be adopted by the Convention. Is there objection? Hearing no objection, it is so ordered. Mr. Coghill.

COGHILL: Mr. President, seeing how we are reverting to committee reports, I would like to state again from the Committee on

Administration that we need the number of committee proposal packets that are going to be needed by the delegates returning to their homes for the purpose of public hearings. In order to have these set up for you Monday and that there will not be any confusion, would you please turn in the number of committee proposal packets that you would like to take home, at the message center upstairs so that we will have them ready for you by Monday evening.

PRESIDENT EGAN: The number of each proposal that each delegate will want, whether they want all proposals or so many of some proposal, more of one than the other, that would be appreciated also. Miss Awes.

AWES: I wanted to announce that the report of the Committee on Preamble and Bill of Rights is out and has been distributed. I believe that was given a number the other day.

PRESIDENT EGAN: Do you ask that the proposal be read for the first time?

AWES: Yes, that is why I got up to mention it, because I don't believe that has been done and it has not been referred to the Rules Committee to put on the calendar.

PRESIDENT EGAN: Miss Awes asks unanimous consent that the Committee Proposal No. 7 be read for the first time. The Chief Clerk will read the proposal for the first time.

CHIEF CLERK: "Committee Proposal No. 7, introduced by the Committee on Preamble and Bill of Rights, PREAMBLE, ARTICLE ON DECLARATION OF RIGHTS AND ARTICLE ON HEALTH, EDUCATION AND WELFARE."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment on the calendar. The Chair would like to ask the delegates at this time to make known to the Chief Clerk as to how many delegates need a return trip ticket to get home and that the transportation requests will be mailed to the delegates during the recess for their return, so if that can be accomplished this evening, or it should be accomplished this evening. Mr. Boswell.

BOSWELL: Before we go into further business, it would seem to me that before we adjourn for our recess that it would be very helpful if the committee chairmen of the committees that have not yet reported, would give a brief explanation of their proposal for the benefit of the delegates who will be holding hearings so that we might be able to carry the committee thinking on to our hearings, and if it is in order I will move that time be provided on Monday, December 19, for committee chairmen or some other designated committee member to explain proposals not heretofore considered by the Convention.

PRESIDENT EGAN: Is there objection to that setting of a time

aside on Monday for hearing from all committee chairmen and possibly some of the committee members on each proposal, summarizing in effect the proposals for the benefit of all the delegates? Copies will be available, but then it will be better, so far as the feeling of the Chair that Mr. Boswell's is a very fine one inasmuch as it will help the individual delegates in going through the proposals at home in knowing what the intent was behind certain sections and in the over-all proposal. It should prove very helpful. Is there objection to setting Monday morning as a time for hearing from the various committee chairmen on these matters?

HERMANN: As long as we get the copies also.

PRESIDENT EGAN: Is it not so that the copies of all proposals from all committees will be available by Monday evening?

CHIEF CLERK: Yes, if the committee chairmen get everything finished.

HERMANN: Do they all have the commentary attached? It would not seem it would take very long for each committee chairman to talk.

PRESIDENT EGAN: The Chair feels that what Mr. Boswell had in mind that there might be many points read by the committee chairmen that might not be in the particular commentary, and it would be very helpful to the delegates, and that will be remembered as a time that we will consider hearing from the committee chairmen and possibly some of the various committee members. Is there anything else of general importance to come before the Convention before we proceed? The number of proposals that each delegate would like to take home with him or her or mailed to them should be made known before Monday to the Chief Clerk so that the necessary work can be accomplished upstairs. Mr. Sundborg.

SUNDBORG: Could I inquire whether it is intended that there will be a staff, maybe just a skeleton staff on hand here throughout the recess?

CHIEF CLERK: Yes.

PRESIDENT EGAN: There will be a skeleton staff here. Mr. Sundborg.

SUNDBORG: The delegates would probably like to leave instructions about what should be done with mail or messages which arrive during their absence.

PRESIDENT EGAN: They could notify the Chief Clerk and expect that she will do her best to do what is possible along that line.

CHIEF CLERK: I think there was a request for mailing addresses already sent out for your home address.

PRESIDENT EGAN: We are now back to Committee Proposal No. 3. Mr. Hinckel.

HINCKEL: I have a proposed amendment on the Chief Clerk's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the amendment as proposed by Mr. Hinckel to Section 3.

CHIEF CLERK: "Insert after the end of the present line 12, Section 3, the following: 'The legislature may provide by law for a procedure by which the sponsors of the initiative petition may withdraw the petition at any time prior to its submission to the people.'"

PRESIDENT EGAN: Mr. Hinckel, what is your pleasure?

HINCKEL: I move and ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Hinckel moves and asks unanimous consent for the adoption of the proposed amendment. Is there objection? Mr. Kilcher.

KILCHER: I object for purpose of further clarification.

HINCKEL: I explained my intent before. If it is not necessary that it be in the constitution we can leave it out, but I want it firmly understood that it is possible to do exactly what I am stating as in the amendment.

KILCHER: At what point, Mr. Hinckel, would you still permit the sponsors to withdraw an initiative for instance -- before the ballot?

HINCKEL: Any time before the ballot, the idea being to save the cost of an election. If the legislature to whom we have given the authority to act upon a petition, an act of legislation that takes care of the subject that was initiated, why then there is no longer any need for an election. Therefore -- but they might amend it. If it was amended why then they should have to ask the sponsors' permission to withdraw or ask them to withdraw or something. It can be handled according to that procedure. The only thing wrong now is that we have jumped the number of sponsors from ten to one hundred. One hundred would have to be contacted instead of ten which I disapprove of. It would be more difficult now to withdraw, but I still think it can be done, and I think we ought to make provision for saving 40,000 bucks any time we can.

DAVIS: Mr. President, may I ask Mr. Hinckel a question?

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

DAVIS: I wonder, Mr. Hinckel, if you have some particular reason for wanting to put that in Section 3. It seems to me it might more properly go in Section 4 where you are talking about the petitions.

HINCKEL: It does not make any difference to me as long as it

accomplishes the purpose.

DAVIS: So long as it is in there you don't care which section it is in?

MCLAUGHLIN: Merely to save some words and save Style and Drafting some trouble, would this amendment be acceptable, that is in Section 3, line 9, after the word "referendum comma "including amendment and withdrawal" comma, would that effectuate your purpose? That is line 9, page 1, after the word "referendum comma "including amendment and withdrawal" comma, and then polish it up in Style and Drafting later?

HINCKEL: I think that would probably cover it. The wording I used is customary in other constitutions. That's the reason I picked it. If we can improve on it that is fine, but I don't want unnecessary elections to be held just for the fun of it.

PRESIDENT EGAN: What is your feeling, Mr. Hinckel?

HINCKEL: I will withdraw it and allow Mr. McLaughlin to make a motion.

PRESIDENT EGAN: If there is no objection, Mr. Hinckel asks unanimous consent to withdraw his amendment. Mr. Sundborg.

SUNDBORG: I would like to say that I happen to know that Mr. Davis and Mr. Ralph Rivers have an amendment which they intend to propose to Section 4 which covers that very point and I think in its proper place.

MCLAUGHLIN: I withdraw any suggestion.

PRESIDENT EGAN: If there is no objection, then the proposed amendment is withdrawn. The President neglected to have a communication read. If there is no objection, the communication will be read at this time.

CHIEF CLERK: A letter to Mr. McLaughlin from Arthur T. Vanderbilt, Chief Justice of the Supreme Court of New Jersey. (The Chief Clerk read the communication congratulating the Committee of the Judiciary Branch on the fine work done on its proposal.)

PRESIDENT EGAN: The communication will be filed. Are there other amendments to Proposal No. 3 at this time?

AWES: I have an amendment to Section 3 on the desk. I move its adoption.

CHIEF CLERK: "Section 3, line 9. delete comma after 'referendum' and insert period. Delete remainder of section."

PRESIDENT EGAN: Miss Awes, did you move the adoption?

AWES: Yes, I did.

PRESIDENT EGAN: Miss Awes moves the adoption of the proposed amendment.

BUCKALEW: I second it.

PRESIDENT EGAN: The question is open for discussion. Miss Awes.

AWES: The reason I propose this amendment, it seems that the last portion of this one sentence, "subject to the specific authority reserved herein", it seems to me that it merely says the legislature is bound by the provisions of the article, and that is true. That just goes to the nature of a constitution. The next sentence it seems to me can mean one of two things. It can either be a restatement of the clause that I just read, and if so it is objectionable for the same reason. Otherwise, it means something additional, and if it means something additional, then it seems to me that practically anything that the legislature attempts to prescribe under this section could be attacked in the court on the grounds that it hampered, restricted, or impaired the powers given, and for that reason, if it means any more than the other clause, I think that it would practically nullify the whole section.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I would like to concur with Miss Awes. It is a fact that the legislature prescribing the procedure is bound by the specific provisions that are contained in the constitution itself, and I think that language, "No law shall be enacted to hamper, restrict, or impair the exercise of powers reserved herein by the people", is absolutely a constitutional principle without being written into this constitution, and any procedure that you spell out telling the people whether they have got to register or what precinct they must vote in, would be a restriction and that could only be a trouble-maker, so I hope that her amendment is adopted.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, did Miss Awes' amendment carry all of the balance of Section 3? That is, it would strike out the sentence beginning, "No law shall be enacted", etc., or was it just to strike out the balance of the sentence?

CHIEF CLERK: No, it says sentence.

AWES: I intended it, unless I made a mistake on that, strike out "subject to the specific authority reserved herein. No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people.

CHIEF CLERK: That is not what it says.

AWES: I meant the balance of the section.

PRESIDENT EGAN: If there is no objection, the record will show that it meant the end of that sentence and the next sentence to be deleted. Is there further discussion? Mr. Hinckel.

HINCKEL: Is it open for discussion? The reason that was in there was because it is a common statement that is in a great many other constitutions, and also we felt that it was something that would make the section more acceptable to the people. It may be the legal minds can see that it is not necessary, but we on the Committee, I believe we had two attorneys there, and the rest of us were not, but we thought it looked all right in there and did clarify it, and there are probably a lot of other people that are interested enough in the constitution to read it before they approve it, why they probably might like to see it in there also. That is the reason we had it in there.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: As another civilian of this Convention, I heartily concur with the gentleman from Kodiak. I believe that the classification of people in the Territory, there are quite a few of us, that would prefer to see it spelled out in detail.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Chairman, I believe for the benefit of nonlegal people, it may add such a thing, but if it belongs in the constitution at all it should belong in the general provisions and not be restricted entirely to this particular act. We are going to come out with some general provisions, so this same thought, if it is true, should apply nonetheless throughout the constitution and would rightfully come under the general provisions.

PRESIDENT EGAN: Is there further discussion? Miss Awes.

AWES: I would just like to make a remark or two in closing. We are, we hope, drawing up a constitution that we will live with quite a few years, and this constitution like other constitutions will be scrutinized and interpreted by the courts and the courts not unreasonably assume that words are put in to mean something. Consequently, the courts attempt to give the words meaning, and if you have words in that serve no purpose the courts are apt to construe them to mean something that was not intended, and I think if these words are left in that they are pretty apt to cause trouble for as many years as they are there.

BUCKALEW: Question.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. President, I hesitate very strongly to argue, I will say the word again, with an attorney, but it would appear to me that it would be much easier to interpret the meaning here if one or the other, the last part of the last sentence in the paragraph or the last sentence in the paragraph were left in. I can't see from my own viewpoint how that it would confuse the meaning. I just can't see the need for striking both. I can see that striking either one would not materially change the meaning to the layman reading this, but I believe striking them both would possibly be very confusing.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I might tell Mr. Smith that there is no objection to leaving in the words "subject to the specific provisions herein." There is no objection to that at all. Miss Awes just moved to strike that part because she thought it was unnecessary because naturally the legislature is circumscribed by the specific provisions herein, but I would be perfectly glad to see the words, "subject to the specific provisions herein" remain, but it is this part, "No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people" which could cause trouble, because whatever the legislature spells out as to the registration of voters for election purposes, etc., could be regarded as a restriction upon their rights and that would only cause trouble, and the legislature must not veto the powers reserved by the people here, so we don't have to say that, and we are better off, as Miss Awes says, if that last sentence is stricken, but I don't care about the other.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I want to speak in behalf of attorney Awes' amendment, and I want to point out to the members of this Convention that a lot of us attorneys have been "shooting from the hips" on legal opinions, in fact there has probably been a million dollars worth of legal advice has gone out in this body, but I wish to point out to this Convention that when attorney Awes gives an opinion and writes and offers an amendment she has usually given a lot of thought and consideration to it. I respect her legal ability, and I know she has given it a lot of thought, and I concur in her opinion, and I am of the firm opinion that this language would hurt the people more than it would help them. It might appeal to them in some way, I don't know. Maybe it looks easy in the constitution, but it is a troublemaker and it should be deleted.

PRESIDENT EGAN: Mr. Barr.

BARR: I agree that the last sentence should be eliminated. As

far as the remainder of the previous sentence, it does not make any difference to me, and it might help the laymen who read it. It might lead him to believe that his rights are being preserved by the constitution. I sort of favor leaving it in, but it does not make much difference. I might say in answer to Mr. Buckalew here regarding a million dollars worth of attorneys' advice, we will agree as to the amount of advice, but as to the value of it, why there may be a difference of opinion.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I am amazed that we see so little opposition to leaving seven words in our constitution, admittedly, to clutter it up. I am referring to the last part of the first sentence in Section 3. We are willing to compromise on something that does not matter. We are willing to leave seven words there that we practically all admit by a short little amendment could be deleted, it is self-explanatory. All legislation is subject to the specific provisions of the constitution. We agree to that, but I don't think we should likely amend or rather strike the last sentence in Section 3, because it is in my opinion a crucial section. In my opinion, and the lawyers may correct me if I am wrong there, this sentence will determine upon whom the burden of proof shall be. It is like the court, the difference between judicial systems. Is the accused assumed innocent until proved guilty or guilty until proved innocent? If we strike the sentence out of Section 3 we will have a situation whereby in a law enacted by the legislature that prescribes procedures the people will have to get up if they have an initiative and go to court, and the burden of proof is the people's to prove that this particular law is impairing their rights. They have the burden of proof, the expense and the time involved. In other words, it is a further impairment of the right of initiative. If we leave this section as it is, then the legislature in enacting laws will have to be very careful in enacting a law that does not impair or restrict the exercise of the powers of the people reserved herein. The burden of the proof then is there. They will have to prove, if they are called upon, that they are not impairing. It is quite important. I am in favor of leaving it as it is.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I borrowed this map. There are 19 great states there. I can name them from Maine to Ohio, across the State of Washington, that use the language very much like we have in this document. (Holding up map) I am going to defend the people against the legislature and not defend the legislature against the people. They have a lot of lawyers down in the legislature who can take care of themselves, and I am going to lean over on the side of the people and vote "no" on this proposition, as much as I hate to vote against Dorothy right beside me.

PRESIDENT EGAN: Mr. Davis.

DAVIS: As a matter of personal privilege, I resent seriously all that has been said and is being said here about the lawyers as a class. The lawyers are people just the same as anybody else, and whether we are here in this Convention or in the legislature we do what we think is right for the people and not for the lawyers. (Applause)

PRESIDENT EGAN: Mr. Davis, the Chair would like to say that the Chair feels that each and every delegate is attempting to look out for the interests of the people, regardless of how he feels on any question. Is there any further discussion? Mr. McNealy.

MCNEALY: Mr. President, speaking just briefly on this, I would like to agree with Mr. Rivers there and others. I can see no objection to leaving in the words "subject to the specific provisions". However, I agree with Miss Awes that it is not necessary. Speaking now, when we speak continually about the people, and as to the initiative and the initiative only, the initiative section of this particular piece of the article that is apparently going in the constitution, is over the years is going to cost the people of this Territory millions and millions of dollars holding elections over the courses of years. It is borne out by the costs in other states, and I don't like to add any more to the burden of the people by leaving this open here to hamper or restrict, because that is going to bring in even more lawsuits. It is going to cost the people more money, and the people are going to remember us on those things when they have to start paying the bill in years to come. Therefore, I am going to have to vote in favor of the amendment, and I particularly favor it as to the last sentence and purely from the cost angle and the cost angle alone.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: I move and ask unanimous consent that the question be divided.

PRESIDENT EGAN: Mrs. Sweeney moves and asks unanimous consent that the question be divided.

BUCKALEW: I second it. I would object to it subject to whatever Miss Awes thinks about it. I second the motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I question very seriously whether Mrs. Sweeney's motion is in order. She is not proposing to divide the question, but what she is really proposing I believe is that either the last six words of the first sentence involved here or the second sentence should be stricken from Miss Awes' amendment by an

amendment thereto. I don't believe a question of this kind is divisible. There is only one question here and the question is, "Shall we strike the following words?" Now if you want to divide that, at what point do you divide it, at the period?

SWEENEY: Perhaps my procedure is wrong. I was hoping we could have a vote on the last six words of the first sentence and then have a vote on the final sentence of the section.

PRESIDENT EGAN: Mrs. Sweeney, you could ask then that that part of the amendment be amended to delete the last sentence, but you would have to first ask to withdraw. If there is no objection, the Convention will stand at recess for about 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, I withdraw my motion with the consent of my second.

PRESIDENT EGAN: Mrs. Sweeney asks to withdraw her motion with the consent of her second. Hearing no objection it is so ordered. Miss Awes, did you have something, the Chair understood --

AWES: May I ask a question? I still think that my amendment is good. I think the whole thing is objectionable. If that should be voted down, that would not preclude the submission of another amendment as to the part of it, would it?

PRESIDENT EGAN: It should not. Actually there are two subjects involved there, it would seem.

AWES: Then I prefer to have it voted on this way.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that Miss Awes' amendment be amended by changing the word "section" in her amendment to the word sentence and I would ask the Chief Clerk then to read how Miss Awes' amendment would read under those circumstances.

AWES: I don't think that is what you mean.

SUNDBORG: See if it is not right.

CHIEF CLERK: Section 3, line 9, delete comma after 'referendum and insert period. Delete remainder of sentence.'

SUNDBORG: That is what I would propose as my amendment to Miss

Awes' amendment. My intention is that after we vote on that then we may take up the other sentence which some delegates feel is a different subject.

AWES: I will accept that amendment under those circumstances.

PRESIDENT EGAN: If there is no objection, the amendment to the proposed amendment is ordered adopted. The question is, "Shall the amendment be adopted by the Convention?" All in favor of the amendment signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments to Section 3?

AWES: I have another amendment to Section 3 I am just writing out.

PRESIDENT EGAN: The Convention will be at ease. The Chief Clerk will please read the proposed amendment as offered by Miss Awes.

CHIEF CLERK: "Section 3, line 10, delete the words 'No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people.'"

AWES: I move the adoption of that amendment.

SUNDBORG: I second the motion.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I am going to vote against that amendment. After all, there are only two reservations of power in the people, the initiative and the referendum with regards to law. We do have the recall. Now I can readily conceive that if this particular amendment is passed that if there was a legislature that might be hostile to the exercise of the initiative or the referendum, they could very easily pass a bill that would perhaps emasculate the entire constitutional article by making it impossible for the initiative to be called. So by reason of it being the only reserve powers of the people in regard to legislation, I think we should say that the legislature shall not enact a law that will impair the right of the people in initiating law or shall restrict it or shall impair the exercise, not the power, but the exercising of the power. They might throw the lack of appropriation in the way of having an election. They might have a cost for filing a petition so prohibitive that you could not, and if you did not have this in here there is nothing you could do about it. But if you have it in here it guides the legislature in passing any law affecting the initiative and referendum, that when they do put the provisions and procedure and manner and mode of holding an election in here, the legislature has got to consider at each time, "Will this impair or restrict or hamper the exercise of

the power by the people?". We should leave it in here. If it goes out I will then work and vote against the passage of the proposal because they don't mean a thing.

PRESIDENT EGAN: If the Chair may, I wonder if I could ask a question without leaving the Chair. I wonder, is there some such statement in the proposed bill of rights, and if it was in there would it not have the over-all effect for everything in the constitution?

TAYLOR: I don't know, but I know that every one of the constitutional provisions on initiative and referendum have a statement that means just that same thing.

PRESIDENT EGAN: Miss Awes.

AWES: What I said before is applicable now, so I won't say much. I would like to say a few words in answer to Mr. Taylor. What we have here is a proposal which sets up pretty well the whole procedure for the initiative and referendum. In fact, there has been some objection that it is legislative in nature. Beyond this point I can't see any law that could possibly be passed by the legislature that would not in some respect hamper, restrict or impair the exercise of powers, and if you are going to have this in here it covers so much ground that I think the practical effect is to nullify the whole Section 3.

PRESIDENT EGAN: The question is, "Shall Miss Awes' proposed amendment be adopted by the Convention?"

KILCHER: Read the amendment please.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 3, line 10, delete the words 'No law shall be enacted to hamper, restrict or impair the exercise of powers reserved herein by the people.'"

COGHILL: I move and ask unanimous consent that the motion be postponed indefinitely.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Coghill moves, seconded by Mr. Taylor, that the motion be postponed indefinitely.

MCNEES: I object.

COGHILL: I so move.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be indefinitely postponed?" Is there discussion on the motion? If not, the question is, "Shall the proposed motion be indefinitely postponed?"

HERMANN: I think that the assembly should be advised, for the sake of those who may not know it, that a motion to indefinitely postpone is a motion to kill.

PRESIDENT EGAN: Mrs. Wien.

WIEN: Mr. President, does that not take a two-thirds vote?

PRESIDENT EGAN: It takes a majority vote, that is the Chair's remembrance. The question is, "Shall the proposed motion by Miss Awes be indefinitely postponed?"

TAYLOR: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

GRAY: Can I abstain?

HERMANN: On what grounds are you abstaining?

PRESIDENT EGAN: Mrs. Hermann desires you explain why you abstain.

GRAY: The reason I don't know how to vote on this.

HELLENTHAL: Point of order. I don't think an explanation can be called for by any one delegate here.

LONDBORG: Point of order. I believe that the decision to abstain must be made before the voting starts.

PRESIDENT EGAN: You are correct, Mr. Londborg.

GRAY: I vote "no" then.

Yeas: 13 - Coghill, Collins, Emberg, King, Knight, Laws, Marston, Metcalf, Peratrovich, Smith, Sweeney, Taylor, VanderLeest.

Nays: 38 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Davis, Doogan, H. Fischer, Gray, Harris, Helleenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, Lee, Londborg, McLaughlin, McNealy, McNees, Nolan, Nordale, Poulsen, Reader, Riley,

R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Sundborg, Walsh, White, Wien, Mr. President.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 13 yeas, 38 nays and 4 absent.

PRESIDENT EGAN: And so the motion to indefinitely postpone has failed of passage. We have before us Miss Awes' motion. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent for the previous question.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent for the previous question to be ordered. Is there objection?

COGHILL: I object.

METCALF: I second the motion.

PRESIDENT EGAN: The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous will signify by saying "aye", all opposed by saying "no." The "ayes" have it and the previous question has been ordered. The question is, "Shall Miss Awes' amendment be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 32 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Davis, Doogan, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hurley, Johnson, Lee, Londborg, McLaughlin, McNealy, Nolan, Poulsen, Reader, Riley, R. Rivers, Robertson, Rosswog, Stewart, Sundborg, Walsh, White, Wien, Mr. President.

Nays: 19 - Coghill, Collins, Emberg, Gray, Hinckel, Kilcher, King, Knight, Laws, McNees, Marston, Metcalf, Nordale, Peratrovich, V. Rivers, Smith, Sweeney, Taylor, VanderLeest.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 32 yeas, 19 nays and 4 absent.

PRESIDENT EGAN: And so the "ayes" have it and the amendment is ordered adopted. Are there other amendments? Mr. Victor Rivers.

V. RIVERS: Mr. Chairman, I have an amendment on Section 4 on

the Secretary's desk.

PRESIDENT EGAN: The Chief Clerk may read the amendment. Barr. Mr.

BARR: Mr. President, I have an amendment still to Section 3.

PRESIDENT EGAN: If you have an amendment to Section 3 --

BARR: I don't have it written out but I will in just one minute.

KILCHER: I also have an amendment to Section 3 that is written out.

PRESIDENT EGAN: The Chair will accept the amendments to Section 3. The Chair felt that all the amendments had been made to Section 3. I am sorry, Mr. Rivers. The Convention will come to order. The Chief Clerk will please read the amendment as offered by Mr. Barr to Section 3.

CHIEF CLERK: "Line 9, after the word 'referendum' insert, 'No law shall be enacted to nullify the exercise of powers reserved herein by the people.'"

BARR: Mr. President, I move that this amendment be adopted.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I object for the moment. Mr. President, I wonder if Mr. Barr would use the word "prevent" instead of "nullify"? "Nullify" imports that something has already been done. The word "prevent", I think, is what you are driving at.

LAWS: I second the motion.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, there was some question in my mind at the time, and if the word "prevent" would take care of the situation. I have no objection to amending the amendment to the word "prevent" instead of "nullify".

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, Mr. Barr's proposed amendment in my view is totally unnecessary. Here we say that the people reserve certain powers and that is right in our constitution, and we go down a few more sentences and say, "No law shall be enacted" or that the legislature shall not do anything to

prevent their exercise of the powers. It is obvious that the legislature cannot adopt a law that would prevent the exercise of their powers if the powers are reserved for them by the constitution. If the legislature attempted to enact such a law, it would be unconstitutional.

BUCKALEW: Question.

PRESIDENT EGAN: The question is, "Shall Mr. Barr's proposed amendment be adopted by the Convention?" All in favor of the adoption of the proposed amendment will signify by saying "aye", all apposed "no". The "noes have it and the amendment has failed of adoption.

KILCHER: Roll call. I said "roll call" before it was announced. I said "roll call" before a second person also said "roll call".

PRESIDENT EGAN: The Chair did not hear a call for a roll call until after he announced the decision.

ROBERTSON: Mr. President, was there not a request made for roll call after you had announced your decision on the vote?

PRESIDENT EGAN: You are right, Mr. Robertson, but after the vote is announced, it has been announced and it cannot be undone. The Chair is not attempting to take any prerogative that is not the Chair's or attempting to do that, but so far as the Chair is concerned there was no call for a roll call until the vote had been announced, and under the rules that is how the Chair has proceeded. The Chair has no other alternative but to say on that particular amendment the vote had been announced. Is there another amendment to Section 3?

KILCHER: Point of order, Mr. President. I think my neighbors around here will verify the fact that I said "roll call" fairly loud before it was announced, and as the President went on speaking I said it a second time.

MCNEES: I would confirm that fact even though we voted on opposite sides of the question.

JOHNSON: Point of order, Mr. President, wouldn't the proper procedure be an appeal from the ruling of the Chair?

PRESIDENT EGAN: That is right. Mr. Sundborg.

SUNDBORG: I move and ask unanimous consent that we suspend the rules and have a roll call on the proposed amendment by Mr. Barr.

BARR: I second the motion.

PRESIDENT EGAN: The Chair does not want to prevent a roll call

under the statement that was made by Mr. McNees. If the Chair has the authority after he has announced to reverse himself on a question of that kind, the Chair would be willing to do so. If there is no objection, the Chair will do so and order a roll call. It was not the idea of the Chair to cut off anyone's right to call for the roll, but the Chair had announced before the Chair had heard this cry for a roll call back here.

KILCHER: May we have Mr. Barr's amendment read again.

CHIEF CLERK: What happens to Mr. Sundborg's motion?

SUNDBORG: Since the President has made a ruling which makes my motion superfluous, I ask unanimous consent to withdraw it.

PRESIDENT EGAN: Without objection, the Chair would certainly like to ask if a roll call is going to be called for, rather than waiting to see what the outcome is, that if the delegates could try to ask for the roll call previously it would be helpful, and this kind of situation would not arise. Mr. Davis.

DAVIS: It appears to me, Mr. President, that this would be taken care of if the delegate who wants a roll call would stand up and be recognized as the rules require.

SWEENEY: Mr. President, there has been no appeal from the decision of the Chair, has there?

PRESIDENT EGAN: There seems to be a feeling that we should have a roll call, and the Chair is not adverse to having a roll call, Mrs. Sweeney.

SWEENEY: I think we are going to set a precedent here.

PRESIDENT EGAN: If there is no objection, the Chief Clerk will call the roll on Mr. Barr's amendment. Mr. Buckalew.

BUCKALEW: Before we call the roll, may I ask a question? Does it require a vote of five members to demand a roll call?

PRESIDENT EGAN: Not here, Mr. Buckalew. It says one person, and Mr. McNees stated that Mr. Kilcher had been asking for a roll call before the roll was announced. The Chair is willing to take the word of the delegates that the Chair was in error, and if there is no objection, the Chief Clerk will call the roll.

RILEY: If you are calling for another objection, I am pleased to object to put it on the road and put it through properly by an appeal from the Chair's ruling. For that purpose I object.

SUNDBORG: Is it not the ruling of the Chair that a roll call is in order.

PRESIDENT EGAN: It could not be the ruling. The Chair merely stated that if there was no objection the Chair was not adverse to allowing a roll call.

SUNDBORG: It is to that that Mr. Riley objects?

RILEY: Correct.

NOLAN: I move that the ruling of the Chair be sustained.

PRESIDENT EGAN: Mr. Nolan moves that the ruling of the Chair be sustained. Mr. Armstrong.

ARMSTRONG: I second the motion. May I ask for information? When you see that a vote is on the losing end of it, say that you are losing, is that the time for calling for a roll call?

PRESIDENT EGAN: If they are heard.

ARMSTRONG: Aren't you supposed to ask for a roll call before we could move into the motion?

PRESIDENT EGAN: Generally a person should ask before we go into the subject. Whether or not the rules say that a person should be recognized when he asks for a roll call, the Chair cannot quite remember, but the question is, "Shall the ruling of the Chair be sustained?" Mr. Barr.

BARR: Mr. President, as I remember the events as they happened, I am certain that Mr. Kilcher was the first one to call for a roll call and as I remember he was speaking at approximately the same time you were. In other words, you might have started before he started to speak, but he had called for the roll call before you had ended your announcement.

PRESIDENT EGAN: The Chair is not arguing with the question. Mr. Sundborg.

SUNDBORG: Is this matter debatable? As I understand the motion is to sustain the Chair. Is that debatable?

PRESIDENT EGAN: The question has to be put.

LONDBORG: May I ask what is your decision on that roll call, so what are we sustaining?

PRESIDENT EGAN: If you sustain the ruling of the Chair, then the question on Mr. Barr's motion is decided without further action. If you do not sustain the decision of the Chair, then we will vote by roll call on Mr. Barr's amendment. The question is, "Shall the ruling of the Chair be sustained?" The Chief Clerk will call the roll.

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

DOOGAN: I have to pass. I forgot the question.

KILCHER: I don't understand the effect of this motion, Mr. President. I can't vote.

MR. PRESIDENT: Not voting.

HERMANN: Point of order, Mr. President. I think we had three people who did not vote and did not announce in advance that they were not going to.

PRESIDENT EGAN: For two of them anyway the Chair felt they really did not understand the question that was being put. Mr. Londborg.

LONDBORG: Is that going to be the question then, that whenever we want to abstain from voting we just say we don't understand?

PRESIDENT EGAN: It isn't going to be the policy, no, Mr. Londborg. But on this particular situation it was the first time it came up, and the Chair feels that the particular people did not for some reason realize what they were being asked to vote upon.

DOOGAN: Mr. Chairman, I had no reason for abstaining other than I had forgotten the question. If it will help any I will vote.

KILCHER: Mr. Chairman, if at any time it is in order to ask for information, I would like to do so when it was my time to vote.

PRESIDENT EGAN: After the roll starts there can be no information asked for.

Yeas: 39 - Armstrong, Awes, Boswell, Cooper, Emberg, H. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Lee, Londborg, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Nordale, Poulsen, Reader, Riley, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien.

Nays: 9 - Barr, Buckalew, Coghill, Collins, Davis, Knight, Laws, Peratrovich, R. Rivers.

Not Voting: 3 - Doogan, Kilcher, Mr. President.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 39 yeas, 9 nays, 3 not voting, 4 absent.

PRESIDENT EGAN: So the ruling of the Chair has been sustained. Mr. Kilcher.

KILCHER: Point of information. Is it in order that the Chief Clerk announces the roll that while somebody on the floor is speaking for a point of information that might have bearing on the announcement of the roll call, in case they wanted to change it?

PRESIDENT EGAN: Mr. Kilcher, actually no one can be recognized and be in order until the roll call is announced, except a person who wishes to change his vote from one side to the other. Until that time, from the time the roll starts and until the roll ends, nothing is in order.

KILCHER: You would not be allowed either to vote after you had not voted, the same as if you changed? By implication if I understood finally what the motion meant by seeing who voted how?

PRESIDENT EGAN: No. The Convention will come to order. Mr. Sundborg.

SUNDBORG: Mr. President, may I be recognized briefly on a point of personal privilege? I feel that perhaps the time has come when we should implore all the delegates to pay close attention to the matters which are before the body. The people of Alaska have spent 300,000 dollars to send us here to try to write and organize a constitution for the state, and these are most important questions that are before us. I cannot see any possible reason why a delegate who has been sitting in this room would not understand for instance what that question was about. It was the simplest kind of a question and it was explained at some length what it was about. The question was, "Shall the Chair be sustained in his ruling?" and it was asked on the floor what the effect would be, and that was explained and then we get into the middle of the roll call and find that several delegates don't even know what the question is. The time to find out what the question is, is before the roll call starts. I would like to say further that on this matter of calling for a roll call, it is perfectly proper for members to call for a roll call, but as Mr. Davis has pointed out, the member who desires a roll call should rise before there has been a voice vote, obtain the recognition of the Chair and say, "Mr. President, I ask for a roll call." That is proper. It is not proper after there has been a voice vote to say "roll call". The only person who then may say "roll call" is the President who might say that the Chair is in doubt. That would be in the case of a voice vote where he really cannot tell on which side the balance lay and then he may say, "The Chair is in

doubt, the Chief Clerk will call the roll." Then we'll have a roll call. The purpose of the roll call is not to change what appears to be the voice vote results. The purpose of the roll call is just to find out on which sides are the delegates voting.

PRESIDENT EGAN: In closing this whole thing, the Chair would like to say that the Chair would have had no compunction at all to call for a roll call immediately except that the Chair had announced before he realized they were calling for the roll call. Mr. Barr.

BARR: On a point of information on procedure. In case there is a roll call and a man does not know what the question is or doubts whether he knows it, if he passes, is it not in order for him to rise after the roll call is taken and before it is announced and ask for instruction so he can vote at that time?

PRESIDENT EGAN: Ordinarily it is not in order, Mr. Barr, and probably why in the regular rules governing parliamentary bodies it is not in order is that it might be that someone might be attempting to figure the question at this time or something, but unless it would be the special rule in this body, it is not the general manner of procedure. Mr. Buckalew?

BUCKALEW: With the President's permission, I think it would be helpful to read Rule 30 again. It states that, "No member shall be entitled to abstain from voting on any roll call unless he shall have stated his intention to abstain before the voting starts."

PRESIDENT EGAN: Then it goes on to say, "Upon any announcement of intention to abstain the Delegate making such announcement upon request of five Delegates may be required to state his reasons. Mr. Buckalew, the Chair would like to ask: what is the Chair going to do when you come down to a roll call and someone does abstain from voting? We had that situation here the other day, and how are you going to make them vote even though the rule says so?

BUCKALEW: You have a Sergeant at Arms; that's the only thing I can think of.

SUNDBORG: Mr. President, I believe this is a practical solution to that problem, and the solution is that the member should vote. It does not matter if he says "yes" or "no". And then, if he can find out what the question is about before the end of the list is reached, he still has the privilege before the result is announced to change his vote. Say he voted "yes", and he finds out that he voted the wrong way. He can get up and

say, "I ask that my vote be changed to 'no'." I think that is the only practical way we can get around that, but our rules do not permit a member to pass unless he announces it before the roll is called.

PRESIDENT EGAN: The Convention will come to order. It might be well to announce that on the per diem (Mr. Harris, if you would not mind waiting a moment) you won't get your per diem checks for the day or so that it takes you to get home and the day or two it might take you to get back until after you do come back. You will be paid your per diem and compensation up through Monday. That will be sent to you in the mail. Mr. Harris.

HARRIS: I move that we adjourn until Monday morning at 9 o'clock.

V. RIVERS: I second the motion.

BUCKALEW: I object.

COGHILL: Question.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until Monday morning." Are there committee announcements.

POULSEN: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

ROSSWOG: I have a committee announcement. The Local Government Committee will meet whenever we adjourn.

PRESIDENT EGAN: The Local Government Committee will meet upon adjournment. Mr. Coghill.

COGHILL: The Committee on Administration will meet upon adjournment.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: Is it possible to amend this motion to adjourn specifying the time?

PRESIDENT EGAN: Not under our rules, Mr. Hilscher.

HILSCHER: I was merely going to suggest that we said something about the Traveler's Inn the other day and today is open house down at the Traveler's Inn.

HELLENTHAL: It is open house in the Convention too.

PRESIDENT EGAN: Are there other committee announcements to be made at this time? The question is, "Shall the Convention adjourn until 9 a.m. Monday? The Chief Clerk will call the roll.

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

Yeas: 17 - Armstrong, Barr, Collins, Harris, Johnson, Londborg, McLaughlin, Marston, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Stewart, Sweeney, Walsh.

Nays: 34 - Awes, Boswell, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, H. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Lee, McNealy, McNees, Metcalf, Nordale, Peratrovich, Riley, Rosswog, Smith, Sundborg, Taylor, VanderLeest, White, Wien, Mr. President.

Absent: 4 - Cross, V. Fischer, McCutcheon, Nerland.)

CHIEF CLERK: 17 yeas, 34 nays and 4 absent.

PRESIDENT EGAN: The "nays" have it and the adjournment has failed. Mr. Kilcher.

KILCHER: Mr. President, I would like to make a suggestion that I don't think it would apply to any rule except a different practice so far, that committee chairman announcements be made after the vote for an adjournment and before the results are announced, so leave it up to the Chair before the Convention is recessed, because we have seen it several times in the past that quite a bit of time has been spent on committee announcements. I have seen it announced now, and later you hardly remember, so actually the question could be disposed of much quicker if the adjournment motion were dealt with, and then before the hammer goes down on the table that the committee chairmen be given their time to make announcements.

PRESIDENT EGAN: It might be a good idea but it would be pretty hard to do. Mr. Hellenthal.

HELLENTHAL: May I suggest that we discuss the constitution, at least indirectly?

COOPER: Mr. President, I move and ask unanimous consent that no motion for adjournment be presented until at least 5:50 p.m.

PRESIDENT EGAN: Mr. Cooper moves and asks unanimous consent that no motion for adjournment be made until at least 5:50 p.m. It might be better, Mr. Cooper, if you would say 5:45.

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COOPER: I amend it to 5:45.

RILEY: Point of order. Motion to adjourn is always in order.

PRESIDENT EGAN: It is always in order unless the body would rule otherwise. We have before us Committee Proposal No. 3. Does Mr. Kilcher have an amendment on the table?

CHIEF CLERK: "Section 3, amendment by Mr. Kilcher, strike the first sentence."

PRESIDENT EGAN: Mr. Kilcher, what is your pleasure regarding this proposal?

KILCHER: I move that this amendment be adopted.

COOPER: I object.

JOHNSON: Point of order. Isn't this a matter which has already been acted upon by previous motion to strike the entire Sections 1, 2, and 3?

PRESIDENT EGAN: I believe so, Mr. Johnson. Is there a second to the motion? Mr. Smith.

SMITH: I would like to ask that the proposed amendment be read again.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Section 3, strike the first sentence."

SMITH: I second the motion.

SUNDBORG: Question.

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

KILCHER: I would like to speak in favor of this amendment. The Section 3 has become in my opinion meaningless with the last sentence deleted. I was going to make this amendment even if the last sentence had stood its ground. Much more so I move this amendment after the last sentence has been defeated. The first sentence in my opinion does not make sense any more.

PRESIDENT EGAN: Mr. Kilcher, that is all there is in Section 3. isn't it? Your motion should probably read, "Delete Section 3 and renumber all the other sections." The question is, "Shall Mr. Kilcher's proposed amendment be adopted by the Convention?" All those in favor of the adoption will signify

by saying "aye", all opposed by saying "no". The "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 3? Section 4?

DAVIS: Mr. President, I have a proposed amendment to Section 4, to that portion of Section 4 that has been amended, as amended by Mr. Rivers' previous amendment.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "After the word 'general' on line 4 of Mr. Rivers' amendment insert the following sentence: 'The same procedure, so far as applicable, shall apply to referendum petitions.'"

DAVIS: I move the adoption of the proposed amendment.

PRESIDENT EGAN: Mr. Davis moves the adoption of the proposed amendment.

TAYLOR: I ask unanimous consent.

R. RIVERS: I second the motion.

SWEENEY: I object. Can we hear it again?

PRESIDENT EGAN: The Chief Clerk will please read the amendment once more.

CHIEF CLERK: "Section 4, after the word 'general' on line 4, insert the following sentence: 'The same procedure, so far as applicable, shall apply to referendum petitions.'"

DAVIS: Mr. President, the purpose of the proposed amendment is that we insert a sentence which will make the procedure as to presentation of petitions for referendum the same insofar as you can make it the same as for initiative petitions so that we won't have to repeat that at a later time.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment be adopted?" All those in favor of the adoption of the amendment will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: I have an amendment on the Secretary's desk on Section 4.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 4, amendment to R. Rivers amendment. change 'two-thirds of the election districts of the State' to 'one-half of the election districts of the State'."

PRESIDENT EGAN: What is your pleasure, Mr. Rivers?

V. RIVERS: I move and ask unanimous consent that we adopt that amendment.

PRESIDENT EGAN: Mr. Victor Rivers moves that the proposed amendment be adopted.

JOHNSON: I object.

V. RIVERS: I so move.

SMITH: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me in view of the geographical distribution of the country and in view of the varied interests, economic and otherwise, that we would be defeating practically the purpose of the initiative and referendum if we require two-thirds of the districts to be represented on this petition. I think that half is a fair figure. It seems to me that if you were going to have an initiative or referendum on mining matters that in all probability it would be very hard to get votes for that initiative in two-thirds of the districts where their main interests perhaps would lie in fish, or fur, or timber. I put this amendment in in all sincerity, because I think it will make the initiative and referendum more workable and more fair if we allow it to go through.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I would like to say that we are talking not about precincts here, which at the present time there are something like 400 in the Territory, but about election districts under the constitution, and my understanding is that the Committee on Apportionment will bring in a proposal which will specify there will be 24 election districts. That would mean if we leave it the way it is that it would require at least one person's signature only from 16 of the districts to be among either ten or fifteen per cent as we may vote tomorrow on Mr. McNealy's motion to reconsider. The way Mr. Rivers would propose to change it, it would be necessary to get signatures from only 12 different districts, that is 12 signatures would be necessary, one from each district, making up a total of around 4,000 at the present time. I feel that as it is it is not at all cumbersome or difficult. If we had required that

a large number had to be obtained from the districts, it might be, but all that is necessary is one lone signature from each district.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, I hope that most of you are more aware of this issue that is getting more and more confused than I am. As I have shown on the last vote, and I want to be well aware that those among you who are in favor of the initiative in principle should see that any other attempt to emasculate the initiative as such should be voted down, and I see that Mr. Rivers' amendment is in favor of reinjecting some strength in the initiative. Since Section 3 has been amended to take more rights away from the people, since the first sentence will give the legislature the right to prescribe procedures, it is only fair that we reduce the "two-thirds" to onehalf" because if those that are opposed now and in the future to the initiative will have their way, they will have the legislature immediately to go about and have strict procedures established, for instance that in two-thirds of all the election districts we will have to have the full 15 per cent of signatures prorated in each district. I think the legislature will try to do that, and if they try to do it, if it is unconstitutional, it will have to be the people who go to the court and prove that such an act by the legislature would be unconstitutional. I think the legislature would get away with it and I wouldn't blame them for trying. It is not true that it will take only eleven signatures, one signature from each of the other eleven districts, and the one that tries to "railroad" something, I have no doubt whatsoever that those elements opposed to the initiative in the legislature will circumscribe the necessary procedure where we would end up by having two thirds of all the election districts required to furnish 15 per cent of the signatures. They would not rest quiet before they have that. Consequently, they will make the initiative unworkable. Consequently I am in favor of Mr. Rivers' amendment that only half of the election districts be required to furnish signatures. I have no doubt that before long they will be required to furnish each 16 per cent of the signatures, and be well aware of that, that attempt will be made, and all in favor of the initiative in principle should vote in favor of Mr. Rivers' amendment.

PRESIDENT EGAN: The question is -- Mr. Victor Rivers. V.

RIVERS: I ask that the roll be called.

PRESIDENT EGAN: The question is, "Shall the proposed amendment offered by Mr. Victor Rivers be adopted by the Convention?" The Chief Clerk will call the roll.

(The Chief Clerk called the roll with the following

result:

Yeas: 26 - Awes, Coghill, Doogan, Emberg, H. Fischer, Gray, Harris, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McNees, Marston, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Smith, Stewart, Taylor, VanderLeest.

Nays: 26 - Armstrong, Barr, Boswell, Buckalew, Collins, Cooper, Davis, V. Fischer, Hellenthal, Johnson, Laws, Londborg. McLaughlin, McNealy, Metcalf, Nolan, Poulsen, Reader, Robertson, Rosswog, Sundborg, Sweeney, Walsh, White, Wien, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 26 yeas, 26 nays and 4 absent.

PRESIDENT EGAN: So the motion has failed of adoption. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment to offer to Mr. Rivers' amendment.

PRESIDENT EGAN: The Chief Clerk will please read Mr. Buckalew's proposed amendment.

CHIEF CLERK: "Strike the entire sentence of R. Rivers' amendment beginning with 'The petition shall, etc.,' and substitute, 'The petition shall contain signatures of qualified electors resident in at least two-thirds of the election districts of the State.'"

BUCKALEW: I move its adoption.

PRESIDENT EGAN: Mr. Buckalew moves the adoption of the proposed amendment.

AWES: I second it.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Buckalew be adopted by the Convention?" Will the Chief Clerk please read the amendment once more.

CHIEF CLERK: This is an amendment to Mr. Rivers' amendment on Section 4. "Strike the entire sentence beginning with 'The petition shall, etc.,' and substitute 'The petition shall contain signatures of qualified electors resident in at least two-thirds of the election districts of the State.'"

BUCKALEW: I will ask unanimous consent. The only reason I

offered this amendment is the way it is drawn, it is ambiguous. What they meant, in the preceding sentence they refer to qualified electors and then they get down and refer to only signatures and what they mean is qualified electors resident in the districts, and I think it clears the ambiguity.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Point of information. That affects just the one sentence? I think it is a good improvement.

PRESIDENT EGAN: Unanimous consent has been asked. Is there objection? Hearing no objection it is ordered adopted. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment to Section 4.

PRESIDENT EGAN: Would the Chief Clerk please read Mr. Robertson's amendment.

CHIEF CLERK: It was to the old Section 4 which has been stricken.

ROBERTSON: That has not been changed any. It is still in the law. It is line 19, page 2, Section 4.

PRESIDENT EGAN: Would the Chief Clerk please read it.

CHIEF CLERK: "Section 4, page 2, lines 19, 20 and 21, strike all of lines 19, 20 and 21 except the word 'referred'."

ROBERTSON: Mr. President, I move that the amendment be adopted.

PRESIDENT EGAN: Mr. Robertson moves that his proposed amendment be adopted. Is there a second?

HILSCHER: Could we have that read again?

POULSEN: I second the motion.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "Lines 19, 20 and 21. Strike all of lines 19, 20 and 21 except the word 'referred'." Strike the last sentence.

ROBERTSON: In other words, it is to strike the last sentence of Section 4. Mr. President, my point is that I fear again that this is an interference with our form of government as depriving one of our three checks, the governor from the power of veto. Maybe there should be some restrictions upon the manner in which he could veto the initiative, and furthermore it seems to me to say that because an initiative measure is passed, no matter how bad it is, as may be proved within a very few

months that it cannot be amended or appealed by the legislature for a period of three years, might very possibly put a great burden upon the Territory. It seems to me we should not have that provision in our constitution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I oppose the proposed amendment. In the first place, this is not a part of the checks and balances. It is not the legislature that has enacted this law, it is the people and the people embodied themselves the powers of all three of the coordinated branches of government, and there is no practical way that there could be a provision for the people, for instance, to override the veto of a governor. They are going to spend 40,000 dollars here in an election, and they go through all that and the governor vetoes it. I don't believe that is proper. If the majority of the people voting in an election are in favor of enacting some matter, it should be the law. Now, as for the second part of it, about the prohibiting its being amended or repealed by the legislature for a period of three years, I think that is something that every voter will take into consideration at the time he goes to the polls, and if he is in doubt perhaps he will vote against it or maybe he won't vote, but every voter should know that when he goes to the polls on an initiative or referendum matter that the thing is going to be on the law books for three years. If we did not have a restriction such as this in here we would again go through this whole lengthy process, have a special election costing all this money, get something on the books perhaps, and have the very next legislature repeal it, and I believe it is a good safeguard and ought to stay in there.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I ask Mr. Taylor a question, please? Mr. Taylor, is this type of provision contained in most initiative and referendum laws?

TAYLOR: Yes, Mrs. Nordale it is, because with that out the act is entirely emasculated, and we might as well lay it on the table or postpone it indefinitely or forget about it, because we have no initiative or referendum with that restriction.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. Taylor, as I understand the general initiative law, the way you get your veto is another petition through the people and your veto can come in during the time it takes to initiate.

TAYLOR: That is right. I might say that if this part is stricken, the vote of the people would only be in advisory capacity, because it would not mean it is a law, because it

would be subject to repeal by the legislature or vetoed by the governor, so there would be no use of passing this act. You might as well indefinitely postpone it if you strike this part out.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I again suggest that that is a far departure from the representative form of government and that no governor who has been elected by the people is going to veto any initiative measure unless it is clearly demonstrated that that is bad legislation for the Territory. Now so far as the second part of this particular sentence is concerned, it goes clear by one legislature, as I understand the provisions that have been put in here, it will be they have a legislature meet every two years or at least that frequently. By putting that three year provision in here, one legislature would have to sit idly by after this legislation became law, no matter what its effect upon the Territory and could not possibly repeal it, could not amend it or repeal it, and I say the expenditure of 40,000 dollars for an election does not insure good legislation.

PRESIDENT EGAN: Mr. Smith.

SMITH: I would like to point out that the purpose of the various restrictions which have been placed upon the use of the initiative were designed to prevent insofar as it is possible a situation arising which Mr. Robertson has described. Therefore, I oppose the amendment.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the Convention?" Mr. Marston.

MARSTON: I would like to leave something to the people. If they put a law on the books that's not good, the legislature puts up a law that is not good, they'll take it off. Let's let the people take it off if they don't want it. Let a little something stay in the hands of the people. I think we are getting down a little enough now. I am not happy here with the castigation of this great law. It is continuing and continuing and I am going to try to stop it again, and if the people put in a law that is not good they will take it off. Let the people have a decision on their laws.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: The book, and I am quoting from the Hawaiian Manual, says that with respect to the governor's veto power, "Fourteen states explicitly exempt such measures from the veto power. In regard to the power of the legislature to repeal or amend, only one state entirely forbids subsequent action." I want to point out that we have several problems in this

sentence, and you must distinguish between veto and amending and repealing.

ROBERTSON: Roll call, Mr. President.

PRESIDENT EGAN: The question is, "Shall Mr. Robertson's proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 7 - Johnson, Laws, Londborg, McNealy, Poulsen, Reader, Robertson.

Nays: 45 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooler, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Lee, McLaughlin, McNees, Marston, Metcalf, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, VanderLeest, Walsh, White, Wien, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 7 yeas, 45 nays, and 3 absent.

PRESIDENT EGAN: The "nays" have it and the amendment has failed of adoption. Are there other amendments? Mr. Hurley.

HURLEY: Mr. President, I have what I hope will be a constructive amendment.

PRESIDENT EGAN: Mr. Hurley, you may present your amendment. The Convention will come to order. The Chief Clerk may read the amendment proposed by Mr. Hurley.

CHIEF CLERK: "Section 4, page 2, line 10, after the word 'at' strike the balance of the line and strike line 11 to and including the word 'of' and insert therefor 'The first state election after'."

PRESIDENT EGAN: Mr. Hurley, with this new amendment that was adopted of Mr. Rivers, it changes the --

HURLEY: I believe it only went down to line 5.

R. RIVERS: This is later material. Mine did not cover this phase. Mr. President, I might add that several of us have been working on a rewrite of this last half of page 2. We

will have embodied some subject matter that is on the same point as Mr. Hurley's, and perhaps we could get together.

MCLAUGHLIN: I move for a five-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will recess for five minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Buckalew.

BUCKALEW: Mr. President, I have an amendment.

PRESIDENT EGAN: We have an amendment here. Mr. Hurley.

HURLEY: Mr. President, bowing to more proper and more verbiage, I ask that my amendment be withdrawn in favor of one to be presented by Mr. Davis and Mr. Hellenthal.

PRESIDENT EGAN: If there is no objection, Mr. Hurley withdraws his motion. If there is no objection, then the amendment takes the place of the amendment Mr. Hurley had offered. It is offered by Mr. Ralph Rivers and Mr. Hellenthal. Will the Chief Clerk please read the proposed amendment.

CHIEF CLERK: "Page 2, line 9 (beginning with the word 'Laws') to 17 (ending with the word 'sure') be stricken and the following substituted: 'Laws proposed by the initiative shall be submitted to the voters by ballot title at the first statewide election which occurs more than one hundred twenty (120) days after adjournment of the legislative session following the filing of the initiative petition, unless the legislature at said session shall have enacted substantially the same measure. Questions on referendum shall also be submitted to the voters by ballot title at the first statewide election occurring more than one hundred twenty (120) days after adjournment of the legislature which passed the law being referred.'"

PRESIDENT EGAN: That is quite a long amendment to expect 55 delegates to digest. Mrs. Sweeney.

SWEENEY: I move that we adjourn until 9 o'clock Monday morning.

PRESIDENT EGAN: Mrs. Sweeney moves that the Convention adjourn until 9 o'clock Monday morning.

STEWART: I second the motion.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned until 9 a.m. on Monday?" Mr. Victor Fischer.

V. FISCHER: Point of information. Can this motion be amended as to time?

PRESIDENT EGAN: Under the rules of the Convention it cannot be amended.
Mr. Ralph Rivers.

R. RIVERS: The proposers will have copies of the proposed amendment.
They will be on the delegates' desks on Monday morning.

V. RIVERS: I ask for roll call, Mr. President.

PRESIDENT EGAN: The question is, "Shall the Convention stand adjourned
until 9 a.m. on Monday?" The Chief Clerk will call the roll.

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

Yeas: 25 - Armstrong, Barr, Boswell, Collins, H. Fischer, Harris,
Johnson, Knight, Laws, Londborg, McLaughlin, McNealy,
Marston, Nolan, Poulsen, Reader, R. Rivers, V. Rivers,
Robertson, Rosswog, Stewart, Sweeney, VanderLeest,
Walsh, Wien.

Nays: 27 - Awes, Buckalew, Coghill, Cooper, Davis, Doogan,
Emberg, V. Fischer, Gray, Hellenthal, Hermann,
Hilscher, Hinckel, Hurley, Kilcher, King, Lee, McNees,
Metcalf, Nordale, Peratrovich, Riley, Smith, Sundborg,
Taylor, White, Mr. President.

Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 25 yeas, 27 nays and 3 absent.

PRESIDENT EGAN: So the motion has failed of adoption.

HELLENTHAL: I don't believe anyone will object to letting the long
amendment go until the next session.

PRESIDENT EGAN: You are asking it be held over until Monday?

HELLENTHAL: Yes.

PRESIDENT EGAN: If there is no objection the long amendment will be held
over until Monday. Mr. Hellenthal.

HELLENTHAL: I have an amendment on this topic that was under discussion
a minute ago. It is on the Clerk's desk. It will strike all the words
following the word "Governor" in the last sentence of Section 4, that is
in lines 20 and 21, and I move that that amendment be passed.

PRESIDENT EGAN: The Chief Clerk will please read the amendment.

CHIEF CLERK: "Section 4, strike all words after 'Governor' on lines 20 and 21."

PRESIDENT EGAN: Do you so move.

HELLENTHAL: I so move.

BUCKALEW: I second it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I make this motion because although Alaskans should not be afraid to be unique, they would be rather unique if they retained that language, inasmuch as only one other state has it, and it is true that the people propose matters through the initiative, but it is likewise true that the same people elect legislators, and I don't think the people are any less negligent in proposing a matter by the initiative than they are otherwise when they elect their legislators, and any device or any system which would prevent us in this rapidly growing state from keeping pace with progress and from adapting ourselves to changing conditions as they occur would have no place in our constitution. Now it is perfectly proper that a one man, a governor, should be forbidden to veto a matter passed through the use of the initiative. In a fit of petulance he might do that and cause trouble, but amendments are an entirely different thing, and we have just got to keep pace with the progress that I know the state is going to have, and no harm will come. It would take a very evil and a very, very corrupt group of Alaskans, of our own fellows, to attempt to violate and to brush aside the will of the people recently expressed in an initiative, and I know that no harm would come in forbidding change in keeping with progress.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I had the identical amendment. There is only one thing I would like to add to what Mr. Hellenthal has said. I think that we have been talking about this fellow, the people all the while. I think if we are going to protect the people we ought to take that out because they might pass some law that had some little legal defect in it and the legislature would be forbidden to amend it, and the people might go off on a tangent and pass a piece of frightful legislation which might bankrupt the state and yet the legislature could not amend it or repeal it, and the legislature after all represents the people, and I think it is a necessary safeguard.

PRESIDENT EGAN: The question is -- Mr. Smith.

SMITH: Mr. President, I believe that we have already restricted

the people in passing initiative measures in regard to appropriations, and while I don't see any great thing to fear here, I don't see the necessity of the amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I decided I was not going to talk any more on this bill. I thought I had said enough, but things happen to look now it's like we had quite a nice looking tree here so the farmer started to trim the limbs and he cut off this and that, and then he got some bigger limbs off, and now I see he is cutting the roots, and the tree will be dead. Of course, it has been slowly dying all afternoon, but this and the amendment awhile ago in which they actually took the teeth out of it I think was the finishing touches, because I think you got a couple of the main roots now severed. and if this amendment passes, it might as well be thrown in the Clerk's waste basket for all the good it is going to do the Territory of Alaska or the people.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Am I right, was not the word "amendment" taken out of that section?

PRESIDENT EGAN: No, three words, "may it be" were added before "amended". The question is, "Shall the proposed amendment as offered by Mr. Hellenthal and Mr. Buckalew be adopted by the Convention?"

METCALF: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

- Yeas: 27 - Armstrong, Awes, Boswell, Buckalew, V. Fischer, Hellenthal, Hermann, Hilscher, Johnson, Knight, Laws, Lee, Londborg, McLaughlin, McNealy, McNees, Nolan, Poulsen, Reader, Riley, Robertson, Rosswog, Sundborg, VanderLeest, Walsh, White, Mr. President.
- Nays: 25 - Barr, Coghill, Collins, Cooper, Davis, Doogan, Emberg, H. Fischer, Gray, Harris, Hinckel, Hurley, Kilcher, King, Marston, Metcalf, Nordale, Peratrovich, R. Rivers, V. Rivers, Smith, Stewart, Sweeney, Taylor, Wien.
- Absent: 3 - Cross, McCutcheon, Nerland.)

CHIEF CLERK: 25 yeas, 27 nays and 3 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption.* Are there other amendments?

R. RIVERS: I have an amendment.

PRESIDENT EGAN: The Chief Clerk may please read the proposed amendment.

CHIEF CLERK: "Line 20, page 2, delete the words 'amended or'."

PRESIDENT EGAN: Line 20, page 2, it is.

R. RIVERS: I move the adoption of the amendment.

DOOGAN: I second the motion.

COGHILL: I object.

R. RIVERS: Now, Mr. President, the fear was well expressed by both Mr. Hellenthal and Mr. Buckalew that some defects in the draftsmanship of a bill which has been enacted by the initiative might prove to be a bad stumbling block, some very bad complications might arise, and to say that the legislature for a period of three years could not amend it, which might be something which the public generally would very much approve, just because the legislature be barred from amending it, might put the new state in a precarious position. The effect of what I propose here is that the legislature may not repeal such an act as was enacted by the initiative but the legislature would be trusted to amend it if necessary.

MCNEES: May I ask Mr. Rivers a question?

PRESIDENT EGAN: Mr. McNees you may, if there is no objection.

MCNEES: I prefer an explanatory answer rather than an unqualified "yes" or "no". Is not the power to amend also the power to kill?

R. RIVERS: I am glad you asked for something more than a "yes" or "no" answer. If you wanted to amend it by taking out some very basic section I suppose in the pursuit of such skulduggery the legislature could practically nullify it. But on

* The Convention voted on December 19, (pages 1115 through 1116) to expunge the announcement of this vote from the record. The correct vote was announced on December 19, page 1119.

the other hand, if the legislature is barred during that period from repealing it, showing constitutional intent that the work of the people shall be honored, then I think you will be trusting your legislature only to make such minor amendments or reasonable and proper amendments as the public need might require.

PRESIDENT EGAN: Mr. Marston.

MARSTON: May I ask Mr. Rivers a question? If things are so bad that you are going to go to hell with some law that the people put in to power, can't they withdraw that? Have they not the good judgment to withdraw that?

R. RIVERS: I don't know how.

MARSTON: By another referendum or initiative?

R. RIVERS: They could perhaps institute an initiative which takes a matter of a year over the whole operative period, and as Mr. Buckalew says, you might bankrupt the state during that year. That procedure is so cumbersome that we might be in trouble. The average legislature that is prevented from repealing a law which was put through by popular vote is going to emasculate it completely but you would save the legislature the power to protect the public by making reasonable amendments if the development so indicated.

MARSTON: If it is so hard to repeal a law and it would be so hard to get it on there, I don't think it would work either way. I think the people would repeal a law if they don't like it.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I should like to speak in favor of this amendment, thinking back a few years to an experience in the State of Washington, which many of us will recall. It was featured in their daily press, almost daily for the greater part of a biennium following the adoption of what I believe was called Initiative 177. It was wholly irresponsible from a fiscal standpoint, unrealistic from the standpoint of the state's finances and it resulted I believe in that one biennium in the calling of some three special sessions before finally their machinery through the initiative enabled the State to reconsider and repeal or to modify substantially the original initiative, by which time the State had incurred an enormous deficit, and it is still suffering from that. I think this is a proper safeguard.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I for one have no objection to the power to amend if

it is used judiciously, but I think it is well illustrated that the power to amend can be the power to destroy, as we have seen illustrated today.

PRESIDENT EGAN: Miss Awes.

AWES: I was just going to remark that there seems to be a great deal of fear that the legislature would destroy this legislation by amendment under the proposed amendment before us now, but I think we should remember that as a practical matter, the legislature is elected by the same people that vote on the initiative and the referendum, and enough of the legislators are going to have their eye on re-election that they are not going to deliberately destroy something the people have shown they want.

PRESIDENT EGAN: Mr. Barr.

BARR: I was going to say practically the same thing. Several times the members have shown distrust of the legislature in that they are trying to protect the people from it. They don't seem to realize that the legislature is the people, the legislature is a section of Alaskan people who are elected by other Alaskan people, and they are there to help the State out, and when a law has been passed by the people under this initiative I am certain they are not going to do anything to destroy it. They may wish to amend it to correct a situation in case the state is going broke under this law. While I am on my feet, I might point out that I voted against the amendment striking the provision against repealing by the legislature. I do not believe they should have the right to repeal it. There are other ways. For instance, the people can start another initiative to repeal it which would take time and is a little cumbersome, or if the legislature was in session and through their investigations found out it was not going to work for certain reasons, they could initiate a referendum and refer it to the people. So I do not think the repeal is necessary to the legislature, but the power of amendment is.

METCALF: Is a motion for adjournment in order?

SUNDBORG: We called for the question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers be adopted by the Convention?" All those who are in favor of the adoption of the proposed amendment --

STEWART: May we have it read, please.

CHIEF CLERK: "Line 20, page 2, delete the words 'amended or'."

PRESIDENT EGAN: All those in favor of the adoption of the

proposed amendment will signify by saying "aye", all opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 38 - Armstrong, Awes, Barr, Boswell, Buckalew, Cooper, Doogan, V. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Knight, Lee, Londborg, McLaughlin, McNealy, Metcalf, Nolan, Nordale, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Smith, Sundborg, Sweeney, VanderLeest, Walsh, White, Wien.

Nays: 13 - Coghill, Collins, Davis, Emberg, H. Fischer, Gray, Kilcher, King, Laws, McNees, Marston, Peratovich, Mr. President.

Absent: 4 - Cross, McCutcheon, Nerland, Taylor.)

CHIEF CLERK: 38 yeas, 13 nays, and 4 absent.

PRESIDENT EGAN: So the "ayes" have it and the proposed amendment has been adopted.* Mr. Sundborg.

SUNDBORG: Mr. President, I move that we adjourn until 2 o'clock tomorrow afternoon.

ARMSTRONG: Objection.

V. FISCHER: Second.

PRESIDENT EGAN: Mr. Sundborg moves, Mr. Victor Fischer seconds the motion, that the Convention adjourn until 2 o'clock tomorrow afternoon. The question is shall the Convention stand adjourned until 2 p.m. tomorrow?"

V. RIVERS: Roll call please.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 23 - Awes, Boswell, Buckalew, Coghill, Collins, Doogan, Emberg, V. Fischer, Gray, Hinckel,

* The Convention rescinded its action on this amendment on December 19.
(Page 1116)

Hurley, Kilcher, Knight, McNees, Marston, Metcalf, Peratrovich, Riley, Smith, Sundborg, VanderLeest, White, Mr. President.

Nays: 28 - Armstrong, Barr, Cooper, Davis, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Johnson, King, Laws, Lee, Londborg, McLaughlin, McNealy, Nolan, Nordale, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Stewart, Sweeney, Walsh, Wien.

Absent: 4 - Cross, McCutcheon, Nerland, Taylor.)

CHIEF CLERK: 23 yeas, 28 nays, and 4 absent.

PRESIDENT EGAN: And so the "nays" have it and the motion has failed.

V. RIVERS: I move that we adjourn until 9:05 a.m. Monday.

ROBERTSON: I second the motion.

PRESIDENT EGAN: Mr. Victor Rivers moves, seconded by Mr. Robertson, that the Convention adjourn until 9:05 Monday morning. The question is, "Shall the Convention stand adjourned until 9:05 Monday morning?" All those in favor will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the Convention is adjourned until 9:05 Monday morning.