

1979

ALASKA CONSTITUTIONAL CONVENTION

January 13, 1956

FIFTY-SECOND DAY

PRESIDENT EGAN: The Convention will come to order. We have with us this morning Reverend Wilson of the Assembly of God Church in Fairbanks. Reverend Wilson will give our daily invocation.

REVEREND WILSON: Our God and Heavenly Father, we thank Thee for thy grace that Thou hast so wonderfully bestowed upon us in the giving of Thy own Son Jesus Christ our Lord that those who believe upon Him might be saved. We thank Thee not only for Thy grace, but Thy special favor. Thy patience and mercies toward us, we thank Thee that Thou hast especially blessed and helped in this Convention. We pray that the grace of God shall continue upon each one. Guide the deliberations of this day. Thou hast said, "The meek will he teach his way, the meek will he guide in judgment." Grant that special favor, that special grace of God resting upon every deliberation of the day, that the wisdom of God shall be manifest and this constitution when completed, that it shall be acceptable and pleasing in the sight of God Almighty. May we be able to live a quiet and peaceful life in all godliness and honesty. May that which is accomplished in government be acceptable and honorable to Thee. Amen.

PRESIDENT EGAN: The Chief Clerk may call the roll.

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

CHIEF CLERK: One absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. Mrs. Sweeney.

SWEENEY: Mr. President, I would like to suggest again that all delegates remain seated until the President has introduced the minister of the morning.

PRESIDENT EGAN: The President would like to state that it was really not the delegates' fault this morning. The President went a little too fast. Does the special Committee to read the journal have a report to make at this time?

WHITE: The Committee has read the journal for the 48th Convention day and recommends the following corrections: Page 1, line 1, change "1955" to "1956". Bottom line, same page, same correction. Page 2, first paragraph after the roll, second line, insert "Mr." before "V. Rivers". Page 3, fourth paragraph, add at the end of the last sentence: "There being no objection, it was so ordered."

1980

PRESIDENT EGAN: What is your pleasure?

WHITE: There are more. Page 4, fifth paragraph, "The question was called and on voice vote the amendment", insert "to the amendment". Page 6, third paragraph, first line, after the word "motion" insert the words "to reconsider". Page 13, second paragraph, line 2, change the word "in" to "for".

SWEENEY: What day was that again?

WHITE: 48th day.

DAVIS: It has not been distributed yet.

PRESIDENT EGAN: If it has not been distributed, would you ask that it be held in abeyance.

WHITE: I am sorry, Mr. President, I thought they had been distributed.

PRESIDENT EGAN: If there is no objection, the report will be held in abeyance until all delegates have copies of the journal in their possession. Are there reports of standing committees? Reports of select committees? Are there any petitions or memorials or communications from outside the Convention? Are there any proposals to be made at this time? Motions or resolutions? If not, we are down to unfinished business, and we have before us Committee Proposal No. 10, the report of the Committee on the Executive Branch. If there is no objection, we will proceed by having the report read the second time and then the Chairman of the Committee may give the delegates an explanation of the article. The Chief Clerk informs the Chair that the proposal had been revised, and the rerun has not been completed. Mr. Rivers.

V. RIVERS: I just checked that. They were running on the last page before we started to meet. If there is any other business to fill in, they should be down right soon.

PRESIDENT EGAN: Is there any other business that we might fill in at this time? Mr. Sundborg.

SUNDBORG: I would like to announce a meeting of the Committee on Style and Drafting during the morning recess at the rear of the gallery.

COGHILL: Mr. President, one thing we might fill in a little bit with is on our recess time for this weekend. Find out what the pleasure is of the Convention, of the delegates as to whether they want to meet tomorrow, all day, tomorrow evening and take Sunday off, or if they want to take Saturday evening and work Sunday afternoon. I think we should discuss that now.

1981

PRESIDENT EGAN: It seems to the Chair that the delegates have worked awfully hard this week, worked every night and probably including tonight you will have had night sessions. That would mean that for each one of these days we have been here for 13 hours from the time you left town, and inasmuch as there are a few committees that seem to need some little time in meeting, the Chair would suggest that you might discuss whether or not it would be wise not to work tomorrow night and Sunday. Mrs. Hermann.

HERMANN: Mr. President, I am reporting for Mr. Riley who is busy, just making a suggestion. At the request of Mr. McLaughlin the other day, the Rules Committee was requested to set up rules that might expedite the transaction of business a little, and I think they are going to have that report out in a little while.

RILEY: It won't be out immediately, Mrs. Hermann, but today, I dare say. I might add that the Chairman was a little optimistic last evening in hoping to come back this morning with a report, but I think the Rules Committee should meet at first recess to consider the matter a little further.

HERMANN: I think it might be advisable to wait until that report is out to decide what you want to do about tomorrow. It will certainly be out in plenty of time for that. It might be that if the report is adopted by the Convention that the necessity of nightly night meetings might be averted, and we could probably meet occasionally at night meetings instead.

PRESIDENT EGAN: If there is no discussion to come before the Convention at this time, the Chair would declare a recess until the committee proposals are available for the delegates. If there is no objection the Convention stands at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to state that the mimeograph machine has broken down and it will be some time before that will be working again, and you have before you Committee Proposal No. 10 up to or through Section 11. Now we might proceed in this manner, that we read in second reading the revised article through the section that we have before us and then have the chairman of the committee and the committee members offer their explanation which might take a good deal of time, and proceed that far at least, if it is the wish of the Convention. If there is no objection, the Chief Clerk may proceed with the second reading of Committee Proposal No. 10.

JOHNSON: New 10 or 10a?

1982

PRESIDENT EGAN: 10a.

(The Chief Clerk read Committee Proposal No. 10a at this time.)

V. RIVERS: Would you call a five-minute recess? We now have additional sections and they shall be distributed and just put in additional matter with the first section, and you shall then have a complete section.

(The Chief Clerk continued with reading of Committee Proposal No. 10a.)

ROSSWOG: Mr. Chairman, we don't have this copy.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess until the copies have been distributed.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Clerk may proceed with the second reading.

(The Chief Clerk continued with reading of Committee Proposal No. 10a.)

COGHILL: Mr. President, in the gallery today we have a group of students that traveled from Nenana to visit the Convention. They boarded the train this morning at 6:45 in order to arrive to visit the proceedings of the Constitutional Convention. At this time I would like to have the Convention welcome the Nenana group and I believe that the president of the student body would like to address the group, and I ask unanimous consent.

PRESIDENT EGAN: If there is no objection, would the president of the student body please come forward and be recognized. Miss Gloria Fredericks from Nenana School.

GLORIA FREDERICKS: Mr. President, Delegates to the Alaska Constitutional Convention and friends, I feel that we today are highly favored people, especially those of us fortunate enough to call Alaska our home. Certainly the privileges of living in this great northern fringe of American civilization are as great as those possessed by any of the other 48 states.

Alaska is not only the geographical crossroads of the world but is herself at the crossroads of her destiny. She can become a equal state under the great flag of our forefathers or she can be longer subjected to the tyranny of American colonialism so eloquently spoken against by our former Governor, Mr. Gruening.

Everyone today is searching means of conserving resources, both human and physical. Today the youth of our land constitutes a

1983

far more serious problem of juvenile delinquency. They constitute the sole means of perpetuating the continuity of our way of life. I feel that today's youth are more alert, more self-conscious, and more capable than the youth of any other nation in the entire world. Were we to doubt our advancement over other generations, we wouldn't admit the failure of our great American principles. We, the youth of 1956, are indeed alert to the changes of our day. We realize the significance of this Convention here at our great and growing University. Just as the University symbolizes our determination to enlighten our future generations, so does your work here provide basis for our hopes of the future. We feel highly honored to be able to attend this Convention. Perhaps it might convey to our minds something of that great group of men who sat in Philadelphia almost two centuries ago to draw up a constitution for our infant nation to be governed by a revolutionary type of government. Your task, though not as tremendous as theirs, is as important to the destiny of this portion of America. Some of us have never been fully Americans. Some of you have been colonials all your life. We can look forward to a great spiritual and physical growth under the new status of citizenship, full citizenship. Many of us here today will no doubt live to be able to vote for those who decide our economic and cultural as well as our political destiny. We will be citizens of the largest and eventually the greatest of all states, Alaska. I feel that your grandchildren will see your names on streets of the new state. Possibly towns and cities will be named for you. The future will judge your work here, and we are part of that future. Because of the work you are doing here I feel that some of us will help legislate according to this constitution. I feel we will amend it and flower it into full stature of American citizens.

We, the students of Nenana Public Schools, would like to thank you for the opportunity of appearing here before you and seeing you at work. It will be a day few of us will ever forget. Thank you. (Applause)

PRESIDENT EGAN: Thank you, Miss Fredericks. We would like you to know that we are very happy to have each of you here with us this morning. We hope that you will be our guests at the noon luncheon and if Mr. Coghill will present the President before our recess with the names of each of the students, the President will see that a delegate will take each one of you individually to lunch. Mr. Johnson.

JOHNSON: Mr. President, I move that the talk which we have just heard be spread upon the journal of today's proceedings. I ask unanimous consent.

PRESIDENT EGAN: Mr. Johnson asks unanimous consent that the talk we have just heard be spread upon the pages of today's journal.

Is there objection? Hearing no objection it is so ordered. We will proceed in the same manner that we proceeded with Committee Proposal No. 14. There will be no amendments accepted or offered until after we have heard the Committee explanation, after the delegates have had an opportunity to ask questions of the Committee. Mr. Victor Rivers.

V. RIVERS: I will attempt to give you first a general discussion of the article on the executive. I want to say that there are no bricks or cornerstones in this which if you desire to change, you cannot do so with a reasonable degree of not failing to perform the functions we are trying to set forth. The Committee has produced a committee report in which we all concur. I do want to say, however, that there are minor points within the article which some of the members of the Committee did disagree and do desire to disagree on or may have amendments on, so I want the Committee members to feel free to inject their comments at such time as we come to those sections. We are all strongly agreed on the principle of the strong executive. In arriving at that principle some desired higher degree of strength in the executive than the others. We have tried to bolster the executive to where we can function efficiently and effectively as the head of the state government in these modern times. I might say that in first approaching the problem, the Committee went through all of the various constitutions that were available of the different states. We went through all material on the matter of reference and we also had consultants to advise with us in regard to modern practice and the best practice. As you must realize, however, there are many arbitrary decisions to be made in an article such as the executive. There are 55 opinions on this floor, and I assume that various of you will have opinions that you will want to express and try, if possible, to make it a part of this article. We went through the various state constitutions and in so doing we found that the older state constitutions with their many elective officials and many restrictions upon the powers of the executive could almost in their entirety be eliminated from consideration as reference matter. By the same token, we also found that the newer constitutions, such as the revised Constitution of the State of New Jersey, the Constitution of Hawaii, the model constitution, and some of the newer state constitutions, had in them matter we felt should be referred to and possibly some parts of it used in the section which we are presenting to you here. So in the matter of your reference to other state constitutions, you will find that if you keep as reference matter before you the guide book prepared for us by the PAS, and the constitutions of the State of New Jersey and Hawaii, and the model constitution -- occasionally we have referred to other constitutions and as we go along I will try to point out where we have referred to or used matter in other constitutions. In going through the article, we first, as you notice, invest the executive power in the governor, which is a formality, setting up his powers and

functions. He is the head of the executive department, but as such he has certain confirming powers in the judicial department, and he has certain appointing powers which are later confirmed by the legislature in joint session. He has certain appointing powers in the various functions of government, and he also has certain removal powers. In the matter of setting the governor's age, it was decided that he should have certain experience and certain background in order to be eligible to become governor, and we settled on the age as shown in here. We also felt that he should have considerable residence in the Territory of Alaska, so he would know the problems of the people from the broad and actual acquaintance with them and that he should have qualifications by reason of residence here that he could obtain in no other way to be governor of the Territory. For that reason you see a residence clause. We have provided for a standard election clause there and in the cases of a tie we have provided for the majority of both members of the houses in joint session to resolve such a tie. There are also provisions for the settlement of any contested elections. We have provided for the term of the governor's office to be a four-year term elective once to succeed himself, and after that not again to be elected until there has been a four-year break. We will discuss each of these sections as we come to them in more detail. We have provided for the governor to take office in the off year of the national election or the off second year of the national election rather than the on second year so he will be elected at the time when the presidential elections are not under way. Then the matter of the next elective officer came up for discussion. The next elective officer, as we have shown it in our article, would be entitled a secretary of state. He would not preside as the presiding officer of the senate. They would elect their own presiding officer. The term "secretary of state" to many of the Committee members was deemed to be a broader description with less restrictive connotations than the term "lieutenant governor". The majority of the committee decided for the title "secretary of state". In order to enforce and bulwark the strong executive, it was felt that we should provide some means by which he would come from the same political party which the governor came from, so, in the manner in which the President and Vice President is elected, we selected the joint ballot type of thing. They run jointly on the ballot and are elected jointly as is done for the President and Vice President of the United States. We also find that is the practice in the State of New York. Other states use different methods. Now the matter of other elective officials was discussed at considerable length. As you realize, the ideal of the strong executive is the one efficient head of government, the governor sitting there elected by the people and responsible to the people for the functioning of the executive department. Now, in theory, that is a strong executive and a very strong talking point. However, we felt there should be at least one other elective official and many of the committees felt there should be possibly two more elected officials. However, we show

the elected official in second place here to be the secretary of state, as I have mentioned, elected in the manner and jointly with the governor. I will reserve further discussion on that section until we come up to the actual section itself, but the intent there was there be two elective officers as the head of state government. That gave us a succession officer in the case of the removal or the death of the governor, it gave a succession officer who had been elected by the people of the entire Territory. The next order of succession would be the president of the senate, another elected official from the legislative body, but normally under our apportioning plan he would be elected from only a portion of the Territory. The fourth order of succession in case of loss of the other three would be the house speaker. He also would be an elected member of the house of representatives but there again would be a member elected from only a portion of the Territory and not all of the Territory. So that is the order of succession we have set up in this article. We have set up also the matter of qualifications of the governor, or if he fails to qualify, what shall take place. We have also set up an arbitrary period so when the governor leaves the Territory or is gone and absent from his duties for six months, the office will automatically be deemed to be vacant. This is done in some states and it is designed primarily to remove from office without any disgrace or discredit a man who may have become ill in office and who for sympathetic reasons could not otherwise be removed. Compensation of the governor and the secretary of state we have left up to the establishment by the legislature. Some other state constitutions, they set minimums, they set maximums, they fix salaries, so any change then must be made by an amendment to the constitution. We have left that matter open. Now contrarily, Hawaii in adopting their constitution set a minimum salary for their governor of \$18,000 and a minimum salary for lieutenant governor of \$12,000. We have left both of those salaries open to legislative action. They may not reduce them for the term in which any one governor is elected. That is the only qualification we put upon the handling of salaries. In order to enforce the strong executive and to bulwark his power we have given him power by appropriate actions or proceedings in the court, brought in the name of the state, to enforce compliance with any constitution or legislative mandate. That is specifically written into the constitution because we want to have a broad interpretation of the powers of the strong executive. He has no authority however to act in that manner in any proceeding against the legislature. The legislature is the supreme elected body and as such he is answerable to them and to their interpretations and handling of matters of law. We have provided that the governor will give a message to each legislature when they meet setting forth the things that he deems of value to them in solving the problems of the state. In addition to that, after much discussion, we decided to put in a clause that any governor should at the termination of his term provide a

written report for the records of the state with his comments as to the conduct of his administration and the recommendations that he might have to help guide future governors and the governor taking office. That came about, partly, because in the matter of seating the governor, and his term of office, we deemed it desirable to seat the governor on the first Monday in December. That would give him a term in office of perhaps seven weeks as we now have it set up now before his first legislature would convene. It would give him time to review his various departments of government, to go over and provide his program and his message to the legislature. It would give him a chance in other words, to get his feet on the ground, so that is one of the reasons for seating him in the first week in December. We have made the further provision that he shall be commander in chief of the armed forces which is more or less a formality. That makes him commander in chief of the National Guard and of any state militia we may have in peace times, and he has also the appointing power in the National Guard and in any militia we may have, subject to any requirements of the National Guard under the National Guard of the United States Department of Defense. We have a clause in here that the governor may proclaim martial law. You find that in some of the older state constitutions where there was conflict going on and where there was a possibility of rebellion or invasion. You don't find it in many of the intermediate states' constitutions. You don't find it in the Hawaii Constitution. You do find it in Puerto Rico. Feeling that we are located geographically like we are, the majority of the Committee felt the governor should have the power to declare martial law on short notice, so we have given him that power. The question is whether or not that power would possibly not be executed or handled first by the armed forces of the United States actually resident in Alaska at the time of any such rebellion or invasion, but even then it was felt and deemed desirable to specifically spell that power into the constitution for the governor. We also handled the matter of granting reprieves, commutations, and remittance of fines and forfeitures. That is a broad clause and was adopted after much discussion in Committee. We felt that the governor would possibly be very desirous of having a pardons and parole board to sit with him and make decisions along with him in the matter of pardons, reprieves, remittances, etc., so the section has also provided for the establishment of such a commission or body to whom he may delegate certain of his powers in arriving at his pardoning decisions. Now in the matter of the setting up of the state departments, the Committee in order to help effectuate the strong executive did not name department heads or departments as such. We established, as is done in the more recent constitutions, a group of principal departments not to exceed 20. In that matter of 20, it is a maximum figure and probably would never be arrived at in the foreseeable future because in the case of principal departments in the matter of major functions, any major function that could possibly arise could be handled under some branch or

some section of those 20 principal heads. So as we envision the state now, it would never have more than 20 principal departments, although there might be a great many subdivisions thereof. We vest in the governor the appointive power for the heads of these departments. That is subject to confirmation by the houses of the legislature meeting in joint session. All the way through here you will note that we have given the power of approval of the governor's appointments to a joint session of the legislature. We did so after checking with the department on the legislative which was following a similar procedure in the matter of approval of appointments. I might also add that the approval of appointments has been done in Alaska in that manner for many years by a joint session of both houses. In the matter of the major department heads we have left the power of removal in the hands of the governor. That I believe could be implemented by certain legislative law in regard to certain restrictions or hearings or appeals from the governor's removal powers, but it was intended that he should have a strong enough power to remove from office anybody without disgrace, mind you, we are not talking about impeachment, we are talking about just the removal of somebody who might prove to be incompetent or unable to perform the duties of the office. We have given certain power to the governor in setting up the executive or rather the administrative departments in that he may, in order to effectuate the strong executive and not be tied into any one of these departmental heads with any particular functions, reassign the functions to the different departments as the occasion and need might rise, but he will make those changes and would set them forth in an executive order which would not become effective until after it has been before the next succeeding legislature, and if they desired to, they could take an action disapproving that. If they did not take such action of disapproval, then the executive order as issued by the governor would become law, so he cannot go into the departments and make a quick shuffle without first having it submitted to the legislature and having their general consent by reason of their taking no negative action. That brake was thought necessary in order to maintain the stability in the administrative offices. Now we have set up in practically all cases, we hope the principal departments will be headed by a single executive, but we have also made provision that if there are multiheaded principal departments that they will be appointed by the governor, there again approved by both houses of the legislature, and they in turn may appoint an executive officer to perform as their functioning head. He will be subject to removal not by the governor but by the order of the board under such rules and regulations they may adopt. I might add, however, that we have left the removal powers of the board members of the heads of these principal departments in the governor's hands. I wanted to mention that the heads of all principal departments, along with their ability to perform their particular functions, will also have to have an acquaintance and a knowledge of Alaska under this requirement. We have

set up that they shall have been a resident of the state for at least three years preceding appointment to office. There again it was deemed by the Committee that any man who is to have a close hand in the handling of the Territory affairs, especially in regard to making policy, should have a close acquaintance with our country and with its people and with their needs and their desires. Three years was thought to be an absolute minimum for heads of principal departments who would assist in effectuating and carrying out departmental or state government policies. Now we have given the governor the power to fill any vacancy occurring during a recess. You will notice there are certain limits upon his power to fill those vacancies. If at the end of the session any of his ad interim appointments expire, or at the end of the next regular session is the way we have put it, but if he nominates somebody and they are sent down for confirmation to the legislature, the legislature does not confirm them during the session, then he may not nominate that same man for an interim appointment after the legislature has adjourned. We felt it was necessary there to have that restriction in order that the governor might not bypass the approving power of the legislature and make an ad interim appointment of somebody the legislature had refused to approve and did not confirm. I would like to ask if from my description here or my comments if I have omitted anything, I would like to ask any member on the Committee to further amplify upon the intent and thoughts of the Committee at this time before we go into a detailed discussion.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I think that we overlooked putting something in our last paragraph here, did we not? We first talk about appointments to be made by the governor with the advice and consent of the senate, or legislature in joint meeting. Our thought there was that possibly the legislature might pass an act providing that some certain appointee would be approved only by the senate, but then later on we neglected to put in the legislature in joint session. I am sure it was our intent that beginning with line 17 on the very last paragraph, the last page, "After the end of the session no ad interim appointment to the same office shall be made unless the governor shall have submitted to the senate or the legislature meeting in joint session," and then the very same thing in the very last line, "If the nomination shall have failed of confirmation by the senate or by the legislature meeting in joint session", that is the intent?

V. RIVERS: That was the intent and we will make a correction at the next recess on that so just keep in mind that it is the intent of the Committee that it shall read, "the legislature in joint session" there.

PRESIDENT EGAN: Are there questions? Mr. Johnson.

1990

JOHNSON: Mr. President, may I direct a question to the Chairman of the Committee?

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

JOHNSON: Mr. Rivers, with reference to Section 12 which gives the governor the right to declare martial law, I notice that it is restricted to two instances, that is in the case of rebellion or invasion or imminent danger thereof. Did the Committee consider the possibility of giving the governor the right to declare martial law, for instance, in the event of disaster such as floods or earthquakes or volcanic eruption, or something of that sort, or was that discussed?

V. RIVERS: That was discussed at length, and it was decided against for the reason they thought there might be under certain cases an abuse of the economic power, an abuse of that martial law power in declaring a disaster due to economic problems of any one or two segments of society. We thought the only two reasons should be invasion and rebellion.

JOHNSON: Mr. Rivers, in Section 16, in line 23, you provide that the heads of all departments shall be citizens of this state. I don't know whether that expression would require the appointees to be citizens of the United States as well as the state.

V. RIVERS: That is the terminology we intended to use, "United States, and residents of the state".

V. FISCHER: Mr. President, I rise at this point only to suggest that we might start the discussion with Section 1 and go through section by section rather than skipping back and forth. I think that will eliminate a lot of problems.

PRESIDENT EGAN: If there is no objection, we will adhere to that as much as possible. Mr. Coghill.

COGHILL: Mr. President, my question was on Section 16 so I will wait until that time comes up.

V. RIVERS: I would first like to ask if there are any other members of the Committee, who worked faithfully on this and who may desire to answer or may have something to say in a general way before we start the detailed discussion. In addition to myself, the members of the Committee are Mr. Barr, Mr. Boswell, Mr. Harris, Mr. Londborg, Mrs. Nordale, and Mr. VanderLeest.

PRESIDENT EGAN: Do any of the Committee members wish to make a statement on Committee Proposal No. 10a? Mr. Taylor.

TAYLOR: May I ask Mr. Rivers a question?

1991

PRESIDENT EGAN: You may, Mr. Taylor.

TAYLOR: Mr. Rivers, I was going to ask what the Committee had studied about the question as to requiring the approval, confirmation of heads of departments by light of both houses of the legislature in joint session?

V. RIVERS: That is as we had intended, and there is a place or two in here that says "senate". Actually, we mean by joint houses and by confirmation of the legislature in joint session, and I will make a few corrections on those items which I notice have gotten the word "senate" still there.

TAYLOR: The Committee then did mean the two houses in joint session?

V. RIVERS: Yes. There is one place where we say, "The governor may call both houses of the legislature into session or joint session or may call the senate into session alone". As you realize, under the legislative power the senate has been allowed the power of bringing the motion for indictment or impeachment, so if in the case of an impeachment proceedings it was felt to be imperative, and the motion was to be handled before the senate, the governor could call the senate into session alone in case he felt the situation was drastic enough to require a hearing by them as to whether the impeachment should be brought out. Then, if they brought it out, he could then convene the house in session and could have the hearing as the matter has been set up in the legislative section.

TAYLOR: There is one other matter in regard to impeachment of the state officer, what was the thinking of the Committee upon the reversal of the historic precedent in which the house brings the charges and the senate sits as the judges?

V. RIVERS: We had included a section in the executive covering impeachment which was set up in that manner, that the house would bring the charge, the senate would hear with one of the supreme court justices presiding. Under the majority of this body, myself and some others dissenting, that has now been reversed, so the charges will be brought before the senate and tried before the house, so we have provided in here that the governor may call the senate into session by itself if necessary to sit on that one particular problem only, that is, may call the session of the senate alone into session. That would be the only purpose or reason for them being called into session alone.

TAYLOR: Was the reason they reversed that, they felt the house had the more mature judgment to judge those matters than the senate?

1992

V. RIVERS: I don't know whether you were here that day, but that was discussed at considerable length on the floor, and I was one of those who spoke against it. Others who spoke for it could repeat their statements but they had reasons for feeling that the final trial should be before the house and that the indictment proceedings should be brought from the senate.

TAYLOR: Thank you, Mr. Rivers.

BARR: I want to add a little to what Mr. Rivers said. When this procedure was first brought up, I was against it, too. I suppose just from tradition, but the more I thought it over the more I thought that it made little difference whether the proceedings began in the house or in the senate. It was said that the senate had the older people in it and would use a little better judgment, they were a little more reserved and they might not do anything radical, but that also applies to starting the proceedings. They would not bring forth an indictment either for that very reason, so I can't see that it makes much difference, and there are more members of the house and the justice of the supreme court will preside and I believe that the larger the jury, the more fair the verdict, perhaps.

SUNDBORG: I move and ask unanimous consent that we recess for 15 minutes.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Does any delegate have a question relating to Section 1 of Committee Proposal No. 10a?

HELLENTHAL: Mr. President, I have a question of Mr. Rivers.

PRESIDENT EGAN: Is it relating to Section 1?

HELLENTHAL: Yes. Mr. Rivers, was it the intention of the Committee in framing the suggested executive article, that the view of the United States government, the federal government, be adopted with regard to the executive, namely the view that the executive had inherent powers other than the powers expressly conferred upon him by law and by the constitution?

V. RIVERS: I think that was the intent of the Committee that they would have the powers normally delegated under a constitution of this kind within the limits of a state governorship. By that I mean to say we have adopted identical phraseology with some of the other state constitutions in setting up his powers

1993

without limitation. It might be that due to legal interpretations there have been other things crept in and some powers might be more broadly interpreted under some courts than others. If there is any reason for doubting the value or the completeness of this phrase, we are certainly open and willing to have discussion on it.

HELLENTHAL: You note in Section 10, "The governor shall be responsible for the faithful execution of the laws." That enumeration of the power of the executive might possibly be construed as contrary to the view of Alexander Hamilton which is the view of the inherent power of the executive and the view which the Committee apparently recommends, so with that thought in mind, do you believe that the language added to the first section, "subject only to the exceptions and qualifications expressed in this article" would be objectionable?

V. RIVERS: Speaking for the members of the Committee with whom I have discussed this, I think they would like to hear it discussed at more length, and there is no set conviction in regard to any change in this statement that would make a better defined statement as to his powers. Do you think that, "He shall faithfully interpret the laws..." etc., might be a limiting factor upon the interpretation of this phrase?

HELLENTHAL: Yes.

V. RIVERS: We are certainly open for discussion on that point.

PRESIDENT EGAN: Are there more questions on Section 1? Section 2? Mr. Robertson.

ROBERTSON: I understand, Mr. Victor Rivers, as inquired of you by myself during the recess, it is the intent in Section 2, that the governor shall be a citizen of Alaska. Would you have any objection to inserting after the words "shall be", line 3, Section 2, the words "a citizen of this state"?

V. RIVERS: If it accomplishes a useful purpose I would say that we have no objection. We gave it some thought and the question as to whether or not by being a citizen of the United States, and a resident of Alaska for that period of time, he would also be a citizen of the State of Alaska. If there is a reason that justifies putting it in to clarify it we have no objection, Mr. Robertson.

ROBERTSON: I think that legally there is a distinction between a citizen and a resident. A citizen of Alaska is necessarily a citizen of the United States, but a citizen of the United States is not necessarily a citizen of Alaska. There is a difference between residency and citizenship.

1994

V. RIVERS: I might point out if we decide to adopt that qualification there is one other place in the bill where it should also be applied in a like manner.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I would be afraid of inserting this because I don't really understand this dual citizenship. It seems to me that you are liable to raise a terrific legal question. I think seven years of residence should be enough protection. When does a man become a citizen of the State of Alaska?

ROBERTSON: He does not become a citizen of Alaska by simply residing here. He has to actually become a citizen of Alaska but residency does not make citizenship of Alaska, and there is a dual citizenship. When we become a state the federal District Court of Alaska in certain cases provided will have jurisdiction over suits between citizens of Alaska and a citizen of the State of Washington because they have a different citizenship, although both are citizens of the United States.

BUCKALEW: Mr. Robertson, as this Section 2 is written, would you not think the courts would interpret this seven years to mean he would have to be a domiciliary of Alaska, and if he was a domiciliary of Alaska he would be a citizen of the State of Alaska?

ROBERTSON: Not necessarily.

BUCKALEW: What would be your definition of a citizen of Alaska?

NOLAN: Don't you have to declare intention of being a citizen, for instance, to take out a residence license?

BUCKALEW: That is residence again. That is residence for the particular purpose of hunting. I would not have any objection to putting it in except I'm afraid it would cause a lot of confusion.

NOLAN: I know of a case where a man obtained residency in Alaska although he lived in the State of Washington for 15 years.

TAYLOR: I don't believe it would be necessary to put that in this article. The fact that a man maintained a domicile in the Territory of Alaska for seven years, it would naturally be assumed legally that he is a citizen of the Territory of Alaska. Now I might say that the case of Texas, the States of New Mexico, Texas, and Florida vs. New York in which was a case deciding which state was to collect the inheritance tax from the son of Colonel Teddy Green, a United States Supreme

1995

Court case, and it finally held that although Teddy Green's son had been a colonel in the New Mexico National Guard regiment and had maintained a residence for a good many years in one place and then another and finally went back to New York and built a home on the Hudson River, and that is where he died and the Supreme Court held that although he had taken no affirmative action to relinquish his citizenship of either one or the other states, Florida, Texas or New Mexico, and as he had come back to New York where he originally started from and built his home there, it took no further action on his part to be considered as a citizen of the State of New York because he lived there for four or five years prior to his death, but those other states, who perhaps had an eye on this juicy morsel from his estate, well they lost out. They felt he was a citizen of their state.

V. RIVERS: Mr. President, it might clarify matters -- I have just been handed the Constitution of the United States -- it says under the heading on page 965, National and State Citizenship. "With the ratification of the Fourteenth amendment a distinction between citizenship of the United States and citizenship of a state was clearly recognized and established. 'Not only may a man be a citizen of the United States without being a citizen of a state, but an important element is necessary to convert the former into the latter. He must reside within a state to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.' It is quite clear then that there is a citizenship of the United States and a citizenship of a state which are distinct from each other and which depend upon different characteristics or circumstances in the individual." On that grounds, if this is an authoritative document, which I believe it to be, we probably should add the words "citizen of the state" as suggested, in order to bring this state citizenship into focus.

PRESIDENT EGAN: Are there other questions relating to Section 2? If not, are there questions relating to Section 3? Mr. Sundborg.

SUNDBORG: Mr. President, I just want to inquire, are we now offering amendments?

PRESIDENT EGAN: No. Mr. Victor Fischer.

V. FISCHER: Section 3, I would like to ask whether the last sentence is necessary regarding contested elections. In the legislative article when we discussed elections we had no similar phrase. Is this not a matter most generally handled by law anyway?

1996

V. RIVERS: As I recall the legislative article, it set up distinctly that they should be the judges of their own elections and should provide so by law, which would cover identically the matter here, in a sense that there would be a law provided for the handling of contested elections. We did, however, feel that by being silent on the matter there might be an implication that the contested election could possibly not be provided for by law. It was the general consensus of the Committee that it should show there. Now if the body decided it should be stricken, I am sure it will not materially alter the final handling of this matter by law.

McCUTCHEON: The matter that was in the legislative article pertained only to the legislature, no other office at all, so I think this is fitting and proper in here.

V. FISCHER: My question was not whether it was fitting and proper. My question was, is it necessary?

V. RIVERS: Speaking for the Committee, I believe we could say we are open to discussion on that and if the arguments bring out that it would be necessary for the legal effectuation of the constitution of that power, then, of course, we would try and leave it in.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: We had a shining example of the absence of a law governing a contested election in the last election, and it took a long time for the governor's office and the attorney general and everybody concerned to make up their minds how it should be handled. Our thought was, if this is here, it is a duty to the legislature to set up some kind of a procedure immediately to decide contested elections.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: I am wondering if a general clause could not be in the article on franchises and elections that would pertain to all elective officers. If that were planned, then this could be deleted.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: That article already provides as follows: "It" -- by that is meant the legislature, and I am reading from Section 2 of the article, "The legislature shall provide the manner of determining contested elections by court of competent jurisdiction." Now Mrs. Hermann nods her head. The grammar of that is under review in the Style and Drafting Committee, and I think it should properly be reviewed, but we are dealing with principles here, and this has already been treated in the constitution.

1997

HERMANN: That was amended on the floor to say, "including the right of appeal to a court of competent jurisdiction".

R. RIVERS: A contested election oftentimes involves a recount which is a check-over by the canvassing board, and that should in any case be done before going to court, but if it says "including", as Mrs. Hermann states, then our general clause would cover this.

McLAUGHLIN: To clarify any doubts to the question, on the proposed Style and Drafting redraft -- Committee Proposal No. 1, under Section 3 we have "Secrecy of voting shall be preserved. Methods of voting including absentee voting and the manner of determining election contests, which shall include a right of appeal to competent jurisdictions, shall be prescribed by law." That is, the substance will be there, even if it is again reedited.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I am sorry I was not able to catch some of the conversation, but Mrs. Nordale called my attention during the recess to the words "by law". Whether or not that would permit a contested election to be decided by initiative or referendum because certainly the laws passed under the initiative and referendum are laws.

McLAUGHLIN: I think I can resolve that. In Style and Drafting they do not say that the contested election shall be determined. It merely says, "The manner of determining election contests shall be prescribed by law." That is, the authority is only given as to the manner, but not to the specific election contests. I suspect that might be one of the special laws that are forbidden under the constitution.

ROBERTSON: I don't think that meets the objection. It seems to me a statement of this kind ought to be by the legislature, specifically. You couldn't possibly put a contested election back out for a referendum to decide it. I think I would rather say "by the legislature".

SUNDBORG: I should mention here that in Style and Drafting we are having some trouble with this phrase "by the legislature" because I believe that the intent of the body in nearly every case where that was mentioned was merely that we were not spelling out a procedure in the constitution but we were leaving it for later legislation, and that later legislation could be either by the legislature or by the initiative, except in those cases where in our article on the initiative it is definitely precluded. That is, there are certain subjects which cannot be covered by initiative. I think I understand

1998

what Mr. Robertson is asking which is, can the specific election contest be determined by an initiative. It could not. As Mr. McLaughlin said, under the proposed language that the manner of settling all election contests shall be provided by law. That is, a procedure would be set up for settling election contests, and each contest would not be settled by initiative or by the legislature necessarily, although the legislation on it, whether it comes from the legislature or by the initiative, could involve the legislature.

PRESIDENT EGAN: Are there other questions relating to Section 3? Mr. Sundborg.

SUNDBORG: I have a question relative to Section 3, lines 11 to

16. There is a provision written in there for an eventuality which I think would never occur. I doubt whether it has ever come up before any state in the nation in all the years they have been electing governors. That is an absolute tie on the vote for the governor of the state. I am wondering if it is necessary or if it is, whether we should not put it in elsewhere governing all elections. That is an absolute tie for two candidates for the legislature or for two candidates for delegate to Congress, or I mean for senator or representative.

V. RIVERS: Well, that is a good point. It was discussed in Committee at some length. The phrase was taken, after discussion, from the New Jersey Constitution adopted in 1947. Now, as Mr. Sundborg points out, there is a possibility that that situation would never occur. If it did occur the language should probably be applied to all elective officials competitively running for office. I think that will have to be decided after further discussion by a majority vote of this body as to whether or not you desire to have it as a part of the constitution or whether you desire to broaden it. As I say, we discussed it in Committee, and there were some dissenting opinions but the majority of the Committee felt it was a worthwhile provision in the remote contingency that such a situation should arise.

PRESIDENT EGAN: Are there questions relating to Section 3? If not, relating to Section 4? Mr. Poulsen.

POULSEN: May we revert back to Section 2? I have two questions here I would like to ask in regard to the age of 30. Was there any consideration set to the age of 35 and also to the age of seven years to be a resident of the state? Was there any consideration to lower that to five years?

V. RIVERS: There was considerable discussion on these things and this particular item is somewhat arbitrary. We felt that the individual allowed to run for office should be old enough to have had a fairly good background of experience, and we also

1999

felt that he, in order to qualify for office, should have quite a good knowledge of the Territory of Alaska. There was a divergence of opinions in regard to the time ranging from five years, I believe from three years up to a period of ten years. One of our elder members said he thought it should possibly be 50, which brought a good laugh. Anyway, the Committee took a vote on the number of years of residence and the majority of the Committee arrived at the number of seven years, so that is why you see it in the report here. The matter of 30 years of age was that 35 was discussed as were younger years, and 35 was the oldest age discussed as an age limit. That was the one decided upon in Hawaii, and we there again arrived at the majority opinion of the Committee being 30 years in order to have had the background of experience and general knowledge necessary to make a good governor. We had considerable discussion as to the value of age and background of knowledge and experience. There are some extremely outstanding examples of young men like the younger William Pitt who was prime minister of England at the age of 24, if I recall right, but those were considered to be extreme exceptions rather than the general rule, and we wanted a general rule that would apply and have a mature candidate for governor.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I want to ask Mr. Rivers a question. Do you think that you should prescribe such a long length of residence of seven years for the governor when a person can become a chief justice of the supreme court of the Territory in one year?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Well, yes, I do. I think actually that the man who sits at the head of our government should have a broad general knowledge of Alaska and of its people and in order to do so, he should have an acquaintance directly by actually being here with the problems of all parts of the Territory. Now a judge of the supreme court I also felt and so argued on this floor, should also have such a background of experience and contact with the people and the Territory and its problems. However, the majority of this body held, I believe, it could be provided by law but they only require that he be admitted to the bar, as I recall it now.

NORDALE: As one member of the Committee who disagreed with these restrictions, I would like to just say a word or two. I feel that when you have a man running for office it does not matter too much how long he has been a citizen of the United States or how long he has been a resident. Naturally you want him to be a resident long enough, but I think the fact that he has to get a majority of the votes in the Territory is quite a

2000

determining factor and he could not just come here and overnight be elected for governor.

HELLENTHAL: Point of information. Some think we wasted a lot of time when we voted on the voting age, and I remember many people said they wished they would have an opportunity to have voted originally on whether or not the recommended age in the committee report should have been adopted. Now here we have three numbers -- 30, 20 and 7. Could consideration perhaps be given by the Rules Committee to permit in this case that the matter come up for discussion? I move that the committee report requiring seven years residence in Section 2 be adopted. I think it would save an awful lot of time of discussion.

PRESIDENT EGAN: Mr. Hellenthal, the Chair certainly does not understand how we could adopt a section as such that is in the proposal because we will have to vote on the whole proposal in third reading, and we might even vote the whole proposal down in third reading, and I don't see how you could vote on that, and with regard to the statement of 20 years, I think it should be in the record, if the Chair may, you did vote on the 20-year clause that you had in your suffrage article because when the delegates voted to take the age of 20 years out of that proposal, they voted on, in effect, the 20-year clause that they did not want, the 20 years and changed it, so they did vote on that question.

HELLENTHAL: They first voted on whether the voting age be 18, was my recollection.

PRESIDENT EGAN: But it was set in your article at 20, so they said they did not want 20.

HELLENTHAL: I don't want to belabor the point.

PRESIDENT EGAN: The Chair felt that should be in the record in light of that statement. Mr. Barr.

BARR: I would like to further explain the Committee's feeling on this matter. It is as Mrs. Nordale said, she favored a lower residence, I believe, a lower residence requirement and a lower age, but some of the Committee also felt that the candidate for governor should be a little older. I believe 35 was the highest figure mentioned and ten years was the highest figure on residence. This figure on the committee report I would say was an average of the opinion within the Committee, and I also feel that if this body voted on it we would come out with an average.

PRESIDENT EGAN: Are there other questions relating to Section 2, and 3? If not, are there questions relating to Section 4? Mr. Robertson.

2001

ROBERTSON: I understood Mr. Victor Rivers to say that this article provided that the governor should be elected biyearly as far as presidential election, but I don't see where that is provided for.

V. RIVERS: I didn't say that, Mr. Robertson, and I am not just sure what the discussion on that was, whether it would be determined by another section or why it was not put in here, but that was the intent discussed at the final decision of the Committee. It is in transitory provisions. There was some reason for it and I could not recall.

PRESIDENT EGAN: Are there questions with relation to Section 5? Mr. Sundborg.

SUNDBORG: I have another question relating to Section 4. The last sentence provides that no person who has been elected governor for two full successive terms shall again be eligible and so on. I am wondering in the case of a man who might have again been elected governor after being out of office for four years, as I read this, there would be no restriction on him thereafter being elected to the office forever more.

V. RIVERS: That is correct. We discussed it at some length and it seemed that as I recall it, about 65 per cent of the cases where a governor ran to succeed himself he was not successful. It was quite a high percentage. Mrs. Nordale worked up the figures on that as I recall, and we also felt that after the elapsed period of 12 years, if he wanted to seek two more terms, that would probably be limiting by the very nature of the actions of old "father time". He would not be in there after the second period of four terms in office.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I can see Mr. Sundborg's point in that. However, I think it was the intent of our Committee that after the lapse and taking office, that it was not going to leave it then that he could just run and sit forever. I think the same should apply if he would go in again, two successive terms, I believe that was my understanding of it.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I agree with Mr. Londborg that that was the general opinion of the Committee. It would be a limit of two successive terms at any one time.

SUNDBORG: You do agree that it does not now say that? It says, "No person who has been elected governor for two full successive

2002

terms..." That is the man who once has held two terms, shall be again eligible until the first Monday in December of the fourth year.

V. RIVERS: The two full successive terms clause would still apply in the thinking of the committee. A question of phraseology there might be discussed, but we thought the two full successive terms was enough to cover not only the first group of successive terms but the second and possibly the third.

SUNDBORG: I don't think it would ever come up.

PRESIDENT EGAN: Are there other questions in relation to Section 4? Are there questions relating to Section 5? Mr. Victor Fischer.

V. FISCHER: Mr. President, I would like to ask a question, "The governor shall not hold any other office or employment of profit under the state, or the United States, during his term of office." Now, what is the intent of the Committee, say the governor has served two years of his term and he runs for United States senator; his actual term of office is not over even if he is elected and resigns, is it? You want to permit him to run for Congress and be elected if he resigns, of course?

V. RIVERS: That was the thought of the Committee. By the very nature of filing he would not start office as a senator, but it was the intent of the Committee that he would be allowed to run, but if the term there means any term in which he ends his service, either voluntarily or by the nature of the end of the period set up as we visualize it.

V. FISCHER: It does not apply necessarily to a four-year term, it is while he is actually in office?

V. RIVERS: That is right. If he wanted to resign at any one time, the resignation would be the termination of the term, would you not agree?

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: I thought not. I thought our point was that he could not, while he was governor, be elected to the United States senate and serve as a senator and governor at the same time, but the term of office is a four-year term.

V. RIVERS: Whenever he stops being governor.

NORDALE: He resigns when he is elected, but he can run while he is governor.

2003

V. RIVERS: He can run but not actually take office.

V. FISCHER: I just wanted to clarify that the term of office does not necessarily refer to the four years but only to while he is actually holding office.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: That raises a question in my mind. Does the governor have the right then to file for let's say as a candidate for the United States senate, campaign for office, and then does he still act as governor right up until the time of election or until the time he is sworn in as United States senator, or must he resign the minute he files?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Under the terminology here he would have a choice. He would have, I believe, a considerable moral obligation to resign at the time he filed, but there is nothing that says he must do so. It is common practice that most of the states observe that many of the governors run for senator while they are actually governor in office.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. Rivers, has the Committee given any thought to the position of the governor in regard to another office not under the state or the United States, but under a private corporation?

V. RIVERS: We limit this only to public office. There is probably small doubt that a man who would be governor might have an interest in some small business or he might sit as a director on a private corporation, and that should probably be covered under a conflict of interest clause if there is a desire by this Convention to write in a conflict of interest clause. We have discussed that in various committees, not so much in the Executive, but we have seen a lot of conflict of interest discussion in the last few years, and maybe or maybe not would they desire to either set up a law or write a subject covering that into the constitution. However, it did not appear the desire of this Committee as a majority to bring that in.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: If the constitution does not contain a conflict of interest clause, can the legislature pass a statute to that effect and bind the governor?

V. RIVERS: That is something I would have to call upon some of the legal minds to answer.

2004

PRESIDENT EGAN: Do any of the legal minds care to attempt to answer that question? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I am not an authority on that subject, but my conception is you are setting up three coequal departments of government, and you are setting out the basic qualifications in this article, and I doubt that the legislature could start throwing strings regarding the qualifications of the executive. If you are going to have that conflict of interest clause, I think it should be in the constitution.

BUCKALEW: On this occasion I am inclined to agree with Mr. Rivers.

PRESIDENT EGAN: Are there other questions relating to Section 5? To Section 6? Mr. Buckalew.

BUCKALEW: I have a question I would like to ask Mr. Rivers.

PRESIDENT EGAN: You may ask your question, Mr. Buckalew.

BUCKALEW: Mr. Rivers, don't you think that Section 6 makes it possible for a political hack with no qualifications whatsoever, except maybe that he comes from a different geographical area than the governor, to become the chief executive of the state?

V. RIVERS: I suppose that in all elective offices there are chances that they would be filled by hacks. That was discussed I might say. There was some question and considerable discussion on this point. It is, as I might point out, the case in the State of New York. New York was a prize example which we used. It is also the condition under the national administration, by which the Vice President runs with and on the same party ticket with the President. It has been my observation and after general discussion in the Committee, we accepted this particular type of thing in order to enforce or bulwark the strong executive. It has been my observation that some of the best chief executives in the United States as state executives have come through the chair of the governorship of the State of New York, first generally as the secretary of state, or rather as lieutenant governor, and next as governor. As you know, it is one of the states along with Ohio, which has supplied the greatest number of men who have been elected to the Presidency of the United States of any state in our union, so I think the experience has not been bad.

BARR: We also have a choice of whether or not we should have a lieutenant governor. It was generally conceded in the Committee that the general conception of a lieutenant governor is a man who has an honorary title without much work to do. That office is very frequently given to some political hack, to someone to whom the party owes a debt but not particularly qualified. Our

2005

conception of a secretary of state is a man who does work under a governor, not just an honorary title, he is, in effect, the general manager of the state under the governor, and in that case he will have a knowledge of all the work that is going on and all the problems, and if he takes over as governor, he will be highly qualified.

R. RIVERS: I would like to ask a question, when we tie the governorship and the secretary of state position together, I am wondering if they are separately nominated in the primaries?

V. RIVERS: The answer to that would be that they would be nominated jointly and elected on a joint ballot as they are in the State of New York and nationally, because you could not in any manner tie them together under a separate primary nomination and then have them run jointly in the general election.

R. RIVERS: I think to the contrary. The public ought to have something to say about nominating the person who is going to be secretary of state and then tie them together.

HELLENTHAL: Mr. President, I'd like to ask Mr. Rivers a question. How many states nominate and elect their secretary of state and governor jointly and then, secondly, how many states merely elect them jointly?

V. RIVERS: I will have to do a little digging on that to get the exact number for you. I keep referring back to the State of New York. I don't know what others there may be. I did look it up but I don't recall.

HELLENTHAL: Is it a modest number, a great number, or an average number?

V. RIVERS: I would say a very low number, possibly not more than two or maybe just the one. It might be three.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Well, some of the Committee thinking was along this line. Within the same political party you often have very opposing elements and our thought was that if you are going to have a governor who is going to carry out a policy, he is going to be elected, the person who succeeds him and works with him should be in the same faction of the party so that if anything happens to the governor the same, more or less, the same policies will be carried on, and he won't walk in and toss out the heads of all the departments and completely reorganize the government. I think any governor who wants to be elected is not going to saddle himself with a partner on the ballot who he

2006

thinks is just an incompetent or a political hack. He is still going to want to win the election for governor.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: One more question. Where does it say in here that the secretary of state is to be the general manager of the state, as suggested by Mr. Barr?

NORDALE: It does not say that.

V. RIVERS: It does not say that. The implication here and the Committee's thinking was all along the line of a strong efficient executive and in order to bulwark that strong executive we have given him broad powers and he would have a secretary of state who we hope and believe would be a competent effective individual preparing for possibly running for governor and who would actually learn and know the state and be a good second in command, and he is the successor to the governor when the governor is out of the state. I think that is what the general implication was by Delegate Barr.

BARR: In this section it does say that the secretary of state shall perform such duties as may be prescribed by law. Therefore, the legislature can outline his duties and also he shall perform such duties as may be delegated to him by the governor. The thought there was that he shall be the assistant to the governor.

V. RIVERS: That is correct.

BUCKALEW: I just wondered what the functions of this secretary of state are. He goes to work at 9 o'clock in the morning -- what is he going to spend his time doing?

V. RIVERS: I could very easily give a broad general answer. At the present time our government is handling in the neighborhood, the Territorial government handles some 16 to 18 million dollars a year. It is a big business and it has to be properly and efficiently administered. There are certain other things that could be considered the duties. First, you have a group of duties in the executive office which are executive duties, the meetings with the various department heads and the establishment of policies in various segments and areas. There is a recordkeeping function. There is a function, I believe, of intelligently working out a program and keeping a record of any problems that might arise in some parts of the Territory that might or might not be solved by the executive or might be subject to the legislative matter. I think any good executive handling the affairs of a state as large as Alaska should continually be studying the situation and preparing along with the governor a program for the betterment of the state, and I think that has

2007

been the function of all secretaries of state and that is the implication of the title. It is a broad general policy-making situation and also a program-arranging situation, and it is second in command to the governor. Now I think that you could either make that office as effective or as ineffective as the legislature and the governor desire it to be, but in the concept of the strong executive, we had the concept of a strong efficient second-in-command.

BUCKALL.W: One more question. Don't you feel that you would get a better secretary of state if the governor was allowed to appoint the secretary of state subject to approval by the senate?

V. RIVERS: Well, Mr. President, there we come back again to that problem of just how strong should a strong executive be. Theory and the ideal say that the strong executive should be a governor elected with the appointive power of all other officials. That has, we believed in the Committee or some of us did, there are exceptions, that that had a disadvantage in that there was no particular individual known to the people who had been exposed to the elective process being prepared to succeed to the governor, and we also felt that the people wanted an expression in the matter of just more than one individual as their elected representative. We also felt that an elected representative would make a better second-in-command in the absence or the death of the governor, that he would have then been elected by the popular will. So whether I believe or not that the lieutenant governor should be appointed -- personally, my stand was against just the one single elective head of government, the governor.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I want to get Mr. Rivers' thinking in this. Do you feel as an over-all picture that in the line of succession we would probably get a better man if the first person in line of succession was the president of the senate?

V. RIVERS: My personal thinking was and I think the majority of the Committee thought that as the third succession, that was sufficient because of the remote possibility that he would ever be an acting governor, but we all felt that there should be an elective official who had been elected by all of the voters over the entire Territory to be the second succeeding officer in the event of the death or absence or resignation or failure to qualify of the governor. And that expresses my personal feeling also.

WHITE: Mr. President -- Mr. Rivers, you said that under the sentence, "The secretary of state shall perform such duties as

2008

may be prescribed by law", the legislature can make that as powerful or as weak as they wished. Couldn't that phrase be used to assign to the secretary of state duties that might be the prerogative of the governor? Could it not be used to breach the idea of separation of powers, and couldn't a situation arise where the governor and secretary of state might have a falling out and the legislature could use this phrase to transfer almost all of the powers of the governor to the secretary of state?

V. RIVERS: Mr. President, there again that is a matter of opinion. I do not believe those circumstances possibly could arise. In the first place, in order to effectuate such a situation in view of the falling out between the governor and secretary of state, it would take a considerable lapse of time and a lot of legislative action. We are trying to visualize this strong executive in which we are not pinning down the duties of the secretary of state. We are trying to make them flexible enough so they can be assigned to fit into the scheme of the strong appointive department heads, appointed by the governor and confirmed by the legislature. We tried specifically not to enumerate the duties of the secretary of state but to give enough broad authority so he could be put to work and be given plenty of duties and kept busy. In order to effectuate this strong executive we felt there must be flexibility in the assignment of powers and duties of the secretary of state. So for that reason we have not just made him the keeper of the great seal, we have opened it so he could be given adequate duties to perform useful functions in the administrative departments. I don't fear the things you mention.

PRESIDENT EGAN: Mr. White.

WHITE: Do you know offhand, Mr. Rivers, how many states give their legislature a carte blanche to assign duties to the person who might be second in succession?

V. RIVERS: I can't tell you how many states do, but in keeping with the modern thinking of a strong executive, it is certainly the policy not to establish offices by name and to narrow down their functions in the constitution. The policy is to leave them broad and general and flexible enough so they can be adjusted to meet changing times and changing circumstances. That is a general answer, but I can't give you a specific answer.

PRESIDENT EGAN: Mr. White.

WHITE: There are two ways to make it adjustable. One would be that their powers would be adjustable within the executive department. The other way of making it adjustable is to give the powers to the legislature. I just wanted to get your thinking on the two different methods.

2009

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this raises an interesting point. Perhaps we could say he should have such duties in aid of the governor as may be prescribed by law. When we come to that, we'll think of it some more.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. President, in looking through this manual for Hawaii it appears to me that there are very very few states that take constitutional provision for defining the limit of powers and duties of executive officers, and it says they are to be provided by law. On the other hand, too, I notice there are 38 of the states that elect their secretaries of state, which seems to indicate that they feel that is a strong measure. I just give that as a rough survey of these facts as they are established here, but when it says, "limits of powers and duties of executive officers" again and again it says, "no definition in the constitution -- to be provided by law."

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think that if we have an elected secretary of state we must be sure that he is a good man to fill the position of governor, and I think that as has been pointed out, there might be a danger that the governor who desires to be elected may very well choose somebody representing a different faction in the party rather than the same faction to fill out his thinking, just so as to attract additional voters. It would seem to me that a better way of electing and hearing them prior to the primary would be to take the top man who may run in the primary for governor in a particular party, take the top man who ran for secretary of state and then pair them for the general election, and the chances are that you will get a secretary of state who represents the same faction as the governor, and in that case the people have had a chance to already express their opinion. When we otherwise talk of an elective secretary of state we are actually, the people don't have the opportunity to vote for the secretary of state. All they are doing is voting for the governor and the other person just happens to be on the ticket. What I would like to point out, and I would like to know if you agree, that the language as stated in Section 6 refers to elected, line 20 for instance: "He shall be elected at the same time and for the same term as the governor, and the election procedure prescribed by law shall provide that the electors, in casting their vote for governor shall also be deemed to be casting their vote for the candidate for secretary of state shown on the ballot as running jointly with the respective candidate for governor." Actually,

2010

that would appear to leave the way open for the legislature to prescribe a separate primary for the two and pair them for the general election.

V. RIVERS: That is the thinking of the Committee Chairman, that this does leave the way open. I believe in the Committee we discussed that they run jointly through the primary and the general election. This wording would appear to me to leave it open to be prescribed by the act that was adopted in regard to the legislation. Maybe all the Committee would not agree with me on that, I am speaking from my own opinion.

NORDALE: My conception was that they would run just as the President of the United States and the Vice President run. I think when you invest a governor with as much power as this is and the full responsibility that you should not run the risk of electing his partner who might have very, very opposite views on many things, even though he might belong to the same political party. If you are going to carry it to an extreme, you will have to divorce them from the same party.

V. FISCHER: Actually, as I tried to point out, I think you are liable to get the person who agrees more with the governor if you take the top man who ran in the political primary. I would like to point out when we elect the President of the United States and the Vice President, these have not gone through the primary process, they have only been nominated by a political convention as a pair. This is a perfect example of where the people never have a chance to vote for the Vice President. Actually, they are voting for the President; very seldom is very much attention given to the Vice President.

V. RIVERS: Mr. President, I agree with Mr. Fischer that this section does leave open the method which the law would prescribe, at least that is my personal opinion, so the legislature could decide as to how the nominations would be made as I see it.

COOPER: Mr. President, this is really not a question, it is just merely an enlargement upon the word. The same interest or same faction within a party -- I personally believe that two individuals having the very same thoughts or within the same faction within the party, such as Mr. Fischer pointed out, is not good. You have one of these elective officials tied to the shirrtails of the other. One of the two will be weaker. Which one of the two I do not know. The secretary of state will be subordinate to the governor. The fact is that one of the two officials could represent another faction or a minor faction within the same party.

V. FISCHER: Point of order, Mr. President. This is not a debate. This is merely a discussion and it seems to me this

2011

enters the field of debate.

COOPER: I pointed out I do not have a question to ask.

HELLENTHAL: Additional point. He mentioned the minor faction, that has no part.

PRESIDENT EGAN: If Mr. Cooper is merely trying to get around to a question that he is bringing up to the Committee, it is in order.

COOPER: Don't you think then that the two factions, if there are two factions within a party being represented, it is a good policy of checks and balance?

V. RIVERS: With the elective primary?

COOPER: Yes. I am not particularly in favor of the elected primary. I happen to be in favor of something different altogether.

V. RIVERS: I did not quite get your question.

COOPER: The idea is, as I understand it, the way you have it now, you have the governor, representative of the party, to him you are tying another man with very similar thoughts and attitudes.

V. RIVERS: Yes, they are elected jointly in the general election. As I stated awhile ago, the method of nominating could be prescribed by law. Whether this is the best procedure or not, it was decided in the Committee at least we felt in order to effectuate the strong executive this was the best proper procedure.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, it was felt that the body here did want a strong executive and he should be able to appoint his department heads or most of them so he could carry out his program efficiently. Now, if we believe that we should have checks and balances to the extent that the secretary of state should perhaps represent another faction within the party to present an opposite view, then why not have 50 per cent of the department heads Republican and the other 50 per cent Democrats? Then we would have lots of checks and balances, but you would not get anything done.

LONDBORG: I would like to point out something else that went on in the Committee thinking, the possibility of leaving it open for someone other than maybe someone right within the party. There may be an independent or someone who has no particular

2012

affiliations. The one running for governor may wish to choose that one, or maybe work as a team or maybe a strong independent who would have a very good chance of becoming governor. We left all reference to party out of this, I think, for that purpose that whatever team could win the election should be the one in office and above all, the governor should have one working with him with like mind. If the people want something else for a check and balance then they don't want that man, and they don't want a strong executive, but with this you have not only someone working in harmony right in the office, but should the governor leave the office vacant through death or some other reason, you have someone to step in and there should not be such a disruption of the function of the office.

PRESIDENT EGAN: The Chair notes that the hour of 12 noon has arrived and before we might recess, these visitors from Nenana are to catch the 12:50 bus to go out to the Fairbanks High School. The Chair would like to announce at this time the manner in which he has delegated the noon luncheon to the different delegates. There are 18 children and two of the teachers, including the superintendent, Mr. Gavin.

(The President assigned a guest to each delegate for the noon luncheon.)

SUNDBORG: Subject to any further announcements, I move and ask unanimous consent that we recess until 1:30 o'clock.

V. RIVERS: The Executive Committee will meet at 12:50 upstairs in the large committee room. We would like to have you who contemplate amendments that are not too controversial to bring them up, and then the other longer amendments can be brought on to the floor.

RILEY: The Rules Committee will meet immediately to set a time to meet during the noon hour.

SMITH: The Resources Committee will meet at 12:50 in one of the committee rooms upstairs.

McNEALY: The Committee on Ordinances will meet at about 1 o'clock in the gallery here, and we are going to take up the subject of the ordinance of the location of the state capital. Four delegates at least have proposed ordinances. Those who want to speak to us or anyone else who cares to be in on it at 1 o'clock in the gallery.

PRESIDENT EGAN: Now if the delegates will try to find the students named as their guests, the Convention will stand at recess until 1:30 p.m.

2013

RECESS

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

WHITE: Mr. President, I ask unanimous consent to revert to the business of reading the journal.

PRESIDENT EGAN: If there is no objection, we will revert to the business of reading the journal at this time. Mr. White.

WHITE: The Committee to read the journal has read the journal for the 48th Convention day and recommends the following changes: Page 1, line 1: change 1955 to 1956. Page 1, bottom line: same correction.

HERMANN: I do not have a copy.

PRESIDENT EGAN: The Sergeant at Arms will please bring Mrs. Hermann a copy, the journal of the 48th day. Mr. White.

WHITE: That same line, bottom of the page, should be changed from 47th to 48th day. Page 2, first paragraph after the roll call, line 2: insert "Mr." before V. Rivers. Page 3, fourth paragraph, add at the end of the last sentence: "There being no objection, it was so ordered." Page 4, fifth paragraph, the question was called and on voice vote the amendment -- insert "to the amendment". It should read "the amendment to the amendment". Page 6, third paragraph, first line, after the word "motion" insert the words "to reconsider". Page 13, second paragraph, line 2, change the word "in" to "for". Mr. President, I ask unanimous consent for the approval of the journal for the 48th day with those corrections.

PRESIDENT EGAN: Mr. White asks unanimous consent for the approval of the journal for the 48th day with these corrections. Is there objection? Hearing no objection it is so ordered and the journal of the 48th day has been approved. The Chief Clerk will please read the communications we have before us.

(The Chief Clerk read the following communications: Telegram from the Cordova Fish and Cold Storage Co., recommending department of fisheries control sport and commercial fisheries. Telegram from the Cordova District Fisheries Union signed by Harold Z. Hansen, Executive Secretary, also recommending department of fisheries control sport and commercial fisheries. An invitation to the delegates by the Alaska Crippled Children's Association to attend a Silver Tea to meet Christian von Schneidau and to view his paintings. A letter from Sheryl Drake of Stockton, California, requesting information on the Constitution and Alaska for her history notebook.)

2014

PRESIDENT EGAN: The Chair would like to announce again at this time tomorrow evening the Veterans of Foreign Wars are having their stag party for men only and that Mr. Wilson, our Sergeant at Arms, or the messenger, would appreciate having the names of those people who will be present tomorrow evening, so if the delegates who are going to attend will do that, it will be appreciated. Mr. Victor Fischer.

V. FISCHER: I hope our secretariat will fill the request of the girl from California.

HERMANN: Mr. President, that is the function of the Alaska Statehood Committee, and I suggest it be turned over to them. We have sent thousands of these in answer to thousands of requests.

PRESIDENT EGAN: If there is no objection the communication from the girl in Stockton, California, will be turned over to the Alaska Statehood Committee. The other communications will be filed. Are there other communications to come before us before we take up Committee Proposal No. 10a? If not, we have before us Committee Proposal No. 10a. Are there questions relative to Section 6? Mr. Hurley.

HURLEY: Mr. President, I wonder if it would be apropos at this time for the Committee to make mention of anything that was decided at the committee meeting. If so, it might do away with a lot of these questions.

PRESIDENT EGAN: Mr. Rivers, if you would so choose, you may report on your Committee meeting.

V. RIVERS: We had a meeting and a number of the delegates appeared. I might tell you that we discussed a number of things. One was the insertion of the line "a citizen of this state". That affects also the article on judiciary before the Style and Drafting Committee. It was thought that, as I recall, we would ask for the insertion of that wording and then leave it up to Style and Drafting as to whether or not after considerable research they had decided it should be included to effectuate the full intent of the section. We also discussed another amendment which would put certain limiting powers, certain limitations on the pardon powers so there would be no chance of abuse. That was discussed but not actually adopted. It is my understanding that one of the delegates is going to discuss it further in regard to the legal implications. At our next recess we will have a meeting of the Executive Committee, and will discuss it with them at that time. The matter of the resolution in connection with the possibility of a tie vote in the election of governor was also discussed and the motion of Delegate Sundborg was that we strike all that matter relating to a tie

2015

vote and the Committee agreed to recommend that it be stricken with the understanding that it be considered in the general elections clause now in Style and Drafting that will be put before us in third reading, a general clause saying that a law or laws will be provided to resolve contested elections or other election problems or something that will cover both possibilities of ties and contests. That was the effect of our deliberations this noon, and we had one or two other delegates we did not get to hear whom we will hear in the first recess meeting that we have this afternoon.

PRESIDENT EGAN: If there are no other questions relating to Section 6, are there questions relating to Section 7? Are there questions relating to Section 8? Mr. Sundborg.

SUNDBORG: I did have a question relating to Section 7. In line 11 it mentions that when the secretary of state succeeds the office of governor, the powers, duties and emoluments of the office devolve upon him. I was wondering, is he in fact the governor?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Well, I could not answer whether he would be considered acting governor or whether he would be considered governor. I presume either one of these terms would apply because he would fill out the term until the next general election when it would be submitted to the voters. I imagine they would say "governor" or "acting governor", if the governor is only temporarily absent.

NORDALE: I believe that in the first case he would become the governor just as the Vice President becomes the President, but you will notice down below when the governor is just absent, it is the powers and duties that go, not the emoluments, when it is only a temporary absence.

SUNDBORG: I have a question about the section down below. What it says is, "In case of the temporary absence of the governor from office, the powers and duties shall devolve upon the secretary of state." Do you mean temporary absence from the state, from the jurisdiction? How would a governor ever be temporarily absent from office?

V. RIVERS: He could very well be incapacitated in the matter of physical or mental capacity. He might still be in the state and not be able to perform functions of his office or he might actually be outside of the state.

SUNDBORG: When the governor is outside of the state does this sentence beginning on line 19, come into power? Is he not still

2016

the governor although he may be in Washington, D. C.?

V. RIVERS: That is correct, but this man would then have the authority to act in his place instead for the state and in the state.

BARR: On Mr. Sundborg's first question, on line 9, I would like to ask the legal profession here, the wording is "he has qualified and assumed the office of governor" -- not the duties -- does that carry the title of governor with it?

BUCKALEW: I would say yes.

V. FISCHER: I am sorry I also missed the call for comments. It was my understanding in conference with one of the committee members that if the governor was not able to serve the complete term, that if the secretary of state took over before the general election two years after the governor was previously elected, that the remainder of the term be filled through election. Am I wrong on that?

V. RIVERS: Mr. President, Mr. Fischer asked me that question and without the draft of our section before him I answered him that I understood the election to fill the unexpired term would come up the next general election, but now that does not so read. It says "fill the unexpired term", so I will make a correction as to my statement at that time, but that was what was in my mind, the same as in yours.

V. FISCHER: In other words, the secretary of state may actually serve anyway up to four years as governor?

NORDALE: No.

V. RIVERS: This is the wording I referred to in Section 8, "If the office of governor becomes vacant and there is no secretary of state, the offices of governor and secretary of state shall be filled for the remainder of the terms at the next succeeding general election unless the vacancy occurs less than 60 days before the election; but no election to fill an unexpired term shall be held in any year in which a governor is to be elected for a full term." I understood that to cover it. That was what I was referring to at noontime's discussion.

V. FISCHER: Another question I have, in line 17, what does the word "removal" refer to? What other removal besides impeachment is there?

V. RIVERS: Impeachment or recall are the only two removal clauses we have.

2017

PRESIDENT EGAN: Are there questions relating to Section 8? Mr. Sundborg.

SUNDBORG: I have several questions relating to Section 8. This provides that the president of the senate and the speaker of the house shall succeed the secretary of state. I am wondering in the event, say, that the governor has died and the secretary of state has become the governor and it is between sessions of the legislature and the president of the senate then becomes the secretary of state, is that correct?

V. RIVERS: We did not so provide. We left the matter of the secretary of state office vacant until such time as the man then acting as governor who had been secretary of state might die. It was the general thought, in the discussions of the Committee, I believe I speak for the entire Committee, there would be no filling of the office of the secretary of state after he had once stepped ahead into the governorship.

SUNDBORG: Take the hypothetical case here both the governor and secretary of state both may have died or not be able to serve. Then the president of the senate becomes the governor?

V. RIVERS: Yes.

SUNDBORG: What happens to the man who is the president of the senate, becomes that because he is elected by the senate from among the membership to be the president? In the event of a change in the presidency of the senate, does a different man become governor?

V. RIVERS: It was our intent that the man who was actually president of the senate at the time when the governor's seat was vacant, would succeed to the governorship until the next general election, as set up here.

SUNDBORG: This thing could happen though, after a general election.

V. RIVERS: Yes, it could. We discussed one instance in the State of Oregon where three principal officers were killed in an airplane crash, and they had then the considerable difficulty in deciding as to how the succession took place. That was one particular case under consideration in discussing this matter in the Committee. We have always the possibility that some atomic or hydrogen bomb might wipe out the entire executive department.

SUNDBORG: Was it the thinking of the Committee that the man who succeeded to the governorship by reason of his being president

2018

of the senate or speaker of the house should be the man who occupied those positions at the time of the tragedy and that there should not be a change later after a man had occupied the office of governor just because the senate wanted to elect one other of its members to be its president?

RIVERS: That was the thinking of the Committee that when the president of the senate occupied the governorship that he would then have to vacate his senate presidency, and they would elect a new president of the senate who would not become governor while the other one was still acting, as I remember it. Maybe one of the other Committee members would like to amplify.

LONDBORG: I think that is correct, Mr. Rivers, since you mention that due to the fact of the extra load of both the governor and secretary being out of office, that the man could not act as governor and still retain his job as president of the senate. He would vacate that office.

PRESIDENT EGAN: Mr. Doogan.

DOOGAN: I am curious about one thing. I think I see it, but I would like to have it explained. There could be no conflict to this process if there were a change of party in the power of the state and instead of having one party member as speaker of the senate you would elect another one from a different party. He would have no right to then claim the governorship for his party as having been elected speaker of the senate?

V. RIVERS: Not until the previous speaker or president of the senate had actually fulfilled the term or had been submitted to election and had either been elected or rejected by the voters.

PRESIDENT EGAN: Are there questions or discussion of Section 9? Mr. Victor Fischer.

V. FISCHER: Excuse me for fouling up the rotation. The more I thought of the points brought up in Section 7, line 20, that in the case of temporary absence of the governor from office, the powers and duties shall devolve upon the secretary of state -- I would like to ask the Chairman of the Committee if that might not automatically give the secretary of state complete jurisdiction over the executive department to the point of firing the appointees of the governor while the governor is absent from the state or otherwise not present.

V. RIVERS: Well, we discussed how much powers and duties he should have, and in the governor's absence there is a chance of that, but that was another reason why we felt he should be elected jointly on the same general policies and principles as the governor so they would be more or less identical in their

2019

thinking in regard to the organization. It is a possibility that could exist, but it seems that we must make some temporary conferring of powers on the secretary of state in order to act as governor while there is an absence in that seat due to the governor being either ill or out of the state. It is very questionable in my mind that would take place for any great length of time, or if it did take place there would be an abuse of that executive removal power. Both being elected in this manner, I don't think there would be a tendency for abuse.

PRESIDENT EGAN: Mr. Gray.

GRAY: I believe he used the term right there. I wonder if in the case of the temporary absence of the governor from office, the secretary of state shall be acting governor -- would that not kind of limit the activities of the secretary of state by designating him acting governor? You could not take over the full program of the governor and still he could carry out the governor's duties. I think that is your own wording, Mr. Rivers, on acting governor.

V. RIVERS: The point does not seem to me to be too badly taken. It seems it might be more inclusive or more descriptive than the term "powers and duties". I can only speak for myself because I have not discussed it with the other members of the Committee. There might be some limiting factor on the term "acting governor", or it might be just as broad as it would be under the term "powers and duties". I would like to listen to some discussion on the floor on that point before we resolve it. "Acting governor" might well cover it. Maybe some of the other Committee members might like to comment on it. Mr. Barr, do you think the term "acting governor" would be much different than "powers and duties"?

BARR: I don't believe it would make any practical difference, but it might point up our thinking a little more and might be a little better in there.

PRESIDENT EGAN: Is there a discussion of Section 9? Mr. Buckalew.

BUCKALEW: I have one question on Section 8. Mr. Rivers, don't you feel that it would be wiser to put the speaker of the house of representatives ahead of the president of the senate in the line of succession for the reason that the speaker would represent the latest expression of the people by reason of his most recent election?

V. RIVERS: Mr. Buckalew, that line of succession was jockeyed around in Committee. We accepted the traditional pattern of

2020

designating first the presiding officer of the senate, based upon the fact that the senate was, by the law requirements of this constitution, older in years in order to first run and probably longer in experience. This being exposed to the popular sentiment is another aspect, and my personal opinion would be that we hold to the procedure we have set up here. I do not speak for the rest of the Committee.

BUCKALEW: Mr. Rivers, do you think this article is inconsistent with the other provision whereby we provide that the house shall try impeachment proceedings instead of the senate? We reversed it there.

V. RIVERS: I don't think this is inconsistent with that. I also, as you remember, did not vote on the prevailing side on that particular issue. I opposed it on the floor for the same grounds I have stated here.

BARR: Mr. President, may I read from the Hawaiian Manual here on that subject: "Forty-four of the forty-eight states specify a second successor in case the first named person cannot fulfill the duties of governor. They are in order of importance: presiding officer of the senate, twenty-six states; speaker of the house, nine states; speaker of the unicameral legislature, one state (Nebraska); and secretary of state, eight states. Twenty states name three specific successors, but only five states go beyond this number (Alabama names seven; Delaware, five; Kentucky, four; Massachusetts, six; and Washington, seven)." It is generally conceded that the president of the senate is the first choice. That is the way it has been in the past.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I ask Mr. Barr a question. What nine states are those that have speaker of the house?

BARR: I don't see that right here. If I find it I will let you know.

PRESIDENT EGAN: Are there other questions? Mr. Taylor.

TAYLOR: I would like to ask Mr. Rivers a question. Has the Committee given it any thought as to the line of succession being to other officers of the Territory? We know the President of the United States appoints a cabinet and if the President dies the Vice President succeeds to the office; then following that, the Secretary of State who is an appointed officer, follows. Well, we have what we call a secretary of state, too, but I was thinking possibly that maybe the treasurer or some other elective official instead of the president of the senate or the speaker of the house should be designated. He is more familiar with the

2021

governmental matters. Had you thought about that, Mr. Rivers?

V. RIVERS: That was discussed in Committee. I might say that under the strong executive plan, all of the officers of the state except the officers named are appointive officers. It was not the majority opinion of the Committee that succession should go to an appointive officer, but should go down through the elective offices of the state.

TAYLOR: The Presidency of the United States would devolve on an appointive officer in the case of the death of the President and Vice President.

V. RIVERS: I would like to have that point clarified by some of the constitutional lawyers.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: If my memory serves me correctly, Mr. President, it seems to me that Congress not long ago changed the order of succession. It is now from the President to the Vice President, then the presiding officer of the Senate and then to the speaker of the House. I don't believe that the Secretary of State is in that line of succession any more.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: That was also the expression of one of the delegates, and it was his understanding that that the change had been made, and I was not entirely aware of it myself.

PRESIDENT EGAN: The Chair does not wish to speak on this, but if the Chair may, it seems to the Chair that the president of the Senate did not come into that but the speaker of the House did. The change was made about 1950, but I don't think the president of the Senate came into it. Mr. Buckalew.

BUCKALEW: I have something here: "The President shall not have been chosen before the time fixed for beginning of his term or if a President-elect shall fail to qualify then the Vice President-elect shall act as President until the President shall have been qualified, and the Congress may by law provide for the case wherein neither a President-elect or Vice President-elect shall have qualified, declaring who shall then act as President or the manner in which one who is to act shall be selected and such person shall act accordingly until the President or Vice President shall have qualified." That looks like everybody was wrong on that section.

PRESIDENT EGAN: What is the date on that?

2022

BUCKALEW: It does not have a date on it.

JOHNSON: That is the constitutional provision, but I am talking about an Act of Congress which was passed, I think, in 1950.

PRESIDENT EGAN: There was an Act of Congress passed somewhere around 1951 that would answer this question once and for all.

BUCKALEW: They left it up to Congress then.

PRESIDENT EGAN: Are there other questions relating to this section? If not, are there any questions relating to Section 9? Section 10? Mr. Fischer.

V. FISCHER: I was wondering about the power of the governor to enforce compliance with any constitutional or legislative mandate. I am reading on the top of page 5, "...or to restrain violations of any constitutional or legislative power or duty, by any officer, department or agency of the state or any of its political subdivisions..." I was just wondering whether the power of the governor to restrain violations of the constitution should be applicable only to his offices, departments, agencies and political subdivisions. If we were to strike the clause beginning with "by" on line 5 through "political subdivisions", would we not be setting the governor up to restrain violations of any constitutional or legislative power or duty, or is that infringing too much upon the judiciary? What I have in mind there is that if there is a violation of any civil rights or anything like that, the governor would be authorized to step in even though he was not personally involved through damage.

V. RIVERS: Mr. President, we have included in this, after careful discussion, this language for this reason. You see here, "to restrain violation of any constitutional or legislative power or duty, by any officer, department or agency of the state or any of its political subdivisions". Now in some of the older states they have not had that clause, and in many states -- you have seen in city government, county government, and other agencies of state government abuses grow up where you have heard of the various bosses of this city or that city, and they are practically immune from all executive control within the state, and this clause is a clause that was felt necessary to avoid any such occurrence in the State of Alaska, if and when it became a state. I speak particularly of men who have sat in high city and county offices, where they are practically unremovable. In the case of one mayor, he ran for mayor after having been in the penitentiary for a length of time. We have the case of a man named "Boss" Hague of a New Jersey city who had a great many convictions against him and was a man of extremely doubtful repute, but some of the actions of those particular bodies could

2023

not be even investigated by the state government because of the lack of such a clause in the constitution. The Committee went into this quite thoroughly and the wording as we set it up was intended to include such contingencies, that the violations of the constitution could be brought to the attention of the courts by the governor at the level of the state's political subdivision.

V. FISCHER: Mr. Rivers, my point, I fully agree with that authority. My idea was that possibly by this clause you are restricting his authority to go further and step in when the rights of any individual are being violated by another individual or of any group, even though no governmental agency is involved in it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Does not any individual have a right to go to court to protect his own constitutional rights?

V. FISCHER: That is right, but my thought was -- and I am not going to argue it too much -- my only thought was why not leave it up to the governor to also step in and to give him the chance to protect our civil rights even if no individual who made the first violation of civil rights steps forward in a case like that.

V. RIVERS: Mr. President, could we ask one of the lawyers?

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, in the event of the violation of any constitutional right of the private citizen, this private citizen can bring an action and indict in the name of the relation of so-and-so, whoever the private citizen may be, and set up the fact that he has been deprived of his constitutional or legislative rights, for that matter. It will be brought in the Territory and then if he prevails in that it will be a binding decision covering that particular point. I think the wording of the section here is adequate for all purposes. The governor can't himself bring all these matters but any of his officers or agents can because they have the right when it is once into the courts, and then it will be the State of Alaska in certain matters against a certain person or in relation to certain proceedings, so then it is carried on by the legal department of the state. I cannot see that the section, as it is, isn't perfectly adequate to provide for any eventuality that might arise in regard to the violation of a legal right of any citizen of the state.

PRESIDENT EGAN: Mr. McNees.

2024

McNEES: I was going to ask a question on the subject.

PRESIDENT EGAN: Was this on this other? Mr. Victor Rivers?

V. RIVERS: I could clear up this other matter about the succession in Congress or the national administration, if you would like. I have just been handed by Mr. Hurley and Mr. Doogan this book which is called The Constitution of the United States of America and of course it is the discussions of the decisions that have been made in regard to it. "By a Congressional Act of July 8, 1947, the Speaker of the House and the President pro tem for the Senate are ahead of the members of the Cabinet in the order of succession." Does that answer the question? "When either succeeds he must resign both his post and his seat in Congress." That is the Act of 1947, as Mr. Johnson mentioned it a short time ago and the President mentioned it.

PRESIDENT EGAN: Mr. Rivers, who is the President pro tem of the Senate?

V. RIVERS: He is elected after the Vice President has succeeded to the Presidency. They elect from their own membership a President pro tem to function until the next Vice President is elected.

PRESIDENT EGAN: That answers the question. Mr. McNees.

McNEES: I would like a little amplification of the Committee's thinking on lines 13, 14, 15, in Section 10. "He may convene the Legislature, or the Senate alone, or the two houses in joint session, whenever in his opinion the public interest requires." For what reason, Mr. Rivers, might he wish, say, to convene the senate alone?

V. RIVERS: As we discussed this briefly this morning, the reason as we have it set up in our legislative act now that the motion for an indictment for impeachment lies in the senate, that is the only reason he might desire to convene the senate alone -- if there is an emergency situation, or some drastic abuse of some official, had been called to the governor's attention -- he might call the senate into session to decide whether they would impeach, then it would go to the house for trial. He would then call the house or the legislature or joint session if he merely wanted confirmation of appointments in an emergency nature, to call the house or the senate in joint session.

McNEES: One other question. My thinking on this then was if that were the case, and I am only amplifying the thoughts that were expressed on the floor here earlier this morning, there might be an instance in which you might want to call the house alone as a follow-up to the senate's original call. You have

2025

particularly exempted the house here from call as such and I wondered about that.

V. RIVERS: We did not quite understand it as such. We discussed that briefly and I might say it was thought that if and when he called the senate he might also call the house shortly thereafter to follow out if they did indict. The senate would then, of course, be dismissed and the house would then sit in joint session. The only reason for calling the house would be if the senate actually did move for impeachment. It was my thinking that we figured it was covered under the call of the legislature.

PRESIDENT EGAN: Is there other discussion to Section 10? Mr. Ralph Rivers.

R. RIVERS: Mr. President, it occurs to me that after the senate has preferred these impeachment charges that it might be excused and go home, and then the house would come into the picture for the purposes of that trial, so it might be, we ought to say, "call either house in separate session". I am only flagging the point so we can be thinking about it before the amendatory process starts.

PRESIDENT EGAN: Are there questions relating to Section 11? Mr. Hellenenthal.

HELLENTHAL: One question on Section 10. Is the last paragraph deemed vital?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: We thought it quite important. We discussed it in Committee and the outgoing governor would retire from office some five or six or seven weeks before the next legislature convened. The incoming governor would then take office. He would necessarily, supposing there was some antagonism between the outgoing and incoming man, it would be rather difficult for the new individual to get facts behind the previous administration unless such a report were required. It is not too common a practice, but some states require the same thing.

HELLENTHAL: It would seem to me if there were antagonism, it would just give him an opportunity to perhaps take a lefthanded swing at him, and if he were happy he would make the report anyway, and the modern tendency is to have legislative councils and a permanent staff, so that there would be little information that the man would have that would be vital, it would appear to me.

MCCUTCHEON: Point of order. I would like to find out whether Mr. Hellenenthal is asking a question or presenting his argument against the matter here.

PRESIDENT EGAN: It is hard to tell. Mr. Victor Rivers.

V. RIVERS: It is a matter of interpretation of the need. It was the thinking of the Committee that a reasonably sincere and honest man would try and point up the things that his administration had tried to do for his own justification as well as for the continuing record of the state, and that the new governor would have some advantage in the matter of preparing his program if he had that information rather than if he didn't have it.

PRESIDENT EGAN: Are there questions relating to Section 11? Mr. Cooper.

COOPER: Mr. President, in Section 11, in the model state constitution it says that the governor shall be commander in chief of the armed forces of the state except when they shall be called into the service of the United States. Has that been discussed? There doesn't seem to be any exception here, in Section 11.

PRESIDENT EGAN: Mr. Barr.

BARR: When the armed forces of the state are called into the service of the United States, then they are no longer the armed service of the state. They are part of the army of the United States.

V. RIVERS: Mr. President, Mr. Barr has expressed exactly the thinking that was brought out in the Committee at the time this was discussed.

PRESIDENT EGAN: Are there questions relating to Section 12? Mr. Buckalew.

BUCKALEW: Mr. Rivers, what is definition of a flag officer? "All general and flag officers", it says.

V. RIVERS: It is a term that normally applies to the navy but we understood in general discussion we considered flag officers -- Mr. McLaughlin, did you care to answer that?

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: "Flag officer" is any officer of the naval forces of the states who is entitled to a personal flag or a personal salute. That would be a commodore, a rear admiral, a vice admiral, and an admiral of the fleet which would be the Haines-Chilkoot ferry. (Laughter)

PRESIDENT EGAN: Are there questions relating to Section 12? Mr. Armstrong.

ARMSTRONG: Mr. President, under Section 12, one question was raised in Juneau as to how many times the governor could call for martial law without having the approval of the majority of both houses. There was a question they asked at that point. We tried to explain it to them, but I did not read it in here. It says, "shall not continue for a period longer than 20 days without the approval..." Could he stop if off at 18 days and then call it again?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I believe that would have to lie on the interpretation of the intent, and it would be that the intent, I would gather, would be that he could call it once for 20 days, not to exceed 20 days, but that is a personal opinion. If there is a real need for martial law I presume by that time the national administration would have stepped in and taken over. That is a matter of opinion, also.

PRESIDENT EGAN: Are there questions relating to Section 13?

TAYLOR: Are we off of 12?

PRESIDENT EGAN: We are off 12 unless you have a question, Mr. Taylor.

TAYLOR: I just want to ask Mr. Rivers as to the thinking of the Committee in regard to Section 12. I ask where you have included certain circumstances or conditions under which martial law can be declared, then where you have enumerated them, you could not call them out in case of an emergency and it did not come under these but which they should be brought out. I was thinking that possibly that first sentence should be ended after the word "it" in the second line. Was that considered in the Committee?

V. RIVERS: Mr. President, answering that question, it was considered in the Committee at some considerable length, and at the present time for any emergency such as the nature we mentioned, the governor could very well call into action the National Guard for the emergencies of flood, fire, or an act of God, Nature, but the martial law we felt should be confined to the call by reason of rebellion or invasion. He has other powers at his disposal for the cases you mention. The thinking was he should not be allowed to declare martial law for anything other than those two.

BARR: It might be that there is someone here who doesn't understand what martial law is. I would like to point out that if martial law is declared, civil law is suspended. The military is in complete charge, complete control.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Does "imminent danger thereof" apply to rebellion both and invasion?

V. RIVERS: We had a rather extensive discussion on that "imminent danger thereof" the other day. As we discussed it, I thought of our clause in this section. I would say that it applies to "imminent danger of invasion" or "imminent danger of rebellion", that it modifies both the words "rebellion" and "invasion".

PRESIDENT EGAN: Are there questions relating to Section 13? Mr. Fischer.

V. FISCHER: Mr. President, excuse me for rising, but I did have an awful lot of notes on the margin. Is the third sentence necessary: "A commission or other body may be established by law to aid and advise the governor in the exercise of executive clemency."? This would be strictly an advisory type or established by law. It would appear to me that the legislature has the authority anyway to establish that. Is that necessary in the constitution?

V. RIVERS: Well, we have discussed that in Committee, and I have discussed it individually. Some hold that the final responsibility for all of the pardon power should lie directly in the governor. Others believe it should be spread out in an advisory body that would temper his decisions and perhaps control any abuse of the pardoning power. The Committee as a majority group felt that the language should be there, that the pardon board should be separate from any other process that the law might establish, or the parole board, or that they might be made a joint board if the law so desired. We felt it was a wording that would have value, indicating intent. Maybe some of the other members of the Committee would care to mention that discussion.

PRESIDENT EGAN: Does any other member of the Committee wish to be heard? Mr. Harris.

HARRIS: Since I was one that wanted to put "shall" instead of "may" in there, maybe I had better give some reasons. I think that particular sentence was put in at my request because I thought a parole board should definitely be established to aid and assist the governor because the governor himself is never going to be able to go out and get the facts. There are some states, I believe, that do not have parole boards, it is entirely left up to the governor, but my thinking was at the time that there should be a parole board established and rather than use the word that a parole board "shall" be established to aid and assist the governor, it was decided in Committee to use the word

2029

"may", but it was merely a matter of establishing the intent of the Committee that one would be established.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I think it goes beyond what Mr. Harris just said. If you say that the governor may grant pardons, commutations, and reprieves and may remit fines and forfeitures without any qualifications I don't think that the legislature could then create a board which would necessarily process the pardon applications and have any general effect upon the governor. This is giving the legislature the specific authority, notwithstanding the grant of the pardons power to the governor, to set up a board or commission to handle these applications and assist and aid the governor in making his decisions. So I believe that should stay in there; then the parole is an entirely different thing. The parole is something which the legislature could set without any particular mention, but this says the legislature "shall" set up a parole system.

PRESIDENT EGAN: Are there questions? Mr. Taylor.

TAYLOR: I don't have a question, but I have a remark along the same line that it is the governor that grants the parole, so I think that the word "parole" should go after the word "pardon" in the first line of that section. He can grant pardons, paroles, commutations, reprieves, and the governor now can at the present time grant a parole, he can grant a commutation, or he can grant a pardon.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, a parole is quite a different --

McCUTCHEON: Point of order, Mr. President.

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

McCUTCHEON: We are not discussing the merits or demerits of the thing. We are asking questions and opinions of the Committee.

PRESIDENT EGAN: That is right. Mrs. Hermann.

HERMANN: That's what I meant to do but I will still dispute Mr. Taylor's statement that the present governor can grant a parole; he cannot. I was on the pardon board for a good many years and understand that, but I think that that is necessary in there because parole is quite different from the other things that are mentioned up above and required the establishment of a board --

McCUTCHEON: Point of order, Mr. President. I insist that we are discussing the merits and principles here involved rather than asking for the opinions of the Committee.

PRESIDENT EGAN: Mr. McCutcheon, I believe that your point of order is well taken. Hereafter the members will ask the Committee members their opinions, and when we get to the debate we will do that when we come to the amendment procedure. Mr. Fischer.

V. FISCHER: Point of order, Mr. President. I think it is valuable if delegates do express their opinions. They certainly can do it in terms of questions, but the Committee has started the very desirable practice of going back into committee session and considering some of the ideas and opinions expressed on the floor, and if Mrs. Hermann can bring in a valid point I think it is worthwhile bringing it up instead of leaving it to future debate, which may take hours. In this case the Committee may decide one way or the other and just take care of the matter within minutes.

PRESIDENT EGAN: Mrs. Hermann, the Chair felt, was entirely within the jurisdiction inasmuch as Mr. Taylor raised the point, and Mrs. Hermann felt the point was not well stated, but whether or not we are going to have all the debate in this particular discussion, that is a question, or whether or not we are here to hear the reasons from the Committee members as to why the sections came into being. Are there questions relating to Section 14? Mr. Cooper.

COOPER: Mr. President, I have a question. I would like to know just a few of the boards or departments that this particular Section 14 includes. Say, for instance, at the present time.

PRESIDENT EGAN: Mr. Rivers:

V. RIVERS: Mr. President, in answering that question, I might first make a broad general statement that in effectuating the powers of a strong executive, as I stated before, we figured there was a need for flexibility. Under this we have set up, as you see, the possible, not more than 20 principal departments. In setting up those principal departments, it was also our thought that we could possibly under the state government eliminate as much as half or maybe more of the existing boards and incorporate them within the various departments under functional setups of each department. Now in the past, as a Territorial government, we have had no manner of expressing self-government except through boards. We have had no manner of having citizen participation in government except through boards. Consequently, we have had lots of boards established to much of the disgust of a good many of our members of the legislature and citizens; however, we feel that this manner of establishment will help eliminate a number of the boards. At the present time we have some

principal departments in government in the Territory. We have the Revenue Department; we have the Department of Fisheries, the Department of Labor, the Department of Mines, the Department of Health, the Department of Education. We also have divisions of Social Security under the Territorial statute. I believe that covers mainly the essential departments. Now it might well be that in establishing a department of mines, fisheries and things like that, they might all fall under separate department or division heads of the department of resources. I don't know what the final picture of state administration would look like. It seems to me that some of the functions I have mentioned would normally fall under one main head as a division of a main head rather than as a principal department.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Is it all right to go ahead to Section 16 because this has a direct bearing?

PRESIDENT EGAN: Yes, Mr. Cooper.

COOPER: It says, "The head of each principal department shall be a single executive, unless otherwise provided by law." Does that mean that then eventually literally everyone of these 20 principal departments which would be allowable with the make-up of same, would have to come from the legislature, isn't that right? In the event that it were more than one primary department head?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: We have provided for multiheaded departments in the next section, Section 17, which covers a board-headed department of which is possible to visualize there will be some, such as possibly the department of education, or the department of health or -- I just can't recall others that might fall into that branch, but we do provide for appointment of members to the multiheaded department if and when they are established by law.

COOPER: That was primarily what I had in mind, the department of education.

V. RIVERS: We covered that point after considerable discussion.

PRESIDENT EGAN: The Convention will stand at recess in order that the stenotypist and others may have a slight break.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the artists among us

once more that there will be a showing of art at the Traveler's Inn on Sunday. The Convention will come to order. Are there questions relating to Section 14? Mr. Hellenthal.

HELLENTHAL: Mr. President, a question for Mr. Rivers. Is it the intent of Section 14 to limit the number of boards to 20?

V. RIVERS: No, that applies only to principal departments, principal departments of government. At the present time I would imagine we have not over five that could be considered principal departments.

PRESIDENT EGAN: Are there other questions relating to Section 14? If not, are there questions relating to Section 15? To 16? Mr. Coghill.

COGHILL: Mr. President, in the executive article here on boards, I understand that through the conversation just a minute ago with Mr. Rivers and Mr. Cooper, that under Section 16 and relating to 17, that a department, such as the new state department of education, they could nominate a board, appoint a board by the consent of the senate and set up a board in that manner that they could provide for the executive offices. I also note that it is at the approval of the governor which comes right back to actually the governor approving it. My reason for asking this question, Mr. Rivers, is that in an administrative capacity such as the commissioner of education is, he should be answerable to a nonpartisan board. Has your Committee given that any thought?

V. RIVERS: Yes, we went into that quite thoroughly, Mr. President, and in connection with that we had a memorandum prepared showing the present setup under the Territorial law and in order to amplify on that, I think it would be best if I read it. With your permission I will. "Under Title 37, Article 1 of the 'Alaska Compiled Laws Annotated', the Territorial Board of Education, the Territorial Commissioner of Education, and local school boards are charged with administration of the public school system. The Territorial Board of Education consists of five members appointed by the Governor, one from each Judicial Division and one at large. These appointments are subject to approval by a majority of both houses of the legislature in joint session. The members serve for a term of six years which overlap. A board member may be removed by the Governor for certain specified causes, with the consent of a majority of the whole Board. The Board appoints and removes the Territorial Commissioner of Education and has broad powers over the policy and administration of the Educational system." Under the original proposal of the Committee we had, "All departments shall be single-headed departments, except as provided by law." That left the removal power of the multiheaded department in the hands of the governor. Under our revised

version here now the existing arrangement provided by law for educational administration could continue, except that the appointment of the commissioner of education by the board of education would require the approval of the governor. The department of education would of course be subject to reorganization by executive order of the governor as would any other agency of the government. Now it also provides that the removal power of this multiheaded board member would be, or rather the appointing power of the principal executive officer of such board would be subject to the approval of the governor before he was appointed. The general consensus of the Committee was that this covered quite well the desire of both the strong executive and the multiheaded department such as the department of education. Does that answer your question?

COGHILL: Yes, but, Mr. President, that answered my question in part, Mr. Rivers. It is then the thinking of the Committee that like the head of the department of education, although the governor would only be able to appoint say one or two members to that board when he becomes the governor, that he would have the power to remove, without just cause a good executive head of that board?

V. RIVERS: He would have both, yes. He would have the removal power of the board powers and also would have the removal power of the executive officer, subject of course no doubt to some considerable agreement with the board. He has the removal power now for certain causes with the approval of the board, as I read to you.

COGHILL: Do I get it right then that he has the power to remove all board members when he comes into office?

V. RIVERS: Mrs. Nordale, you might care to answer that.

NORDALE: He can remove the board members but the head of this multiheaded agency may be removed in the manner provided by law, which could provide for hearings and all sorts of things.

PRESIDENT EGAN: Mr. Walsh.

WALSH: May I ask a question, Mr. Rivers? I think to clarify this in the minds of several people here it might be well for me, that one of those serving on the Board of Regents of the University of Alaska, composed of eight members, and the Board of Regents select the president of the University. The governor, as I understand it, does not have the power of the removal of the president of the University. It is a matter for the Board. Would this situation change that, Mr. Rivers?

V. RIVERS: No, in regard to the University, this would not affect their present setup. They are a private corporation, or rather

a nonprofit corporation, and under the specific law providing for their make-up, and you would still have a board of regents appointed by the governor and confirmed by the legislature, and the powers as you now have them would be identical to what they now are as I visualize them.

WALSH: We still have the power to choose a president of the University?

V. RIVERS: Yes, this refers only to principal departments of government.

WALSH: There would be no change when this transformation takes place from the Territory to the State?

V. RIVERS: Unless it were made by law there would be no change, as I see it.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. Rivers, was it the thinking of the Committee that if all department heads were single it might save a lot of trouble in the capital city?

V. RIVERS: The interpretation of many English words has great duality of meaning in many cases. Of course, this one here is one of those things that you could put most any interpretation on. The interpretation if you want the serious definition of that single department head, it was that it would help effectuate and make more efficient the strong executive type of government in the executive branch.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, in Section 17, in what Mr. Walsh was referring to, it says that such a board or commission and the members have been appointed by the governor and then approved by the senate, "Such a board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the Governor." It has no provision in there whatsoever about the governor removing the executive head, but the procedure has been reversed; rather than the governor appointing this board and being confirmed by the senate, which it does down to a certain extent, and then letting the board have the choice of its executive, now all of a sudden the executive of this board has to be approved by the governor.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: That is correct. The approval power of the governor who is the strong executive head of the state would be required

before the commission could appoint and submit the name to the legislature for approval, but you also have to have the approval of the legislature, and in the case of judges you have a very similar situation under our new judiciary. The judicial council recommends a judge to the governor who makes a selection from two or more and then it is approved by the legislature. I see no variation in the method particularly.

PRESIDENT EGAN: Mr. Cooper.

COOPER: It does not say though that this executive officer is approved by the senate or any legislators. It is merely that the appointment shall be subject to the approval of the governor. There would be no appointment of a principal executive officer. There would be the appointment and the confirmation of the senate of the five members, that is what the board consisted of.

V. RIVERS: That's right. There would be no approval of the senate of the executive officer. I misstated, I was thinking of a board member.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Rivers, did you consider the use of the expression "administrative board" instead of "quasi-judicial body"?

V. RIVERS: Yes, we considered a great deal of terminology there -- regulatory boards, nonregulatory boards, administrative boards, quasi-judicial bodies, and we tried to arrive at the wording which would most nearly express the intent and "quasi-judicial" means one more board exercising powers as we visualize it, that are semijudicial in nature and have certain powers to make rules and certain powers to make rules and regulations that might have the force of law.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: You are getting into the field of administrative law then, aren't you?

V. RIVERS: I presume that is the right place to put this matter.

PRESIDENT EGAN: Mr. Smith:

SMITH: Mr. President, I would like to ask Mr. Rivers, I am still not quite clear on what the difference between a principal department with a single executive, what the difference between that and the principal department under a board or commission. Now possibly I can make myself clear by referring to the Alaska Department of Fisheries. If that department were set up without a board, then would you say it was a principal department and

would come under Section 16?

V. RIVERS: Well, it is a matter for the organizational setup of the state to decide what principal departments they are going to establish. As I stated before, we have a number of departments now headed up by boards where it might be eventually they will be single-headed departments. It is the hope of many that they will have such single-headed departments. I for one think the Department of Fisheries could probably and would qualify as a principal department, although it might well fall under a department of resources as one of the fields of that particular department.

SMITH: It would depend then on how the state organization was set up as to whether it would come under Section 16 or 17?

V. RIVERS: That is correct.

PRESIDENT EGAN: Are there other questions relating to Section 16? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to go back just one, and I would like to ask Mr. Rivers, what is the purpose of Section 15? Why is it necessary at all? We have provided that each department head shall be appointed by the governor. Why do we need to say that each department shall be under his supervision?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, the governor under this setup is charged with the executive responsibility of the management of the state. As I recall, to effectuate that we felt that the phraseology of the model constitution was important, that he actually be indicated as being the supervisory head of all the departments under him. I will pick out the wording for you, if I can. I don't find it just at the moment, Mr. President. I will locate it and bring it out for you and show it to you as soon as I am able to locate it.

PRESIDENT EGAN: Are there questions to Section 17? Mr. Ralph Rivers.

R. RIVERS: Mr. President, I would like to ask a question in regard to 17. I will start first by mentioning Section 15:

"Each principal department shall be under the supervision of the Governor." And then in Section 17 it says: "Wherever a board or commission is at the head of a principal department or of a regulatory or quasi-judicial body, the members thereof shall be nominated and appointed by the Governor..." etc. I am wondering if in the case of a department of education which had a school board made up of members confirmed by the legislature who in turn appoint a commissioner of education to administer the

school system. I think probably the department of education would be one of the principal departments, even though it had a board to carry out the program, I am wondering if the governor is really the supervisor of that kind of a department. I might go along with saying the general supervision of the governor, or such, but actually I don't think he would be running the University through the Board of Regents either. I think the regents would be running it, and I think the board of education would be running the department of education, and it would be a very vague supervision that the governor would have in a case like that, and I am just wondering if there is any inconsistency there.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: First, I would like to say that the University of Alaska is not a principal department of the government. It is something apart from this. And second, actually our present government is a very fine example of what can happen when a governor does not have any supervision over departments. I don't believe our present governor, if he sees a certain department of government that is wasting public funds, that is hiring a great deal of personnel that it does not need, he has no authority to go and say to the head of that department, "Now look, you had better reorganize this thing and operate it more efficiently." That is what we want the governor of the state to do, to be responsible for seeing to it that each department runs as efficiently and economically as possible, as well as carry out the laws.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: On the supervision of these various departments, it was the understanding and intent of the Committee that the governor could require reports, and if necessary, make investigations down in to the functioning of these departments as to whether they could be improved upon, and of course would naturally have to do the same with practically all departments. The report-making power requested by the governor and investigating power of the governor into the functioning of the departments is the main supervisory function he would have.

PRESIDENT EGAN: Mr. Emberg.

EMBERG: Mr. President, I would like to ask a question in regard to that Section 15. Does that relate to the ability of the governor then to supervise these different departments in such a way as to coordinate their activities?

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: The governor is the responsible executive to all the people for the proper functioning of these departments. This supervision power we mentioned would be a broad general power of investigating them and asking them for reports in regard to their functions and how they are performing, and perhaps even having them looked over by an efficiency expert to see if they could do their business in a better manner. That is about all that I would say the supervisory power consists of other than advising.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. Rivers, have you in your strong executive, have you looked over the other provisions of the other states to find out just how many of the states function as such toward the boards of education or the departments of education, departments of welfare or health? Do you have those figures?

MR. RIVERS: Not in their entirety. As you know, many of the state constitutions are very old and quite out of date. We did, however, go through all that we felt applied and we eliminated some of those older constitutions that did not apply. We tried to accept and take the best parts of the model constitution and some of the other constitutions that are designed along the strong executive, such as New Jersey and the recent amendment, and the Constitution for Hawaii. We did have the consultants in with us on this, and the general idea was to effectuate the strong executive. Now you must realize that the need for the strong executive did not become too apparent until the government began to grow more and more important in our social and economic affairs. That change began taking place along in the late 1920's. Since then until the present time need for effective government has pointed up the failures of the old state constitutions, so we studied as nearly as we could the failures of the old state constitutions to properly provide for an efficient executive department. In this we tried to adopt the items which would make ours effective and efficient. The precedent in the matter of the strong executive is rather limited.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: I would like to ask, Mr. Rivers, I note that in Section 16 for the single executive you have a qualification of citizenry and residency when the board or commission head of a principal department you do not require them to be citizens or residents. Is that the intent of the Committee?

V. RIVERS: The board or the commission would be established by law, and we presume they might have some requirements in the law, but that leaves it open to the legislature to make the decision on it.

PRESIDENT EGAN: Mr. Barr.

BARR: In Committee I assumed that this wording applied to all department heads, including a board. It says the heads of all principal departments appointed shall be citizens. Elsewhere here it stated that heads of departments shall be a single head or a board. The board is the head of the department. Therefore, they should be citizens too. That is the way I read it.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: My thought, my doubt, Mr. President, was presented by the fact that in Section 16, in the last sentence it says that: "The heads of all principal departments appointed under the provisions of this section..." That is apparently Section 16.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Would the Committee have any objection to the substitution of the word "article" for "section" in line 23, page 7?

V. RIVERS: I can't speak for the Committee on that, we would have to discuss it. I for one would prefer to see the statute provided rather than the constitution provide for board member qualifications.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. Rivers, do you think that in the event you set up a rather technical department of some kind that this provision requiring a three-year residence would be a restricting limitation on the governor and might prevent him from getting a qualified person?

V. RIVERS: Mr. President, in answering that, I would say that all principals of principal departments of government are quite broad general administrative departments. They are not departments which have special technical men at their head and men who must have a broad administrative ability in a particular field, such as education, but I and a majority of the Committee members felt that they should also have an assured knowledge of Alaska, Alaska's people and Alaska's conditions, so we speak here of only principal department heads. We do not feel this forecloses those departments from obtaining the services of any of the best experts that they might need or desire.

BUCKALEW: Mr. Rivers, as a matter of fact, don't you think an elective governor would always take an Alaskan if he was qualified?

V. RIVERS: It is a matter of conjecture. He might or might not. However, in this case we felt that any member of the

government in a policy-making position, broad administrative policy-making position should have certain requirements of residence, and these were the ones that the Committee by majority voted to adopt.

PRESIDENT EGAN: Mr. King.

KING: Mr. President, may I address a question to Mr. Rivers?

PRESIDENT EGAN: You may, Mr. King.

KING: Mr. Rivers, Section 15, would this preclude the establishment of commissions, such as a game commission or commission for resources?

V. RIVERS: No, we specifically do not exclude them, we specifically include them under Section 17: "Wherever a board or commission is at the head of a principal department..." It could be a principal department and still be headed by a multiheaded department.

KING: One more question, Mr. Rivers. Then, the commission then has very little authority as I can see it because here it provides that, "The head of each principal department shall be a single executive", and further, "Such single executive shall be nominated and appointed by the governor...", etc. In other words, the governor does not have to go to the commission; he can appoint the executive under this commission himself?

V. RIVERS: No, it says, "Such a board or commission may appoint a principal executive officer when authorized by law..."

KING: And the governor can remove this director?

V. RIVERS: No, the governor cannot remove that director, but the appointment shall be subject to the approval of the governor, and that is only in the principal departments of government. It might well be that the department you are speaking of would be a principal department; then whoever would be appointed would have to have his approval, but they may appoint with his approval.

LONDBORG: For the record on Section 17, Mr. Rivers, if I may address him, "Such a board or commission may appoint a principal executive officer when authorized by law..." Then it mentions that the appointment shall be subject to the approval of the governor. Does the governor have the right to remove that particular principal executive officer?

V. RIVERS: I want to correct a statement I made previously in that regard. He would not have the power to remove unless the legislative act so provided. It establishes this commission by

law. The constitution sets up his approval of the appointment but unless the rules of the commission he established or the law which established it, give him some definite powers of removal, as I interpret this, he would not have the power of removal.

LONDBORG: Unless the law would specifically give him that power this principal executive officer when appointed with his approval would be subject to removal by the board then, or whatever the law would state.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: In this particular instance, the fact that it is subject to the approval of the governor does not seem to me to be a stumbling block. It is a little comparable to the governor's veto. It would be only if a man appointed by his own board were particularly objectionable in some respects that he would probably enter objection at this point.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I believe Mrs. Nordale was looking at me when she was speaking. I was wondering, I was not referring to the appointment but rather to the removal to make it understandable that the governor would not just usurp his political power and remove someone to get in one of his own, make it a political deal on that. Just so we had it clear.

PRESIDENT EGAN: Mr. Cooper.

COOPER: I would like to ask a question of Mrs. Nordale. The principal executive officer then would be the one that would be, in effect, that particular officer would be serving at all times? In other words, he would be the department head officiating the action? The board would advise. They could meet over certain periods of time but this principal executive officer would be constantly on the job and as such, having been approved by the governor, would have the steady job. I am not saying exactly what I mean.

NORDALE: Maybe I can clarify it. It seems to me we are setting up principal departments, no more than 20. Most of them we hope will be single executives, but there may be departments that are headed by a group of people. Now that is the head of the department, and they are the ones that operate the department. Now then, they appoint, if the law provides that they may, they appoint an executive officer who carries out their policies. The executive officer is set up by law, but the head of this multiheaded department is in the same position as the singleheaded department. The rest of it is set up by law.

COOPER: In other words, the principal executive officer is the acting manager, so to speak, of this department?

NORDALE: That is right, but he does just what the head tells him.

COOPER: The board then would be only acting in an advisory capacity, so to speak?

NORDALE: No, it would be the head of the department. There might be advisory boards in other departments if the law provides it.

COOPER: That is where I'm not exactly clear. You have a five-man board for the department of education. Now is that five-man board, are they going to be constantly on the job?

NORDALE: No, not necessarily. It is like a board of a corporation and a president.

COOPER: Out of this board that is nominated and appointed by the governor, which the senate approves, then only the governor has the right to approve the executive head?

NORDALE: He approves it after his board presents it.

COOPER: By that I understand then that the governor certainly has the right to reject any and all with the exception of one of this board.

V. RIVERS: No, in most cases, Mr. President --

GRAY: Mr. President, I would like a two-minute recess. Maybe we can explain that.

PRESIDENT EGAN: The Convention is at recess for two minutes.

RECESS

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

COGHILL: Mr. President, as soon as Mr. Rivers gets to the seat, may I ask him a question. Mr. Rivers, one thing that I think I have heard two answers that you have given on a subject here, and that is on your Section 17 regarding the board appointing and who removes that executive officer. If we establish a board of education under this which the governor will appoint those board members, they will be ratified by the senate, then they in turn will meet and they will appoint their chief executive officer. The only difference between your provision and the Hawaiian provision is that there is no approval or rejection by the governor.

The Hawaiian board of education has full reign as our board today has, but does the governor have the power under your act to remove the chief executive officer or does he have to instruct his board to do so?

V. RIVERS: Under this constitutional clause the governor would have no power of removal, but it might possibly be in the statute which set up the board, where it is right now in fact.

COGHILL: Mr. President, may I clarify my reason why I am asking that? It is because we have to have the permission of the chief executive of the board, he has to be answerable to somebody, and it is to the board that is appointed from around the state. That is the reason why I am so concerned.

V. RIVERS: I can assure you there is no intent on the part of this article that the governor should remove the principal executive officer when appointed by the board and appointed with his approval.

BARR: Mr. President, Mr. Coghill's chief concern is to keep the board of education out of politics and not have the director removed for any political reason, and I believe that we provided for that all right in this report. That was our thought, too, and of course we at the same time wanted this board of education, shall I call it, or commission, to be one of the principal departments and to be responsible to the governor under his supervision, but the governor, we assume, will leave all of the details to the commission, and we only wanted an approval of the governor on appointment of the commissioner of education, so it would keep him under the governor as one of his department heads, one of his assistants, one of his group, his administration. There was no thought of removing him or allowing him to be removed for political reasons.

PRESIDENT EGAN: Mr. Cooper.

COOPER: If the governor can't remove him, why must the principal executive officer then be subjected to the approval of the governor in the original case? What was the reason behind that?

PRESIDENT EGAN: Mr. Harris.

HARRIS: Mr. President, the main reason behind that, Mr. Cooper, is the fact that he can't remove him and he would like to have somebody in there he can get along with and work with just as the president of any corporation would like to have people working with him and under him, the people he can get along with and work with. That is the reason for the approval of the governor. While I am on my feet, Mr. Coghill made the statement "with the approval of the senate". It is not with the approval of the

senate as we have it set up. It is with the approval of the legislature in joint session, and I'll make an explanation of that also. The reason for the legislature in joint session making the approval is the senate being 20 people, and if there were say, 20 appointments to be made for different boards, they would sit down and slice it up like a piece of pie and say, "I'll appoint my man here and you appoint your man there and if the governor wants the approval of the senate, he'll have to make these appointments." Therefore we have both of them in joint session so it would be the governor's selection and not the senate's or house's selection.

PRESIDENT EGAN: Are there questions with relation to Section 18? Mr. Hellenthal.

HELLENTHAL: Point of information. How do you call, "No further question"?

PRESIDENT EGAN: Whenever the body wishes to proceed to the amendment procedure. Mr. Nerland.

NERLAND: Mr. President, may I revert to Section 6 and ask Mr. Victor Rivers a question?

PRESIDENT EGAN: If there is no objection you may revert to Section 6 and you may ask a question of Mr. Victor Rivers.

NERLAND: Mr. Rivers, I believe it is conceivable that such a situation as this might arise in regard to the secretary of state: in one party's primary or both parties for that matter, there may be two candidates for governor. There might possibly be one person who would be a logical choice for secretary of state and he might go to these two candidates for governor and say, "Now I have no quarrel with you or with the other man, why don't you both put me on your ticket?" That could result in the people not having the choice for the secretary of state. Does your Committee contemplate any remedy for that situation or do you think a remedy is necessary?

V. RIVERS: That could come down to whether or not we set up any method of nomination in this article. The method of nomination would doubtless control that. Now, if we select, as was discussed here, the manner of nominating by popular ballot and then the two high men go in as governor and secretary of state, that would automatically be eliminated. The number of votes would determine who was nominated. It was pointed out to us during the noon meeting that it would probably be very unwise to pinpoint in the constitutional section here a method of conducting elections such as set up that the primary shall do this or that. There might not always be a primary. There might be some time when nominating conventions will be reverted to as

they are in some states. So if we pinpointed the matter of a primary in this thing, we might then pin down the type of the nominating elections we would have in the state for all time to come. It did not seem to me that we should do that in the constitution, so in direct answer to your question, it all hinges up on how the primary nominations are made as to whether that condition could occur.

NERLAND: Do you think some provision should be made some place to avoid such a complication?

V. RIVERS: The election procedure prescribed by law is the terminology used in this line, and I think it would then be left up to the legislature to make a fair and just manner of nominating these individuals so they could run on a joint ballot.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, Mr. Rivers, do you honestly think, I am referring to Section 16, that the governor of Alaska, if this three-year provision was in existence today, do you think he could fill the position of Commissioner of Health?

V. RIVERS: I might answer that by adding that in filling the position of the Commissioner of Health by a man who had been in Alaska for some 12 years at the time he was appointed -- I refer to Dr. Albrecht. Prior to that time we had Dr. Council who had been in the Territory for some 24 years, and who was our Commissioner of Health. I think that of the some 42 doctors in the Anchorage area and perhaps 30 or 40 here plus those in the Southeastern end, he would have no trouble in filling the Commissioner of Health's appointment.

BUCKALEW: Mr. Rivers, would it shake your confidence in your article if I told you that I attended a medical convention and I talked to every doctor there and there was not one of them that would take the job?

V. RIVERS: There are a number of men in different fields of medical practice, some of them are in general practice and others in specialized fields, and others in the field of public health. In this Territory of Alaska we do have some men like that available. There are a number of men who have been city health officials who are engaged in that field part time. There are other men in the medical field who are engaged in that job full time. We have men associated with different agencies of government and we have other secondary men in the Department of Health who are creating the necessary experience in the Alaska field who would be qualified for such an appointment. I for one have no fear that in the general administrative heads of these principal departments we could not find someone who both knew his

business and also knew the Territory and its people.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: Mr. President, I notice that in the letter of transmittal to the President it mentions that Proposal No. 15 as being outside the terms of reference and not included in this and says it should be referred to another committee for consideration. I wondered what committee that had been referred to.

PRESIDENT EGAN: What was Committee Proposal No. 15?

HERMANN: Proposal by Mr. Smith that all the provisions of the constitution would be mandatory.

PRESIDENT EGAN: Would they have referred it to the Ordinance Committee, Mr. Rivers?

V. RIVERS: I don't remember, but our secretary has the minutes upstairs if you want it looked up.

PRESIDENT EGAN: I don't think that is necessary right at this moment, Mr. Kilcher.

KILCHER: Mr. President, in mentioning quasi-judicial boards in one place, don't you think mentioning that in the constitution would be sanctioning forever quasi-judicial boards, and don't you think that it is possible to solve all the problems that occasionally are solved by these quasi-judicial boards in a different manner, to split the duties between the executive and the judiciary as we have it? It is a vital question that has come up, and I wonder if the board has given it any special consideration.

V. RIVERS: Mr. Kilcher, consideration was given to the different types of boards, regulatory, administrative, and quasi-judicial. There seems among some of the delegates to be considerable opposition, or rather I should say, question as to the interpretation of the term "quasi-judicial", and it seems to be a point of some controversy. If that field of boards could be covered by another equally expressive term or more expressive term, I feel that possibly it should be, but in the lack of any other such term for that group of boards we felt that this one did cover it, "quasi-judicial".

KILCHER: Since "quasi-judicial" seems to have a fairly concise connotation, has the question come up whether they are desirable or not, and if they possibly were not desirable, if they could be prohibited in the constitution?

V. RIVERS: Well, there is nothing here that says any board, regulatory, quasi-judicial, or administrative must be established. It merely creates the authority for the legislature and defines the certain restrictions if such boards are established by law, so we make nothing mandatory in regard to establishment of quasi-judicial boards. That would be up to the legislature in making the law.

POULSEN: I move for a 15-minute recess.

PRESIDENT EGAN: Mr. Poulsen moves that the Convention stand at recess until 3:50. If there is no objection, the Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. We now have before us Committee Proposal No. 10a in second reading and open to amendment. We will start with Section 1 for the purposes of amendment. Are there amendments to Section 1? Does anyone have an amendment to propose for Section 1 of Committee Proposal No. 10a? Section 2? Are there amendments to be proposed to Section 2? Mr. White.

WHITE: I have an amendment.

PRESIDENT EGAN: You may present your amendment, Mr. White.

WHITE: I think maybe I had better present it in two parts.

V. RIVERS: Before you take up that amendment, there are two minor committee amendments which I mentioned in the discussion. I would like to bring them to the attention of the body.

PRESIDENT EGAN: The Chairman of the Committee asks that the committee amendments be considered first. If there is no objection that is the manner in which we will proceed. The Sergeant at Arms will please bring the amendments forward. The Chief Clerk will please read the first proposed committee amendment.

CHIEF CLERK: "Page 1, line 11, place a period after the word 'governor' and strike the balance of the section."

BUCKALEW: Please read it again.

CHIEF CLERK: "Page 1, line 11, place a period after the word 'governor' and strike the balance of the section."

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

V. RIVERS: I will move and ask unanimous consent and I might say that that strikes all of the matter in relation to the solution of contested elections or tie votes. As I stated in the discussion, the intent of that motion was that Style and Drafting would include under suffrage and elections a general clause that would cover the matter of settling contested elections or tie votes, so we accede to this amendment on that grounds. I ask unanimous consent, and move the adoption.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent that the proposed amendment be adopted. Mr. Fischer.

V. FISCHER: I would like to bring a point of order. I don't think Style and Drafting has the authority to put anything into the constitution, Mr. President.

V. RIVERS: We discussed that and suffrage and elections is in second reading, but it will not come up for final vote, and it was brought out in Committee that if we desire to discuss this amendment into it at that time we would have to do so at a two-thirds majority under suspension of the rules.

PRESIDENT EGAN: Is there objection to adoption of the proposed amendment? Hearing no objection the proposed amendment is ordered adopted. Are there other amendments to be offered by the Committee? The Chief Clerk may please read the amendment as offered by Mr. White.

CHIEF CLERK: "Section 2, page 1, lines 4 and 5, strike the words 'and shall have been for at least twenty years'."

WHITE: I move the adoption of the amendment.

BUCKALEW: I second it.

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

CHIEF CLERK: "Section 2, page 1, lines 4 and 5, strike the words 'and shall have been for at least twenty years'."

WHITE: Mr. President, I don't feel it is a terribly important matter. I point out to begin with that the President of the United States has only to be a citizen of the United States for 14 years to qualify, so I did feel this was a little high.

McCUTCHEON: He has to be born in the United States.

WHITE: I beg your pardon. I feel we should set up as few barriers as possible throughout this constitution to service the people of the State of Alaska and that citizenship in the United States for a number of years is not a very necessary qualification for a governor of the State of Alaska. I feel he would be subject to election by the people of the state, and

that in reference to citizenship in the United States, his qualifications should be obvious or not obvious. I don't think it has much bearing on whether or not he would make a good governor for the State of Alaska -- a resident of the state and some minimum residence requirement yes, but I see no reason for the 20 years as a citizen of the United States.

McNEALY: Point of inquiry, do we have anything before us?

PRESIDENT EGAN: We have the amendment as proposed by Mr. White. The Chair would like to inquire if the Chair may, now in the discussion that was held here previously, there is a difference between a citizen of the United States and a citizen of the state. It might be well if we did get together on it.

V. RIVERS: We had some discussion on that and I read an article from the United States Constitution handbook on it. There is some difference based generally upon the residency as was stated in there and the Committee discussed whether or not to include the words "a citizen of this state" and we did not elect to do so. However, we believe it will be moved on the floor and discussed further by one of the delegates.

WHITE: Mr. President, I meant to add that 27 states have no number of years specified as a United States citizen for their governors, only two have as much as 20 years, and the others range on down to two years, but 27 states specify no period of years.

LONDGORG: Mr. President, I believe one of the reasons for the Committee putting this in is the fact of our isolation from the United States, and the fact that a person could come directly over here from another country, and it might add to their familiarity with the American way of government if they had that requirement.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I want to recall to all of you that the Chairman of our Committee said that any member of the Committee who did not agree might feel perfectly free to express himself on the floor. This is a provision that I was opposed to right from the beginning because I never felt that anyone should have had to take out citizenship papers 20 years ago in order to be eligible to be governor of the State of Alaska. There are people who might come from Canada who are very familiar with us and our language and so on, and if they have lived in Alaska for seven years, I don't see why we should have to put in this requirement, personally.

FISCHER: Mr. President, the only thing I'd like to say is that I really don't think we will ever have a governor who has not been a United States citizen for 20 years, probably 30 or 40

years. I am opposed to this kind of provision because I don't think it is needed and in any case it is up to the people of Alaska, voting to express their preference whether they want a person who they feel is qualified, whether he has been a citizen for 19 years or 20 years or 50 years.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I ask Mr. Rivers a question? Is it not true in the early history of the Territory there was a governor who was not a citizen of the United States?

V. RIVERS: Yes, we had a governor of Alaska who was not a citizen of the United States, a Governor Strong, a Canadian citizen. He was appointed.

PRESIDENT EGAN: Mr. Hilscher.

HILSCHER: That was the point that I want to establish -- Alaskans have no control over that situation.

V. RIVERS: Mr. President, I will yield to anyone who wants to discuss it further. I'd like to make a few remarks in closing.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: My principal objection to this provision is that it looks like it's admission against entrance. It would appear that the people of Alaska ought to be directed in their selection, like we would not have enough sense to select someone who would know what was going on. You would think there would be danger of electing some foreigner for example. I think there is no reason at all for it because the people are going to vote and they are going to use their own good judgment. I think it is an unreasonable restriction and meaningless.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I agree that the people probably would not elect a man who was not a citizen or even one who had been here only a short time, but language such as this would keep him from filing and confusing the issue and taking votes away from another candidate. Now I believe that the highest position in our state government, as an elector I should want a man of great ability there, but I also would want a man who would represent us, we citizens of the United States and the State of Alaska, so I believe that it is also an honorary position, and it seems to me he should have been a citizen for some time, I wouldn't say 20 years, but I would say for some time.

WHITE: If I may answer two things that have been said. Two speakers have referred to the fact that the candidate for governor should be a citizen. I want to point out the language does not strike the qualification that he must be a citizen, it only strikes the words "twenty years".

V. RIVERS: It seems to me an amendment of this kind expresses a certain desire on the part of some members to be and appear to be quite liberal, and I don't entirely disagree with that field of thinking. However, the purpose of taking out citizenship or having citizenship for a certain length of time is, as I see it, merely to insure certain things, to insure that the individual in question is familiar with our philosophy, familiar with and approves of our institutions and is familiar and advocates our type of ideology. It seems to me that it's basic that the very act of taking out the citizenship paper means little except that he has been here that long and he has become acquainted with things which we stand for, the things we believe in, and the things we want to continue in our form of government. It is a very mild form of insurance I believe in having such a clause that we do provide and insure certain things in certain backgrounds in the persons whom we allow to file for public office, where he is directing the affairs of our people and the government of our people. I would not say that 20 years is an ideal number, or anything wrong with it. I think in 20 years the average person could become quite well-acquainted with American institutions and American ideals. It seems to me that maybe ten years would cover that period of time, but to strike the clause altogether does not appear to me to be consistent with the things that we believe in and that we stand for and want in our government and the people who run it.

PRESIDENT EGAN: Mr. McCutcheon.

McCUTCHEON: Point of order, Mr. President. Mr. Rivers yielded a little bit ago to permit others who had something to say, so that he could close the argument.

PRESIDENT EGAN: Mr. Rivers did not make the motion.

V. RIVERS: I made a mistake. I was not the mover.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I had intended to enter this argument honestly, but I have some figures here that the delegates should well consider before they vote, so they can vote intelligently. Please, will the Clerk first read the amendment.

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

CHIEF CLERK: "Section 2, page 1, lines 4 and 5, strike the words 'and shall have been for at least twenty years'."

KILCHER: Mr. President, I had, without conferring with Mr. White, an identical amendment, that is, almost identical. I did not strike "and shall have been" which would have left it seven years a resident. If you don't strike "and shall have been", it would leave seven years of residence citizenship. However, I am not sure whether I should introduce an amendment to Mr. White's amendment. The argument would be the same, so I think I'll argue in favor of his amendment, and if it fails, I will bring this up later. A man that becomes a citizen of the United States in Alaska as a rule has been in this territory, state or country more than five years. Only if he marries a citizen is it three years. It is more than five years, and often a man, even if he comes directly to Alaska from overseas, be it Canada, England or another part of Europe, I don't think it is a detriment that he has not been in the United States before. I think Alaska is as good, possibly a better place than many of the states, to get acquainted with the philosophy that Mr. Rivers has mentioned awhile ago of American government and the American way of life. I think it applies to me. If you consider that a man comes here in the first place, if he comes to Alaska directly or the states it indicates that he has a liking and a knowledge of the country before he gets here, and he senses an affinity, and the fact that he has been here five years and it still implies that he has been a resident of Alaska seven years, so he certainly has been in Alaska seven years. I think the man certainly should not be barred from becoming governor if he is so capable to climb the political ladder to a point where he is approved by the parties, he should also be given a chance to be approved by the people and chosen, if the people see fit.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. White 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: 29 - Armstrong, Awes, Buckalew, Cooper, Davis, Doogan, Emberg, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Lee, McLaughlin, McNealy, Marston, Nordale, Poulsen, Reader, Riley, R. Rivers, Stewart, Sundborg, White, Wien, Mr. President.

Nays: 25 - Barr, Boswell, Coghill, Collins, Cross, H. Fischer, Harris, Johnson, King, Knight, Laws, Londborg, McCutcheon, McNees, Metcalf, Nerland,

Nolan, Peratrovich, V. Rivers, Robertson, Rosswog,
Smith, Sweeney, Taylor, Walsh.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 29 yeas, 25 nays, and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the proposed amendment is ordered adopted. Mr. Robertson.

ROBERTSON: Mr. President, I have an amendment on the table, I think. I misunderstood -- I thought the Committee would put the amendment in, my amendment which I will make orally: Section 2, line 3; after the word "be" insert the words "a citizen of this state". I so move, Mr. President.

PRESIDENT EGAN: Mr. Robertson moves and asks unanimous consent that his proposed amendment be adopted.

BUCKALEW: Objection.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Robertson.

ROBERTSON: Mr. President, in the propounding of questions this morning, the Chairman, Mr. Victor Rivers and his Committee, and also in talking to Delegate Nordale, I had understood that the Committee itself was going to put in that amendment along with the committee amendments, but I submit, as Mr. Rivers read this morning from the book on the Constitution, that there is a dual citizenship; a person living today in Alaska -- we are not citizens of Alaska -- we are residents of Alaska and citizens of the United States. When we become a state, we will be citizens of Alaska; we will also be citizens of the United States. A citizen of a state necessarily must be a citizen of the United States, but a citizen of the United States does not necessarily have to be a citizen of any particular state, and that is the very reason as I mentioned this morning why we have the provision for the diversity of citizenship suits in the federal district court. Some years ago I brought a suit in the federal district court in Portland, Oregon, for a resident of Alaska who was a trustee in bankruptcy. My opponent challenged the jurisdiction of my suit on that very ground but fortunately he was trustee of a Washington corporation. Therefore, the court held that I was entitled to bring the suit, because there was a diversity of citizenship, in the federal district court of Portland, Oregon. A person might reside in Alaska for 10, 15, or 20 years and never become a citizen of Alaska. They can still retain their citizenship in Iowa, Nebraska, Washington, or wherever they

come from. Citizenship is required when you commence to participate in those things that citizens become. It is true, taking up your residency and exercising those rights such as the right of suffrage makes you a citizen of the State of Alaska, and I submit, it is very important that we have the governor specifically qualified as a citizen of our new state, and I hope that the amendment carries.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, if I have it right, the proposed language is placed after "shall be" in line 3. I would like to ask Mr. Robertson a question then if I may. I am wondering why it is placed at that point, Mr. Robertson, rather than in line 5 after the "United States". Is there any reason for it?

ROBERTSON: There would not be now, Mr. Davis, since Mr. White's motion carried. It could be inserted just as well after "a citizen of the United States and of this state".

DAVIS: I am wondering if it would not read better if you would move it down to that place.

PRESIDENT EGAN: Would you ask unanimous consent to withdraw the amendment and then submit it again?

ROBERTSON: I move that I withdraw the amendment and add it to line 5 by deleting the comma, and adding the words "and of this state".

PRESIDENT EGAN: Mr. Robertson asks unanimous consent that his original proposed amendment be withdrawn. Is there objection? Now he has moved that the proposed amendment be inserted after the words "United States" in line 5.

ROBERTSON: Just the words "and of this state".

PRESIDENT EGAN: The words "and of this state" be added. Is there a second to the motion?

TAYLOR: I second the motion and ask unanimous consent.

LEE: I object.

PRESIDENT EGAN: Miss Awes.

AWES: As I understand it, Mr. Robertson intends that the man must show three things -- that he is a citizen of the United States, a citizen of Alaska, and also a resident of Alaska. Is that right?

ROBERTSON: Yes.

AWES: Of course, when you get in this question of residence, it is one of the most complicated problems in the law, but I think used in this way that residence would be interpreted by the courts to being domiciled in the state. I think that is practically the same as being a citizen. I think the language is unnecessary.

ROBERTSON: I am unable to accept Miss Awes' theory that any court has held that domicile constitutes citizenship. It is true generally that citizens are domiciled in the state wherein they are citizens, but I submit that neither residence nor domicile makes you a citizen, you have to go further than that.

PRESIDENT EGAN: Mr. Lee.

LEE: May I address a question to Mr. Robertson?

PRESIDENT EGAN: If there is no objection, Mr. Lee.

LEE: My objection is based upon this fact that I have the Constitution of the State of Hawaii here and the Constitution of New Jersey, two of the most modern state constitutions, and each of these have language identical to that used in the original article proposed by the Committee. If it is so important, could you explain to me why they left it out in these two instances?

ROBERTSON: I can't explain that to you, Mr. Lee. I don't know why that is. It seems to me that it is a great mistake to omit it. In the Constitution of Hawaii it may not have occurred to them.

HELLENTHAL: Mr. President, I can answer the question for Hawaii. Hawaii says that in order to be a qualified voter you have to be a citizen of the United States. It says in order to be governor you must be a qualified voter, so in Hawaii you must be a citizen in order to be a voter. Wait, I am mistaken; I have that on United States citizenship. I withdraw that.

AWES: Mr. President, may I ask Mr. Robertson a question?

PRESIDENT EGAN: You may, Miss Awes.

AWES: It is simple to prove you are a citizen of the United States, you are either born in this country or you have a piece of paper. How do you prove you are a citizen of the state if someone challenges you on that point?

ROBERTSON: You become a citizen of a particular state when you begin to exercise the rights to citizenship. For instance, voting -- that is a right of citizenship. Of course, you might never vote and you might still be able to maintain citizenship, but residence alone does not necessarily make you a citizen,

and the only qualification here as to your relationship to the State of Alaska is being a resident of the State of Alaska, that is not necessarily as a citizen of the State of Alaska.

AWES: I think our article on voting, suffrage and elections, says that in order to qualify as a voter you shall be a resident. It seems to me only confusing to drag in another term.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: I know of a number of people myself that have lived in the Territory for five, six, or seven years and have always claimed their residence in the state from which they came. They have so signed citizenship and so signed papers to that effect. That is the reason I thought it should be in there. I know of a number of men who were in the Signal Corps the same way, they have always claimed their citizenship elsewhere while living in the Territory five, six, or seven years.

V. FISCHER: May we have a two-minute recess, please?

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

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair was wondering if it might be wise in this instance to save time to appoint a subcommittee consisting of the Chairman of the Committee, Mr. Victor Rivers, Mr. Robertson, and Mr. McLaughlin to see if they can resolve this question as to whether or not the word "resident" adequately covers this problem.

ROBERTSON: I will eliminate all the delay. I will withdraw with unanimous consent, I will withdraw my suggested amendment.

V. RIVERS: I will object for a minute. I will explain my objection. The way we now have it, I understand that if the "citizen of the state" clause goes in, the "citizen of the state" carries along with it the "citizenship of the United States for seven years", as I interpret this. As we now have it with the 20 year citizenship of the United States stricken, an individual could come into the Territory of Alaska, take up residence and in five years receive papers and two years later file for the governorship of Alaska. I don't say that would happen, I say it could happen, so I believe that if this seven-year clause goes in the citizenship of the state naturally requires that he also be a citizen of the United States. For that reason alone, to defeat the possibility I have just mentioned, I would probably favor the insertion of this "seven years a citizen of this state"

because that would carry along with it the seven-year automatic clause of United States citizenship.

PRESIDENT EGAN: Mr. Davis.

DAVIS: It does not say anything about seven-year citizenship in the state under the proposed amendment. The proposed amendment is at the end of line 5.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I would move the adoption of an amendment providing for seven years as a citizen of the United States. The amendment is on the desk.

PRESIDENT EGAN: Mr. Robertson had asked unanimous consent that his proposed amendment be withdrawn. Is there objection?

HELLENTHAL: I object.

V. RIVERS: I will withdraw my objection.

HELLENTHAL: I object and move the adoption of the amendment.

PRESIDENT EGAN: It has been moved and seconded. Mr. Robertson.

ROBERTSON: I will state the reason of my withdrawing. During the recess Miss Awes showed me that amendment which is in the Constitution, the Fourteenth Amendment, which on quick reading of it indicates to me that a citizen of the United States becomes a citizen of the state wherein he resides, so apparently it is already covered if he is a citizen of the United States and resides here.

PRESIDENT EGAN: Is there still objection to Mr. Robertson's unanimous consent request?

HELLENTHAL: As a point of information, I have checked the New Jersey Constitution and the Hawaii Constitution, and in the New Jersey Constitution in Section 1, Roman numeral I, paragraph 3, refers to "any citizen and resident of this state". The Hawaii Constitution, in Section 7 of the transitional provisions, refer to "requirements as to residence, citizenship or other status or qualifications in or under the state", so both of them, Hawaii to perhaps a lesser degree, but both of these state constitutions do recognize state citizenship, and recognition should be given to it in our constitution.

PRESIDENT EGAN: Objection is heard. We have before us Mr. Robertson's proposed motion. The question is, "Shall the proposed amendment as offered by Mr. Robertson be adopted by the

Convention?" All those in favor of adopting 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: 35 - Armstrong, Barr, Boswell, Collins, Cross, Davis, Emberg, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Londborg, McCutcheon, McNealy, McNees, Metcalf, Nolan, Nordale, Peratrovich, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Sweeney, Wien.

Nays: 19 - Awes, Buckalew, Coghill, Cooper, Doogan, V. Fischer, Gray, Lee, McLaughlin, Marston, Nerland, Poulsen, Riley, Stewart, Sundborg, Taylor, Walsh, White, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 35 yeas, 19 nays and 1 absent.

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

BUCKALEW: I think the question before the body was whether he should be allowed to withdraw the amendment.

PRESIDENT EGAN: The question was, "Shall the amendment be adopted?"

UNIDENTIFIED DELEGATE: What was the vote on that?

CHIEF CLERK: 35 yeas, 19 nays and one absent.

PRESIDENT EGAN: Mr. Robertson asked unanimous consent that his proposed amendment be withdrawn. Mr. Hellenthal objected and there was no motion made by Mr. Robertson or anyone else to withdraw the amendment. The Chair stated that the proposed amendment as offered by Mr. Robertson be adopted by the Convention. Mr. Taylor.

TAYLOR: I now offer my amendment to Section 2.

WHITE: Point of order. My original amendment was all on one page. I asked when I presented it that it be presented in two parts.

PRESIDENT EGAN: Mr. White, you are correct. At the time, some time ago when you offered your amendment you did state that,

when you offered your first amendment. That is correct. Mr. Taylor, the Chair would have to adhere to the point of order raised by Mr. White. The Chief Clerk may read the other part of the proposed amendment as offered by Mr. White.

CHIEF CLERK: "Section 2, line 6, page 1, strike the word 'seven' and insert in lieu thereof the word 'five'."

WHITE: I move the adoption of the amendment.

COGHILL: I object.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: I doubt if this amendment -- I think it is in conflict with the section, after Mr. Robertson's amendment has passed, I think it is in conflict.

PRESIDENT EGAN: It is not, no.

KILCHER: How can you be a citizen of a state for seven years and not be a resident?

PRESIDENT EGAN: There is no other seven years mentioned in this section.

KILCHER: But doesn't Mr. Robertson's amendment state "citizen of the state"?

PRESIDENT EGAN: No, it does not. There is no point of order there. Mr. Taylor.

TAYLOR: Mr. President, I am going to rise to the point of order. I believe I made the first motion for the passage of the motion.

PRESIDENT EGAN: What motion, Mr. Taylor? I mean what amendment?

TAYLOR: The amendment to provide for seven years as a citizen of the United States had nothing to do with Mr. White's and I moved the adoption of it.

PRESIDENT EGAN: Mr. Taylor, no other amendment has been read. Mr. White offered an amendment and at the time that he offered the amendment he said it was in two parts, and he would like to have the first part of the amendment acted upon first. In the meantime there was considerable discussion on Mr. White's amendment, and the Chair forgot Mr. White made that request. Mr. Robertson then offered an amendment; the Chair recognized Mr.

Robertson for that amendment, had it read and discussed, forgetting all the time that Mr. White had already offered his amendment and had this divided question before us.

TAYLOR: May I put in my order to be next on the list?

PRESIDENT EGAN: We will try to get you in next, Mr. Taylor. Mr. White.

WHITE: Mr. President, this follows the first part of the amendment. I should logically argue that no residency be required, but in this case I feel that Mr. Rivers and others have given very good reasons why a candidate for governor of the state should have some residence. I merely think it ill behooves us in this great future state to put the barriers any higher than is necessary. The only difference I have is with the figure. I would go on to point out that in the legislative article we set a residence requirement of one year for representatives and residence requirement of three years for senators and it seems to me logical that the figure "five" should follow in sort of an arithmetic progression for the residence requirement for governor, and that it would satisfy both the requirement and the thought that our barriers should not be any higher than necessary. If a person is to be qualified from the point of view of knowledge and experience in Alaska in seven years he probably wouldn't even try.

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

MARSTON: May we have the entire section read so we will know what we are voting on?

PRESIDENT EGAN: Would the Chief Clerk please read Section 2 as it would appear if this proposed amendment were adopted?

CHIEF CLERK: "The governor shall be not less than thirty years of age, a citizen of the United States and of this state, and a resident of this state five years next preceding his election."

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I just want to point out that if this is adopted, a person who then comes into the Territory of Alaska, resides here for five years without citizenship in the United States, as I interpreted the last amendment we adopted, or as Mr. Davis interpreted it, you could live in the Territory of Alaska five years, take out your full papers and the day after you got them you would then be eligible, I say it might not happen but then again it could, you would then be eligible to file for governor

of the State of Alaska as I interpret the present situation.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: One brief word on this. We considered the various residential requirements, some of the states do not have them, but I think there is a lot of difference from moving from one state, Nebraska to Iowa or places like that, than in coming up to Alaska. We have an entirely different situation up here, and I don't think we should take lightly the thought of having the governor be up here a little while before he files for election.

PRESIDENT EGAN: Mr. Barr.

BARR: There seems to be quite a movement to allow newcomers to come up here and take over our highest office. This is the land of opportunity. We welcome new people, new blood, and new money up here, but we must remember that the governorship is our highest office and a man should be entitled to it not only by ability but by his sympathy with our aims and ideals and his acquaintanceship with our problems here in Alaska. Let's let these new people come up here and give them good jobs and give them opportunities to make money, and then after they have some experience, let them take over some of our highest positions, but the governorship is a reward to be given, a reward to be earned, and it seems to me it should go to an Alaskan.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I hear Mr. Taylor's coming amendment? I think it has bearing on this question. I also think that five years is not enough for residence and citizenship for this high position. I would like to hear his amendment. I think it would have bearing on the situation.

PRESIDENT EGAN: Is there objection to having Mr. Taylor's amendment read?

COOPER: I object. We have an amendment before us, we've heard the argument, if there is another amendment, let it take its order. I move the previous question.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: I would like to say that I have an amendment here which provides for seven-years-United States citizenship before a person can file for election of the governor of the State of Alaska, and I have also got my bid in for high priority in the introduction of an amendment, and I hope to have it considered.

2062

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Point of order. Mr. Cooper moved the previous question.

UNIDENTIFIED DELEGATE: It wasn't seconded.

BUCKALEW: I will second it.

PRESIDENT EGAN: There has been business that has transpired. There is no motion for the previous question.

COGHILL: I move the previous question.

BUCKALEW: I second it.

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 "ayes" have it and the previous question is ordered. The question is, "Shall the proposed amendment as offered by Mr. White 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 "noes" have it and the proposed amendment has failed of adoption. Mr. Taylor, your amendment will be read at this time. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Section 2, line 4, page 1, after the comma insert the following: 'and shall have been for at least seven years a citizen of the United States'."

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

R. RIVERS: I second the motion.

McCUTCHEON: Question.

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

CHIEF CLERK: "Line 4, page 1, after the comma insert the following: 'and shall have been for at least seven years a citizen of the United States'." Part of that is already in there.

PRESIDENT EGAN: What words were deleted previously?

CHIEF CLERK: We deleted before "and shall have been for at least 20 years".

PRESIDENT EGAN: How would the wording interfere with what we have there already?

CHIEF CLERK: It says "a citizen of the United States" twice.

PRESIDENT EGAN: Do you ask that that part of your proposed amendment be deleted, Mr. Taylor? Those words were still in there.

TAYLOR: Then I will ask "and shall have been for at least seven years". I ask unanimous consent.

PRESIDENT EGAN: You ask unanimous consent that that become a part of your amendment, the deletion of those words? Hearing no objection it is so ordered and the deletion of the words "a citizen of the United States" are deleted from the proposed amendment as offered by Mr. Taylor. Mr. Fischer.

V. FISCHER: May I address a question to Mr. Taylor. Is it your intent that we now have the following three qualifications: that a governor be a citizen of the United States for seven years, a citizen of Alaska for seven years, and a resident of Alaska for seven years?

TAYLOR: That is right.

V. RIVERS: Mr. President, I want to say a word on this in view of the fact that I was one of those on our Committee that favored the residency clause and that citizenship clause both. I call to mind that at the end of World War II there was a great deal of talk of bringing into Alaska a large number of deported persons. At that time there was considerable discussion of locating 30,000 or 40,000 of those people in the Alaska area. Under the clause the way it now stands, if we had a large group of people come into our unoccupied areas, those people could take out their citizenship papers in five years and two years later would be eligible to run for governor of Alaska and with a large group of their own people with them might well stand a very good chance of being elected. For that reason I very much favor this seven-year clause as a substitute for the one that was stricken.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Taylor be adopted by the Convention?" All those in favor of the adopting of the proposed amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Mrs. Nordale.

NORDALE: I would like to call attention to something. Do you remember when we adopted Mr. Robertson's amendment it was

originally to have been placed after "shall be" and then because that line was deleted it was placed down there after the words "United States", so we have actually changed the whole concept of thinking, it seems to me.

PRESIDENT EGAN: How would it read now? Would the Chief Clerk please read the section as it appears now.

CHIEF CLERK: "The governor shall be not less than thirty years of age and shall have been for at least seven years a citizen of the United States and of this state and a resident of this state seven years next preceding his election."

PRESIDENT EGAN: It is in there properly. Mr. Marston.

MARSTON: Mr. President, if we become a state right away quick, do you have to wait five years to be a citizen of this State of Alaska before we can run for governor? Who is going to be eligible for governor? Do we have to wait seven years to have a governor?

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I believe that in the transitory provisions there will be an article which provides that residence in the Territory of Alaska shall count toward residence of the State of Alaska, so I don't think we need to worry about that.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I predict that this clause will cause more litigation than any other clause in the constitution, because I don't think you are ever going to get a governor elected because the transitory measures can't cure this dual citizenship. We can't go back and create by transitory measures anything that does not exist, and we don't have dual citizenship here in Alaska.

TAYLOR: Point of order. There is nothing before the house.

PRESIDENT EGAN: That is correct, Mr. Taylor.

BUCKALEW: I just want to say we really goofed, that is all.

PRESIDENT EGAN: Are there other amendments to Section 2? If not, are there amendments to Section 3? To Section 4?

CHIEF CLERK: Wait a minute. What about this amendment of yours, Mr. Johnson?

JOHNSON: No, I don't want it.

2065

PRESIDENT EGAN: Mr. Sundborg.

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

PRESIDENT EGAN: Mr. Sundborg's amendment to Section 3 will be read at this time. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 3, line 9, strike the sentence beginning 'The person' and ending on line 11."

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

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

CHIEF CLERK: "Strike the sentence beginning on line 9 of Section 3, beginning 'The person' and ending on line 11."

PRESIDENT EGAN: Strike the sentence?

SUNDBORG: The sentence says "The person receiving the greatest number of votes shall be the governor." I ask unanimous consent.

NORDALE: I object.

SUNDBORG: I so move.

AWES: I second the motion.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I submit that the language as we now have it, if it means anything, it means that the person running at that election who gets the greatest number of votes, no matter what he is running for, shall be the governor. If it does not mean that, it is unnecessary to have it in there because the sentence ahead of it says, "The governor shall be elected by the qualified voters of the state." If he is going to be elected by the qualified voters, obviously it follows that the man getting the most votes for that office is elected and I don't think we want to say that the person receiving the greatest number of votes shall be the governor. It might be the candidate for the United States Senate or it might be one of the legislators or something. I think it is meaningless. I stand corrected if there is a meaning to it.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I would just like to say that if you want to say "the candidate for governor" I would have no objection,

but is it not possible if you leave this to the legislature they could say that the candidate receiving a majority of the votes cast, and it is conceivable that there may be three tickets in the field for governor at some future time, and why allow the possibility of requiring a majority of the votes cast to elect the governor?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, in reading this Hawaiian report a little while ago, I'd have trouble finding this same article right now, but it did state that in some of the different states there are different methods of selecting the governor: some say that a majority of the votes cast will select the governor; others state that the highest number of votes shall select the governor, and in case there are more than two candidates that complicates the question, and this solves it right here, I mean the committee report.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Sundborg be adopted by the Convention?" All those in favor of the adoption of the proposed amendment will signify by saying "aye"; all opposed "no". The "noes" have it and the proposed amendment has failed of adoption.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Could I have the privilege of the floor?

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

(Mr. Buckalew at this time spoke on a matter of personal privilege.)

HELLENTHAL: Mr. President, point of order. When the matter was voted here that the recognition of state citizenship be made, there was no requirement at that time of seven years' citizenship in the United States. The amendment that was later offered pointed solely to the one subject, seven years' citizenship in the United States, and it did not qualify the prior action, and the prior action was merely a recognition of state citizenship with no year requirement whatsoever, so the point is ill-taken.

V. FISCHER: The same point of order. I specifically got up and asked Mr. Warren Taylor did he mean seven years' United States citizenship, seven years' Alaska citizenship, and seven years an Alaska resident, and he said "yes".

HELLENTHAL: Mr. Taylor was mistaken.

McCUTCHEON: Point of order, Mr. President. Mr. Buckalew rose on a point of personal privilege and these other people are speaking

without a point of personal privilege.

PRESIDENT EGAN: Your point is well taken, Mr. McCutcheon. Are there amendments to Section 3? Are there amendments to Section 4? To Section 5? Are there amendments to Sections 4 or 5? If not, are there any amendments to Section 6? Mr. Buckalew.

BUCKALEW: I have an amendment to offer, Mr. President, and would like it read.

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

CHIEF CLERK: "Strike Section 6."

BUCKALEW: I move its adoption.

PRESIDENT EGAN: Is there a second to the motion?

HELLENTHAL: I second the motion.

PRESIDENT EGAN: The question is -- Mr. Riley?

RILEY: Mr. President, I would like to hear some discussion on the matter.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I offered this amendment for this reason. Here is my thinking on this problem. The man that is going to run for governor is going to have to make a deal with somebody to come along as secretary of state, and I don't think that he is going to be able to get anybody that will have the qualifications to take over the position in the event he dies. It will be one of these deals where he will have to take somebody from another area of the state, hoping that maybe he can maybe pick up a few votes by carrying this individual along, and I don't think that even though the man that is running for governor would try to select somebody who would be qualified, I don't think he would get anybody that would have the qualifications to take this particular job. Now, this particular job, I don't care what you say about it here in the further articles, is going to be an unimportant job, and you are not going to get anybody with any ability to take that job, and I just think that the whole idea of the succession falling on this individual is ill-advised, and I think that the succession should fall on the president of the senate or the speaker of the house, and I believe that if something happened to the governor we are going to end up with a real "nincompoo". I move its adoption.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, it seems to me that some of the discussion could be improved as to quality and the use of words. However, I want to say that Mr. Buckalew's opinion was not the opinion of the majority of the Committee as he has so moved by this amendment and as you can see by our proposal. Now, the question at stake is just how strong do you want the strong executive? Do you want the absolute one-headed form of government with one single elected official at the head of it, or do you want a certain amount of additional elected representatives put there by the vote of the people? We had a lot of discussion on that in the Committee. The ideal of the strong executive is the absolute executive, but there again if you will look back at our founding fathers with absolutism ruling, they had a great many problems and a great many difficulties. So for that reason they diffused all the powers of state down through many elected officials. They got a great deal of democracy out of that process but they didn't get much efficiency. Now we are trying to arrive at a situation where we get both a fair amount of democracy and a fair amount of efficiency. The question is to decide how strong do you want the strong executive? Do you want somebody also being groomed in the process of administrative government heads, such as this secretary of state who can succeed to the governorship, who will be qualified by experience, and if he does a good job will probably be eligible from the voters' point of view to become governor? Many people in this body think we should have more than two elected officials; some think we should have three or four. There is a good question there as to how many the people would like to have, but I believe that every time you start centralizing in the form of appointive power in the hands of one person, you take something away from the essential idea and principle of democracy. We approved of this compromise in Committee, showing two elected officials. I know there were two other proposals by a member of the Committee, asking for two more elected officials. They were submitted back to the floor. I presume there will be some further discussion and some further amendments in regard to the introduction of bills for elective officials. If you adopt the motion submitted by Mr. Buckalew, you go along with the intent of the absolute executive. I believe that there should be somebody else, second in command and elected by all of the people, who could take over the succession, and who would in the same process be training himself and becoming eligible to succeed the chief executive by election of the people.

PRESIDENT EGAN: Mr. Barr.

BARR: This amendment of Mr. Buckalew's is designed to do exactly what this section is designed to do, to eliminate a figurehead who receives a high salary and does nothing. Generally, most states have a lieutenant governor and he is a figurehead. Some of them have a secretary of state. The secretary of state traditionally is a keeper of records; most of them have an administrative

executive who is the work horse and does all of the work. Now the Committee, we proposed a secretary of state as a governor's assistant, a governor in training or a general manager of the state you might call him, and we thought that he should have the duties of all three of those people -- lieutenant governor, secretary of state, and administrative executive. Naturally the governor, in casting about for someone to run for him as secretary of state, would necessarily want to pick the very best man available, a man of ability and a man who would go along with his policies. Now, if you consider that a secretary of state is the same as we have in some other states, then it is a relatively unimportant position, but here we give him all of the duties prescribed by the legislature and prescribed by the governor, and eliminate the lieutenant governor. We want a strong man in that position, and that is what we provided for, and we figure that we should have a strong man there. In case he should succeed the governor, he would then be a man of experience and be well acquainted with the former governor's policies and programs, and I don't think that Mr. Buckalew's amendment would improve it at all. It would tend to do away with what he is trying to do in his amendment.

PRESIDENT EGAN: Miss Awes.

AWES: May I ask Mr. Rivers a question? As I understand your argument, you said that the effect of adopting Mr. Buckalew's amendment would be to give us the absolute executive, in principle?

V. RIVERS: You would have one single elected executive with all the appointive powers in the executive branch of government. I would consider that almost an absolute power.

AWES: I don't quite follow that argument because, as I understand it, the purpose of electing a secretary of state is to have someone who will be in line to follow as governor if something should happen to the governor, but I think Mr. Buckalew's idea is to later submit an amendment that rather than the secretary of state, that the speaker of the house or president of the senate would rather succeed, and they are elective officers, also.

V. RIVERS: I would answer that by saying, Mr. President, that if you adopt this particular amendment of Mr. Buckalew's, you had better seriously consider the balance of the whole proposal, because there is substantially little left. I don't think that if he intended to submit additional amendments to reconstitute this committee proposal, that we should vote this out until we find out how he is going to reconstitute it.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I hesitate to talk on this because I think this is a wonderful enactment, and this is the only amendment that I have to offer to the entire matter, but I think it is basic. Now, therefore, I should like the indulgence of the delegates. Now, at the outset I favor a strong executive, never an absolute executive, and I don't think that the amendment would call for an absolute executive. I favor that the attorney general be appointed, that all other department heads be appointed, and I have no other amendment to offer. I do not intend to follow this up, to use this as a play to get the attorney general elected, no. I believe in a strong executive. Now, this proposed proposal has many implications. Mr. Buckalew used the word "deal" several times, and the political implications are not encouraging in this proposal.

PRESIDENT EGAN: Do you mean in this section?

HELLENTHAL: In the committee section, yes. I dispute the fact that the secretary of state would be elected by the people, which was stressed. It would not be exactly by the people. It would be a package deal. You would have to take him along with the governor, kind of a "buddy" system in the state, and the people would have nothing to do other than to elect their delegates at a caucus to the political convention, which would choose the "buddy", and I don't think that is very good. I don't think that is very good at all. Another point is this: It is a unique plan. Only one state in the entire United States seems to favor this system. Now, seven or eight, it is true, elect their secretary of state, but the "buddy" system is only found in one state. Now, why not just simply, and I don't think language is even necessary in the constitution, why don't we just let our governor hire someone to help him and fire him when he does not want him. Let him hire such other administrative assistants as he wants. What is wrong with that? It is conceivable that these pals might split up some time, that has happened before in politics, and go in different directions. Then where would we be? I don't particularly like this amendment, rather this section, and I don't think the alternative is despotism. I think that if we permit the governor to hire his assistants that we will secure efficiency; we will eliminate a tendency towards a rather undesirable political scheming process, and I think that we will bring about much better government.

PRESIDENT EGAN: Is there anyone else who has not been heard who wishes to be heard? Mr. Harris.

HARRIS: Being on the Committee that helped devise this plan, that we are now working over, we took quite a few things into consideration before adopting this particular plan. In the first place, under our apportionment article, which we knew something of before we adopted this plan, there has to be some succession.

If the succession does not go to the secretary of state, if you make it a succession directly to the president of the senate, the president of the senate is going to be elected possibly from one small senatorial district representing a very small majority of the total voters of Alaska. That will be your man who is going into your governor's office in case of the death of the governor, or the absence of the governor. The plan we have devised is this: That there is a man in training for the governor's position at any time, regardless of whether he ever takes the position or not, he is there when the governor is absent, he knows what the governor has been doing and he knows how to carry on. He steps into the governor's shoes when the governor is either called out of the state, is absent for physical disability, or in case of death of the governor; he has the ability to carry on the office of the governor. I can't see that it is a political football as Mr. Hellenthal or Mr. Buckalew would have you believe. The United States has been using this system for quite awhile in the same order, except for perhaps the nomination of the primary election, which in our article we have not set any definite rules of how they are to be tied up on the ticket. That is to be done later on by the legislature. Now, if this section is stricken, as Mr. Rivers says, most of the rest of the article might as well be stricken along with it because it is built primarily around your top executive and his successor. The whole form of government that we have built up is built around the governor, the strong executive, and if you have the absence of the strong executive, you move the president of the senate up in succession, then you no longer have the man in there that knew the job that is supposed to be our top man in the State of Alaska.

PRESIDENT EGAN: Mr. Peratrovich.

PERATROVICH: Mr. Chairman, what I have to say is very brief. I just want to say that I gather from the maker of this motion and also the proponents that they have something better that they will perhaps offer later on, and I think in fairness to the people that are opposed to such an amendment, before we take a vote on it, we should have some knowledge of what they have to replace it with. I don't think it is fair for anyone to get up here and say, "I want this stricken and sometime later on I will come in with something better". I think we should know if they want to make a deletion, I think they should have the insertion ready.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: I think I would just as soon rise on a point of personal privilege. We have only 15 minutes before our usual recessing time and I just would like to say that I hope this doesn't come up for a vote before we recess so that we make a

hasty decision on this. I would just like to ask that we might consider that, allow this for discussion time, and give the delegates an hour and a half to think it over because this will be the basic change in the whole plan if the amendment is adopted. We have worked on this proposal and it is the committee report; however, that doesn't mean necessarily that it is the wishes of the majority but I would like to have a little more time before we put the question.

PRESIDENT EGAN: Does anyone else wish to speak other than those who have spoken? Each delegate may speak once until everyone who wishes to speak has spoken. Mr. Hurley.

HURLEY: Mr. President, I am very much in favor of the suggestion. It is very difficult to discuss this whole problem without discussing what you might be in favor of doing if Section 6 were left in. So I will speak against the amendment because the amendment would strike Section 6 and I think Section 6 should stay in, with some modification. The modification I am thinking of is the matter of making it perfectly clear in there that it is possible to have a primary election at which the voters will determine what men are to go on the general election ballot as secretary of state, and so therefore in hoping that will come about, I shall have to vote against the amendment.

PRESIDENT EGAN: Mr. Gray.

GRAY: It is a controversial question, but not in my mind. I would like to see it stay as it is, but I believe we could save time and solve things and take care of Mr. Londborg's suggestion if the movers of the proposal would withdraw their proposal. You can always bring it back in again. We will come back to it again, if there is any question about more time to think about the thing.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I feel too that this should be given a little more thought, but I would like to say this: When we started, and I think the Committee members will agree with me, we were quite pleased with New Jersey because we felt it was a modern constitution and in New Jersey the governor is the only elected official. No other official is mentioned, I believe, except for perhaps a limitation on his being removed from office or something of that sort. But feeling that perhaps there were people in Alaska who felt that they wanted to elect the lieutenant governor or the succeeding officer, we introduced this idea of having two people who would run together, and so we devised this particular system to try to keep from weakening the governor and still please the people who might want to vote for his successor.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, personally I believe this is a very ill-advised amendment that is before us at this time, and the reason for that amendment seems to be based upon mere conclusion or conjecture as to what a secretary of state is going to do, what his duties are, and perhaps Mr. Buckalew's crystal ball might be a little more powerful than mine; he projects himself farther into the future and can see possibly clearer in regard to the duties of the secretary of state. But we have many, many things for a secretary of state to do. He will substitute for the governor. He will see that at the session of the legislature everything is in order for that, and under our system I think he will have a lot to do. Now the more that Mr. Buckalew was talking about this sinecure that was going to be set up, I thought he had ambitions to be the secretary of state, and then when he finally termed what he felt a man trying to fulfill this office, then I was sure of it.

PRESIDENT EGAN: Mr. Victor Fischer.

V. FISCHER: I would like to ignore the remarks just made and state simply that I basically agree with Mr. Hurley's stand. I would hate to vote in favor of such an amendment right now. I would like to see what we can make out of it. I hope the amendment will be withdrawn so we can improve it and make sure that the people have a chance in selecting such secretary of state as we might have. I would also like to say, Mr. President, that I don't think it is right to try to scare us by saying that if we knock out the secretary of state we have nothing left. I think there is a tremendous amount to this article, as was pointed out in New Jersey, they have a single elected governor. Here we have the model constitution we keep quoting from it. That provides for a single elected governor; it provides for a good executive branch, and I don't think that we must make a sweeping statement one way or the other. Anyway, I hope Mr. Buckalew will withdraw his amendment.

PRESIDENT EGAN: The Chair notes that Mr. Buckalew had attempted to get the floor. The Chair will recognize him if he wishes to withdraw the motion at this time or if he wishes to just give information about any other amendment he might be going to offer if this did carry but that is all until other members who have not spoken have had their chance to speak. Mr. Buckalew.

BUCKALEW: Mr. President, to save time I will withdraw the amendment, but because I am withdrawing it doesn't mean that I have changed my mind or have been convinced by any illogical arguments that I have heard on this.

PRESIDENT EGAN: Mr. Buckalew asks unanimous consent that his amendment be withdrawn at this time for possibly just a limited

length of time. Is there objection? Mrs. Sweeney.

SWEENEY: I move and ask unanimous consent that we recess until 7 p.m.

PRESIDENT EGAN: If there is no objection, the amendment is ordered withdrawn. Did you ask unanimous consent now that we recess until 7 o'clock, Mrs. Sweeney?

SWEENEY: Yes.

McCUTCHEON: Mr. President, I will object for a moment. I just noticed another amendment was handed in and I would like to hear what it is.

PRESIDENT EGAN: Objection is heard.

SWEENEY: I will withdraw my request for a few minutes.

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

CHIEF CLERK: "Section 6, page 3, lines 5 and 6, strike the words 'as may be prescribed by law and'."

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

PRESIDENT EGAN: Is there a second?

BUCKALEW: I second the motion.

PRESIDENT EGAN: The question is open for discussion. Mr. White.

WHITE: Mr. President, I could stand corrected, but I don't think this is hurting the Committee's proposal any. As I understand it, in talking to a couple of them, they intended that the secretary of state be more than a figurehead and they were expressing the hope that he would be given some duties to do, but as I read these words, I am afraid they go beyond that. In Section 1 it states, "The executive power of the State shall be vested in a governor." Over here we come to the man who will in effect be the lieutenant governor and we say, "The secretary of state shall perform such duties as may be prescribed by law", which means the legislature, I think, could give him considerable duties that he should not have and as I said this morning, I agree with Mr. Hellenthal when he says the "buddy" system could easily come apart at the seams, and the secretary of state be given duties that would put him at odds with the governor. If I'm completely wrong, I'll withdraw my amendment, but I think this wording is dangerous.

McCUTCHEON: Point of order, Mr. President, I did not hear a second for that motion.

PRESIDENT EGAN: Mr. Buckalew seconded the motion. It was made a matter of record.

BUCKALEW: I will speak up, Mr. President. I didn't know if I was in order.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I had in mind offering an identical amendment, and when the Committee announced that it invited people who had amendments in mind to meet with them, I took advantage of that invitation and they convinced me it would not be a desirable amendment. It says, "The secretary of state shall perform such duties as may be prescribed by law and as may be delegated to him by the governor." It does not say "or as may be delegated to him by the governor". It was pointed out in the Committee meeting that it might be the desire of the legislature to say that the secretary of state shall be the keeper of the seal and the one who shall keep certain records and shall do the sort of thing which we now under our Territorial form of government have our Secretary of Alaska do. I think it would be proper if the legislature could do that which they could not do if we make the amendment proposed by Mr. White.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as I see this particular amendment, if it carries, I still believe the legislature could and would have the power to delegate certain authority to the elective officers of the state as well as the appointive officers. Under our department administrative setup, we will doubtless have a number of departments such as health, welfare, education, fisheries, resources, and I can readily visualize that the legislature from time to time will have to assign certain functions to each department. Now I can readily realize and visualize that such a thing will also be true under the department of state which will be headed necessarily and naturally by the secretary of state. It does not seem to me that there is any need to strike the words as specific authority to delegate powers to them is spelled out in those words, but I believe in all the other departments under the state government that the specific authority for the legislature to delegate duties to them will also be there, and that in itself is not spelled out. The governor is their supervisor and he is directly responsible for them, but I do not believe you can prohibit the legislature from setting up and assigning certain duties to each department.

PRESIDENT EGAN: Mr. Barr.

BARR: The way the Committee has this worded, allowing the legislature to prescribe duties for the secretary of state, I

believe that would prevent the "buddy" system. It would prevent a governor just carrying along a secretary of state, taking him along for the ride, prescribing no particular duties. The legislature is the body that will want the secretary of state to go to work and they can prescribe his duties.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, I seem to be doing a lot of the talking. One of the reasons we called this particular official a secretary of state was that we did not want to have a lieutenant governor sitting and doing nothing. Now if you don't let the legislature prescribe something for him to do, he is going to be, in effect, a lieutenant governor, and the legislature could very well set up a department under somebody who is not called a secretary of state who would do all the work that a secretary of state normally does, and we would be right back with a lieutenant governor that most states are saddled with.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: Mr. President, there have been a number of the delegates who have spoken about duties of the secretary of state. I think that there can be many duties imposed upon the secretary of state by the legislature; for instance, in the State of New York and the State of Washington the secretary of state performs the duties of what the corporation commissions, and that is quite a job as a matter of fact. The duties of our own Secretary of Alaska used to carry on those duties years ago. Of course now it is carried on under the auspices of the Territorial Director of Finance, but I don't think we need worry at all about the legislature being able to find plenty of real duties to impose upon the secretary of state for his performance.

PRESIDENT EGAN: Is there anyone else who wishes to speak? Mr. White.

WHITE: I don't want to unduly prolong this and after Mr. Rivers spoke and Mr. Sundborg, I was about to withdraw the motion, but then two other committee members got up and they, if I understood them correctly, disagreed with Mr. Rivers. Now that is the same trouble I have with this thing. If I understood Mr. Rivers correctly, he said that anything the legislature prescribed would have to be approved, in effect, by the governor; then Mr. Barr and Mrs. Nordale say that the intent of this is that the secretary of state shall not merely be a figurehead, that he shall be more than a lieutenant governor. That is the danger I see in it. If I can be convinced that the governor cannot be circumvented by the legislature in designating powers to the secretary of state, I will be perfectly happy to withdraw any amendment, but

as I understand the committee members, there is disagreement between them.

V. RIVERS: I would like to explain that I did not see any divergence between the statements made by myself and Mrs. Nordale and Mr. Barr. I think you might have misunderstood me, but if I'm not clear, I'd like to make it clear that in this we gave the specific authority to the governor and the legislature to delegate duties to the secretary of state, and I for one am fully confident that he can be made effective and kept fully busy under the qualifications set up here.

PRESIDENT EGAN: Is there anyone else who wishes to have the floor? Mr. Hellenthal.

HELLENTHAL: I move that we recess until 7 o'clock.

BARR: Mr. President, I would like to answer that.

PRESIDENT EGAN: Mr. Barr, under Rule 38, which the President is going to invoke from here on out, it says, "No delegate shall speak more than twice on one question or more than once until all other delegates who desire to be heard have been heard, and the mover of the motion may have the last say." That is why, in order to expedite things and keep the business of the Convention going more orderly, we are going to adhere to the rule. Mr. Barr.

BARR: Point of information. Did not Mr. White ask a question? He was trying to resolve a discrepancy between the statements of the different members of the Committee and he asked a question.

PRESIDENT EGAN: That is right, and the Chairman of the Committee answered, Mr. Barr. The Chair only wants to say before we recess, the Chair brought this up only because, before we recess he wants to make clear in the minds of the delegates that they can only have the floor once until all other delegates have been heard who wish to be heard, then they are entitled to have the floor again. If they so indicate that they wish to withdraw a motion or something of that nature they will be recognized for that purpose. Mr. Hellenthal.

HELLENTHAL: I asked unanimous consent that the Convention stand at recess until 7:30 p.m.

SMITH: I would just like to announce that the Committee on Resources will meet at 6:15 upstairs.

NERLAND: The Finance Committee will meet immediately in the upstairs committee room.

PRESIDENT EGAN: Are there other committee announcements?

V. RIVERS: The Executive Committee will meet at 6:40 upstairs.

PRESIDENT EGAN: Are there other committee announcements? If there is no objection the Convention will stand at recess until 7:00 p.m.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chair would like to bring to the attention of the delegates that we finally have some speakers in the gallery that really work so long as the doors are closed. The windows are back in. By keeping the doors closed, our visitors can hear everything that transpires on the floor of the Convention. Mr. Ralph Rivers.

R. RIVERS: Mr. President and members, I call attention to the vote on the question of being a resident of the State of Alaska. I voted on the affirmative; that was the motion proposed by Mr. Robertson, and although he tried to withdraw it, it got voted in. I now serve notice that I will move tomorrow for a reconsideration of my vote on that question.

PRESIDENT EGAN: Mr. Ralph Rivers serves notice that he will reconsider his vote on that particular amendment. Mr. Buckalew.

BUCKALEW: Is that the amendment that says "a citizen of the State of Alaska"?

R. RIVERS: I meant "a citizen of the State of Alaska".

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, if I may direct a question to Mr. Rivers through the Chair, will Mr. Rivers have any objection to voting on it at this time?

PRESIDENT EGAN: Ralph Rivers?

R. RIVERS: I don't want to get into that two-thirds business, a suspension, and tomorrow will just take a majority to permit it. I'd just as soon present the merits of the matter now. It will come automatically tomorrow.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: We could rescind with 28 votes.

R. RIVERS: I'd rather continue on reconsideration.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, that's such an embarrassing provision that I think I'll move at this time to rescind our action on that particular proposal.

JOHNSON: Point of order, Mr. President

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Is the motion to rescind good where the matter has already been given on a notice of consideration?

PRESIDENT EGAN: The Chair on that question as to whether or not the notice to rescind can be made after a delegate has served notice of his intention to reconsider tomorrow is in order or not, the Chair is in doubt on that question. It never has arisen before, so far as I know. The Convention will be at recess for a moment.

RECESS

PRESIDENT EGAN: The Convention will come to order. The motion to rescind is made when the time for reconsideration has passed. I mean when you can't do anything else to come back to the question, then the motion to rescind can be made, but the motion to rescind is out of order at this time. Mr. White.

WHITE: Mr. President, I believe we have before us an amendment offered by me.

PRESIDENT EGAN: We have Mr. White's proposed amendment before us.

WHITE: During the recess I met with the Committee and have become convinced that the powers of the executive, of the governor, cannot be usurped by allowing the legislature to prescribe certain duties for the secretary of the state; therefore, I would, with the consent of my second, ask unanimous consent to withdraw my amendment at this time.

PRESIDENT EGAN: Mr. White asks unanimous consent that his proposed amendment be withdrawn. Are there any objections? There being no objection, it is so ordered. Mr. Cooper.

COOPER: Mr. President, I have an amendment to Section 6.

PRESIDENT EGAN: Mr. Cooper offers an amendment to Section 6. The Chief Clerk will please read the proposed amendment.

CHIEF CLERK: "Page 2, Section 6, line 19: delete the second word 'the'. Line 20, change the period to a comma, strike 'He' and insert 'Who' before 'shall'. Line 21: strike the word 'the'

before the word 'election' and insert the words 'under the same'. Line 22: after the word 'law' insert 'for governor'. Insert a period after 'governor' and strike the remainder of the section through the period after 'state' on line 4, page 3."

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

COOPER: I move the adoption of this amendment.

PRESIDENT EGAN: Mr. Cooper moves for the adoption of his proposed amendment. Is there a second?

HINCKEL: I'll second it.

PRESIDENT EGAN: Mr. Hinckel seconds the motion.

DAVIS: I'd like to have it again a little slower.

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

(The Chief Clerk then read the proposed amendment again.)

PRESIDENT EGAN: Mr. Cooper, do you wish to explain what you are attempting to do?

COOPER: Mr. President, this is the way it would read: "There shall be a secretary of state who shall have the same qualifications as governor, who shall be elected at the same time and for the same term as governor and under the same election procedure prescribed by law for governor. The secretary of state shall perform such duties as may be prescribed by law and as may be delegated to him by the governor." I have very little to say on this; I think the people should elect the secretary of state such as the committee has proposed, but not tied to another elective official. The best argument that I have in support of this amendment are the very words of the Chairman of the Executive Committee earlier in the day "To get a reasonable amount of democracy and a reasonable amount of efficiency," he said, "I believe this would give you the greatest amount of democracy and the greatest amount of efficiency in that the people would elect an individual." The secretary of state will be an elective official, and for that very sake, I think that he should run on the merits of his own qualifications and seek office individually, not collectively, tied to another elective official.

PRESIDENT EGAN: Mr. Boswell.

BOSWELL: Mr. President, may I direct a question to Mr. Cooper?

PRESIDENT EGAN: If there is no objection, Mr. Boswell.

BOSWELL: How would you get the secretary of state and the governor to be of the same political party with this arrangement?

COOPER: In this particular instance I would assume that the secretary of state and the governor would be of the same political party, such as the case of the governor and the lieutenant governor, or of the President and the Vice President. I didn't go into the workings or the details; I have heard conversations on the floor about primary elections and that can all be ironed out, but this is merely setting up two high elective officials.

BOSWELL: The important thing seems to be here that we need a system whereby the two elective officials would be of the same political party.

PRESIDENT EGAN: Is there further discussion on the proposed amendment? Mrs. Nordale.

NORDALE: Mr. President, if you want to abandon our plan of having to run on the same ticket you might as well leave all this other out, because the same election procedure prescribed for the governor will be the election procedure that affects all elective officers, members of the legislature, and members of commissions, and you won't necessarily get two people who are going to be in accord at all, just as we have now in the Territory -- two Republicans and two Democrats in our elective officials.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I want to make my position clear in this matter. I'm going to vote against the amendment. I don't believe in an elective secretary of state. I can see no reason for it. The only reason that I can see that the Committee provided for an elective office was to take care of the succession. Everyone around here said that if you're going to strike this section, what do you propose? My proposal was that on the death of the governor, the secretary of state would take over and would be the acting governor, and he would call the legislature together, and the legislature in joint session would select the governor to fill the unexpired term, and that way you get the best man available. And I think that the people would certainly have a voice in it, because their representatives are the ones that are going to be selecting the governor; and not only that, the major political party that was in power would probably be the party that would be able to select the governor, which would mean that the functions of the government would proceed smoothly during the rest of the term.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, it occurs to me from what Mr. Cooper has said that he isn't going to accomplish what I think he intends to accomplish by this amendment, because, if I understood him correctly, what he wanted to do was to see to it that the secretary of the state and the governor were elected together, just like the President and the Vice President of the United States. Well, it occurs to me that the proposal as it originally came out of the Committee and as it is now, before amendment, accomplishes that purpose or comes more nearly setting up the required machinery for accomplishing that purpose. For that reason I can't vote for the amendment because I like the way the Committee set it up originally, and, if Mr. Cooper's purpose is to see to it that the governor and the secretary of state are elected from the same political party, then it occurs to me that the best way to handle it is as the Committee has suggested.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I support Mr. Cooper, at least his attempted amendment. I think it accomplishes the purpose of electing two officers of the state -- a governor and a secretary of state. Now I will readily admit that it is possible to elect a governor of one political party and a lieutenant governor of another political party. I can't help but admit that I have seen it happen on occasion at other times; but I'm very concerned that the people of Alaska should be able to vote for two of their state executive officials. Now I'm not entirely sure but what I might not prefer that they be nominated in a primary election, but as has been pointed out here, we may not some day have the primary, in which case they wouldn't be so. So I think this is the next best thing. I also call your attention to a thing that has been mentioned before that, "The secretary of state shall perform such duties as may be prescribed by law and as may be delegated to him by the governor." Now I am not quite so naive as to think that if the two are of separate parties, and antagonists in the political scene, that they will get along as they would if they were elected under the proposal as submitted by the Committee. But I do think that the type of people who are running for office will put the interests of the State of Alaska at least sufficiently ahead of their own problems to see that it operates. Now I have worked on a premise of a very unusual situation. I question in the national election whether we would have had such a situation had we been voting separately for President and Vice President of having elected a President from one party and a Vice President from the other, but I will admit it's possible. I think this amendment will not interfere with the wording, the practical ends sought by the proposal, admitting that if you do get that separation that it could cause some difficulty. So in that respect, in order to give the voters a chance to choose two of their executives at the polls without having, as Mr. Hellenthal speaks of it, the "buddy system, I think I shall support this amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, as Chairman of the Committee on Executive, I, this evening, polled the committee members in regard to their thinking on this general subject. I do not believe I'm misstating the case when I state that all the members that I talked to, I believe all of them except the one absent, felt that we wanted to see this procedure of joint election carried on in the general election; certainly had no objection to seeing the nominations for the office be made whatever manner of primary the law should prescribe or provide. So if this amendment fails, I will ask that we insert the word "general" before the word "election" on 21 which will accomplish the purpose of individual nominations directly by the voters or in any other manner which the legislature may set up by law.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: Mr. Rivers, I understood you to say in your original presentation that the reason for putting in this second officer here on the ballot was because you just felt sure that Alaska wouldn't buy the procedure of electing a governor and letting him appoint the other officers on down. Am I correct in that? That is your conviction and feeling, that we should elect a governor, but putting in the second man on the ballot was a compromise for what you consider to be the feelings of Alaskans? Am I right or wrong at that point?

V. RIVERS: I purposely steered away from stating that I did not think the voters of Alaska would buy. I said I thought the voters of Alaska would prefer to have an elective officer in the second position in the order of succession, and I thought it would give them a more democratic expression to have the two elective officers there. But I want to correct the impression that I said I did not think the voters would buy the single elective executive. I did not intend to make any such statement.

ARMSTRONG: Well, I may have been paraphrasing you, but I got the idea from it that we were shying away from that concept, and I see difficulties in a number of these proposals that have been offered, and I have been in several dilemmas in voting through this Convention on many of these things where it seems to be a thin line of expression here; and at this point I find myself weighing many of these factors and come back almost certainly in my own mind to the fact that if we would elect the top man and let him form his cabinet all the way through that we would have a stronger administration.

PRESIDENT EGAN: Mr. Rivers.

V. RIVERS: Mr. President, may I answer that question?

PRESIDENT EGAN: If you care to, Mr. Rivers.

V. RIVERS: That was discussed at length, and of course, it hinges upon how strong you desire to make the strong executive and what degree of succession you may desire to provide in the manner of having an elective officer elected by the Territory at large to succeed the governor. The ideal, as I pointed out, by the theorists is the strong executive, and that constitutes the single elective head. Now that was done in New Jersey. We have only that one experience there to point to so far in the operation of the theory of that strong executive. Now as you know in the State of Hawaii Constitution, which they adopted and was ratified, they had an elective lieutenant governor as well as governor. They apparently faced the same general problem and idea that we had in the matter. But the question is how strong and absolute do you want the strong executive to be? Do you want to condition and temper that somewhat, or do you desire to have this one elective official at the head of everything?

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, point of information. If I, as a member of the Committee, get up to add a point to what the Chairman's explanation is, have I lost my privilege of speaking on the amendment?

PRESIDENT EGAN: Mr. Barr, if a question is put to a member of the Committee in a direct manner and the Committee Chairman asks that another member answer the question, or something like that occurs, the Chair will not adhere that strictly to the rule, not if it is strictly in answer to a question.

BARR: But the point occurs to me in this case that Mr. Rivers did bring out, as far as I know, in answer to Mr. Armstrong's question, so I won't bring it out. I don't want to lose my place.

ARMSTRONG: I'm still unsatisfied with it, Mr. President, and I'd like more information.

PRESIDENT EGAN: In answering the question, Mr. Barr, you may answer the question if you can, without losing your chance to speak.

BARR: If I'm not mistaken, Mr. Rivers didn't emphasize or bring out the point that when the governor dies or is replaced, the man who succeeds him should be an elective officer. In other words, if the governor appointed all his assistants, including the secretary of state, and the secretary of state took his place, it would be an appointive officer taking the place of the governor, and we didn't feel that this was right.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I would like to address a question, if I may, to the Chairman of the Committee or to any member of the Committee.

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

V. FISCHER: There is a lot of stress laid here upon the matter of succession and the tremendous importance of succession to the governorship. I would like to have some statistics, if any member has them, as to how many governors during any given period have been succeeded by anybody having died in office or otherwise vacated the office.

PRESIDENT EGAN: Does anyone have an answer to that question as to statistics?

V. RIVERS: Mr. President, only in a general way can I answer it. There have been a number of governors succeeded from lieutenant governorship to the governorship. I think the most prominent one was the recent succession of Mr. Knight after Warren was appointed to the United States Supreme Court. That's the most prominent one that I have in mind, but there are many cases where a governor is elected to a congressional seat or a senate seat, and the lieutenant governor or the next order of succession takes his seat. I can't give the exact number.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I was not going to speak, and I thought some of the members of the Committee might bring out a point that I have been thinking of here that causes me to believe that the present article should remain as it is. Now this article, if adopted, is going to be disseminated widely throughout the Territory of Alaska. The voters of the Territory know that when they go to the polls they are going to vote for a governor and they are going to vote for a secretary of state. They know that the secretary of state in the event of a disability or death of the chief executive is going to succeed to the governor's position; and when they go to the polls they are most likely going to vote for who they think is the best man, because there is a liability and possibility that that man is going to be governor. So they are going to give possibly as much consideration to picking the secretary of state as they are going to pick the governor, the fact that he's the heir-apparent to the office of governor in the event of a casualty. Now in Oregon the governor and the lieutenant governor were both killed in an airplane crash. And what did it cause? It caused Alaska to get Douglas McKay. He happened to be the next in line, and so he succeeded to the governorship by reason of the fact that those fellows got killed. The voters didn't do that, but I think that that should be a strong consideration -- the fact that the people know they are choosing a man that might be governor in a short time.

PRESIDENT EGAN: Mr. Kilcher.

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

PRESIDENT EGAN: If there is no objection.

KILCHER: Couldn't the succession problem also be solved in the interim succession if the secretary were appointed? Would the people still have the privilege? For instance, an interim succession could take place and the people would still be given the satisfaction in the constitution to elect the successor. For instance, I was just thinking that that argument would fall away that the people are not given a chance to elect two officials, in that particular case. We are talking about succession now.

PRESIDENT EGAN: Would you care to answer that, Mr. Rivers?

V. RIVERS: There are a number of interim programs in different states. For instance, in the State of Maryland the pattern is patterned very similarly after the proposal suggested by Delegate Buckalew. There they have the assembly gather and elect a successor to the governor until the people next have a chance to vote. A number of the old state constitutions -- I should say the older state constitutions have somewhat similar provisions. A number of the other states have the provision of electing a lieutenant governor, and we have followed generally that pattern.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I'm supporting Mr. Cooper's amendment, not because I'm entirely satisfied with it, but because I feel that we would get a better secretary of state if we had one that was not merely picked by the governor-elect as a running partner. I think if we had a chance to select him ourselves in a primary election or some other way, I believe we would get a better man. I don't think that a strong man ordinarily is interested in merely running as a partner or second horse from the same stable, or something.

PRESIDENT EGAN: Mr. Nerland.

NERLAND: Mr. President, it seems to me that under the provision as provided in the committee's proposal that we are apt to get a man who is eminently more qualified for the position than if we leave it to the option of anyone to file for the office. Certainly anyone who aspires to be governor is not going to pick a nonentity or someone who is obviously incapable of handling the position properly; he's going to go out and pick the best man that he can find and induce him to run for that position, because if he doesn't, he's going to have to carry some deadwood

into office with him, and he's not going to risk his own candidacy by having a poor candidate to run along with him on the ticket.

PRESIDENT EGAN: Mr. McNees.

McNEES: Mr. President, I'd like to support Mr. Nerland's arguments on this, and also the committee proposal. I feel that if the secretary of state and the governor both were to be picked independent of one another but by the same voting public, even then you could have a situation develop whereby the effectiveness of one could well be canceled by the other. I firmly believe that the committee proposal as compared to the amendment, has great strength and I'm going to continue to give it my support in lieu of something better.

UNIDENTIFIED DELEGATE: Question?

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I wish to close.

PRESIDENT EGAN: Is there anyone who wishes to speak before Mr. Cooper closes? You may close, Mr. Cooper.

COOPER: A lot of emphasis has been put on the primary election. There is nothing in here that states, or in any article that I know of on this constitution floor that deals with primary elections. The primary election doesn't concern me to any great extent. I asked earlier this afternoon of a person working for this Convention -- I asked for the figures of the last general primary election. I couldn't get them, and that person couldn't get them for me. I know the figures of the last general election. They were 27,000, that was the total number of votes, 27,000 in the last general election. The last primary election the votes were considerably less. Now as I understand a primary election, as under this committee proposal, there would be so many names submitted to the public on a certain party ticket for a governor; there would also be so many names submitted for the secretary of state. The most popular vote-getter for the position of secretary of state undoubtedly would be joined with the most popular vote-getter for the position of governor. Then that ticket, in turn, would be offered to the public on a party basis. The primary election doesn't concern me. The secretary of state under my amendment could be elected the same way as this "buddy" team as it was referred to earlier in the evening. As far as succession is concerned, there has been a lot made of that on the floor. I believe that the people will be voting and putting a lot of emphasis on the secretary of state, inasmuch as he is very liable to be the successor to the governor in the

event of disaster or some other form of a loss of governor. As far as the successor is concerned, in that he should be the president of the senate, I don't go along with that. The people elect that man as a senator, not a successor to the governor. They elect him for senator; if he falls into the position of being a successor to the governor, it's only after an accident. Now as far as the secretary of state, he would be O.K as a successor to the governor, automatically, if he is tied to the governor at the time of election. I picture this -- maybe I'm wrong but I don't believe so -- a popular vote-getter running for governor, and that is going to be a consideration for a man that the party puts up to be elected to the governor, he'll have to be a popular man. The man that runs with him as secretary of state will not be running on his individual qualifications. He will be running with a popular vote-getter. This vote-getter within one year or any small period of time after he takes office as governor, assuming that he is elected, can resign and run for the United States Senate or United States Representative. There are any number of things that he can resign for, so you automatically get his running mate as governor. You elected him as secretary of state, but you automatically get him as governor. The "buddy" system, as it was referred to and I have to refer to that again in the same terminology as that is what I really think it is, in my estimation could be carried a little bit further on into the senate and the house of representatives, one senator with two representatives, and elect them as a team. The people are electing the senators and the representatives individually on their own qualifications, and that's why I ask that my amendment be accepted. I want the secretary of state, who is next in line for the governorship, or would succeed the governor in the event of an accident or his removal, I want the people to be able to elect that man. I ask for your support on this.

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

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

Yeas: 19 - Buckalew, Coghill, Cooper, Cross, Hellenthal, Hilscher, Hinckel, Hurley, Metcalf, Nolan, Peratrovich, Poulsen, Riley, Rosswog, Sundborg, Sweeney, White, Wien, Mr. President.

Nays: 33 - Armstrong, Awes, Barr, Boswell, Collins, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNeas, Marston, Nerland, Nordale, Reader, R. Rivers, V. Rivers, Smith, Stewart, Taylor, Walsh.

Absent: 3 - McNealy, Robertson, VanderLeest.)

METCALF: Mr. President, I would like to change my vote to "yea".

PRESIDENT EGAN: Mr. Metcalf changes his vote to "yea".

CHIEF CLERK: 19 yeas, 33 nays, and 3 absent.

PRESIDENT EGAN: So the "noes" have it, and the proposed amendment has failed of adoption. Mr. Buckalew.

BUCKALEW: I have an amendment, Mr. President.

PRESIDENT EGAN: Mr. Buckalew, you may offer your amendment. The Chief Clerk may read the proposed amendment.

CHIEF CLERK: "Section 6: strike all of the section."

BUCKALEW: I move for its adoption, Mr. President.

PRESIDENT EGAN: Mr. Buckalew moves for the adoption of his amendment to Section 6.

AWES: I'll second it.

PRESIDENT EGAN: Miss Awes seconds the motion. Mr. Buckalew.

BUCKALEW: We find ourselves in this position, we are leaving it up to the people to rubber-stamp a "flunky" selected by the man that's running for governor; that's what we've done. There is no earthly reason for electing a governor under this plan and I think it should be defeated; and if my amendment carries -- and I trust that it will carry because I think it is a sane amendment -- I think it's the only sensible move for this body to take now. Now if this amendment carries, I propose to offer another amendment which provides that in the event of the death of the governor that the secretary of state shall be the acting governor until he can convene the legislature, and then the legislature in joint session shall elect a governor.

PRESIDENT EGAN: The Chair would like to state at this time that the Chair feels that in choosing the language in which we refer to proposals, we should attempt to keep in dignity with this body here, and that it can do nothing but create friction to use any language in argument that is out of the ordinary or that might be reflected upon any committee's consideration of any measure. Mr. Buckalew.

BUCKALEW: Mr. President, what language were you referring to? I don't remember what I said.

PRESIDENT EGAN: Mr. Buckalew, I think that the language "nincompoop" and the language "flunky" comes within that category.

BUCKALEW: Mr. President, "flunky" is a common expression, and has nothing to do with the Committee.

PRESIDENT EGAN: The Chair still feels --

McCUTCHEON: Mr. President, I move the previous question.

PRESIDENT EGAN: Mr. McCutcheon moves the previous question.

BARR: I second it.

PRESIDENT EGAN: Mr. Barr seconds the motion. The question is, "Shall the previous question be ordered?" All those in favor of ordering the previous question will signify by saying "aye". Opposed by saying "no". The Chief Clerk will call the roll.

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

Yeas: 23 - Barr, Boswell, Collins, Cross, Emberg, H. Fischer, Gray, Harris, Hilscher, Johnson, King, Knight, Laws, McCutcheon, McNees, Metcalf, Nerland, R. Rivers, Rosswog, Sundborg, Taylor, Wien, Mr. President.

Nays: 29 - Armstrong, Awes, Buckalew, Coghill, Cooper, Davis, Doogan, V. Fischer, Hellenthal, Hermann, Hinckel, Hurley, Kilcher, Lee, Londborg, McLaughlin, Marston, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, V. Rivers, Smith, Stewart, Sweeney, Walsh, White.

Absent: 3 - McNealy, Robertson, VanderLeest.)

CHIEF CLERK: 23 yeas, 29 nays, and 3 absent.

PRESIDENT EGAN: So the "nays" have it, and the previous question has not been ordered. Mr. McNees has been trying to get the floor. Mr. McNees.

McNEES: I was going to ask Mr. Buckalew a question, but I'll let it pass.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, I'm in favor of Mr. Buckalew's motion to strike that on the theory that if we are going to have a strong executive, I believe that the executive should not be burdened with a crown prince who substantially would be dictated by the

body that runs or supports the governor. Normally, that second-in-command is someone who is picked, not because of ability, but because of political considerations. He inevitably will come from a different part of the state, or appeal to that class of voters which the candidate for governor does not appeal to. It's a history of the Vice Presidency, and I suspect it would be the history here. We would not have as a successor a strong secretary of state; he would make a poor governor largely because the consideration of his selection would be political. On the other hand, I believe that the governor has a right, after election, to appoint him; I also believe in conformity. I also believe that if we are going to have an elective governor that he should appoint every member of his cabinet, and that includes the attorney general. That is, you give him the power, if you vote for him and him alone, and not on the basis of the man who is supporting him, I believe that you will get an independent strong governor. And if you give him the power to appoint all of his cabinet, then in effect what you have done, you make him run on his record, but if we are going to talk about a strong executive and then dilute the thing by permitting every other cabinet member to run, you haven't got a strong executive at all, and apparently many of the decisions that we made here prior to this have been based upon the assumption that we should have a strong executive. I will vote for Mr. Buckalew's amendment on the theory that it will make the executive strong.

PRESIDENT EGAN: Mr. Nolan.

NOLAN: Mr. President, I would probably have supported Mr. Buckalew's amendment, but in view of the fact that he qualified it by saying that he would then offer another amendment convening 60 members of the legislature merely to elect his successor, to bring them from all over Alaska for one proposition, I would have to vote against the amendment. I can see where the succession could be transferred to the speaker of the house or to some other cabinet member, but certainly we ought to have enough brains to write in some line of succession without bringing 60 people from all over Alaska.

PRESIDENT EGAN: Mr. Buckalew, do you wish to clarify that?

BUCKALEW: Mr. President, I do wish to clarify that for the record. I don't know whether you could put any qualifications on the amendment or not, but if Mr. Nolan will vote for my amendment I offer it without qualifications.

PRESIDENT EGAN: Mr. McLaughlin.

McLAUGHLIN: Mr. President, may I make my position clear? I'm not committed to anything but voting this down, and frankly, I think if it is voted down that automatically, without further

ado, the secretary of state, as such, is an appointive official.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, being brief, I'm for the committee proposal and against Mr. Buckalew's amendment.

PRESIDENT EGAN: Mr. McNees.

McNEES: Mr. President, I'd like to direct a question now that I was going to direct to Mr. Buckalew a little earlier, to Mr. McLaughlin, if I may.

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

McNEES: In the event Section 6 is deleted under Mr. Buckalew's amendment, will we any longer have a secretary of state?

McLAUGHLIN: No, you'll not have a secretary of state, no more than you'd have anything else. They will be created by the legislature.

PRESIDENT EGAN: Mr. Marston.

MARSTON: Mr. President, reading from the News Miner, 13 January, 1956: "With two-thirds of their precious time used up and seven articles still to be considered, delegates of Alaska's Constitutional Convention are in the midst of a wild rush." Where are we rushing? We're just rushing around.

PRESIDENT EGAN: Mr. Marston, does this have to do with the subject?

MARSTON: Right on the subject, yes, sir. I think we should be going forward here. "Geronimo" here is brilliant sometimes, but I wish he'd work these amendments out a little more carefully and I think I'd go for them, but under the present condition and as slow as we're making progress, for the good of this whole Constitutional Convention, I'm going to stick by the Committee and vote "no" on this amendment.

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

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

Yeas: 26 - Armstrong, Awes, Buckalew, Coghill, Doogan, Emberg, V. Fischer, Hellenthal, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McCutcheon, McLaughlin, Nolan, Nordale, Poulsen, Reader, Riley, Smith, White, Wien, Mr. President.

Nays: 29 - Barr, Boswell, Collins, Cooper, Cross, Davis, H. Fischer, Gray, Harris, Hermann, Johnson, King, Laws, Londborg, McNees, Marston, Metcalf, Nerland, Peratrovich, R. Rivers, V. Rivers, Stewart, Sundborg, Taylor, Walsh.

Absent: 4 - McNealy, Robertson, Rosswog, VanderLeest.)

DOOGAN: Mr. President, may I change my vote to "yes"?

PRESIDENT EGAN: Mr. Doogan changes his vote to "yes".

CHIEF CLERK: 26 yeas, 25 nays, and 4 absent.

PRESIDENT EGAN: 26 yeas?

CHIEF CLERK: Yes.

PRESIDENT EGAN: And 25 nays. So the "yeas" have it, and the proposed amendment is ordered adopted. Mr. Buckalew.

BUCKALEW: Mr. President, I think at this time I'd like to move for a 15-minute recess to get together with the Committee.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Objection is heard. Do you so move?

BUCKALEW: I so move.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the Convention stand at recess for 15 minutes? All those in favor of standing at recess for 15 minutes 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: 22 - Armstrong, Awes, Buckalew, Coghill, Emberg, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McLaughlin, Marston, Nolan, Poulsen, Riley, Sweeney, White, Wien.

Nays: 29 - Barr, Boswell, Collins, Cooper, Cross, Davis, Doogan, H. Fischer, Gray, Harris, Johnson, King, Laws, Londborg, McCutcheon, McNees, Metcalf, Nerland, Nordale, Peratrovich, Reader, R. Rivers, V. Rivers, Smith, Stewart, Sundborg, Taylor, Walsh, Mr. President.

Absent: 4 - McNealy, Robertson, Rosswog, VanderLeest.)

CHIEF CLERK: 22 yeas, 29 nays, and 4 absent.

PRESIDENT EGAN: So the "nays" have it, and the Convention will stay in session. Mr. Ralph Rivers.

R. RIVERS: Mr. President, inasmuch as the rest of the article needs redrafting, I move we adjourn until 9 o'clock tomorrow morning.

TAYLOR: I'll second the motion.

PRESIDENT EGAN: Mr. Ralph Rivers moves for adjournment and is seconded by Mr. Taylor that we adjourn until 9 o'clock a.m. tomorrow. Mr. Riley.

RILEY: I have a committee report if it is possible to revert to committee reports. It will take a little time to distribute the matter which I thought we'd pass out during the first recess.

PRESIDENT EGAN: Is there objection to submitting a report before we put the motion for adjournment?

R. RIVERS: Mr. President, I'd be willing to go ahead and work on this Rules Committee business and then defer making my motion until after this rules business is over.

PRESIDENT EGAN: It might be that the Convention would vote such a motion down, or pass whatever you want to do.

R. RIVERS: Mr. President, I ask unanimous consent that my motion to adjourn be withdrawn, if my second will consent.

PRESIDENT EGAN: Mr. Rivers asks unanimous consent that his motion to adjourn be withdrawn.

TAYLOR: No objection.

PRESIDENT EGAN: Where does that put us? Does that put us back with the Rules Committee or back to Committee Proposal No. 10a?

R. RIVERS: Well, my intention being that we can go on with this rules business.

PRESIDENT EGAN: Mr. Riley.

RILEY: I ask that we revert to the committee reports.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the Convention revert to the report of standing committees at this time.

2095

Is there any objection? Hearing no objection, it is so ordered. Mr. Riley.

RILEY: I think it might be helpful to allow the members to stand at ease for a few minutes to digest this report.

PRESIDENT EGAN: If there is no objection the Convention will recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us the report of the Committee on Rules. Would the Chief Clerk please read the report section by section, or by Roman numerals.

CHIEF CLERK: All the way through or just one at a time?

RILEY: One at a time.

CHIEF CLERK: "I.(a) After a standing committee chairman has explained an article and questions have been answered, a recess shall be called, if necessary, during which time Delegates with amendments may consult with the standing committee if they have not previously done so in order to reconcile ideas (if possible), consolidate similar amendments, and prepare amendments in suitable form. Proposed amendments shall not be in order during the initial section by section review of proposals unless previously presented for the committee's consideration or unless this requirement is waived by the committee chairman. Long or complicated amendments shall not be in order until mimeographed. (b) After the first section by section review of the proposal, another recess will be called to enable Delegates having further amendments to consult with the committees. In the second section by section review of the proposal, amendments may be submitted directly from the floor without previous consultation with the committee."

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

RILEY: I move for the adoption of the rule as read, Roman number I.

PRESIDENT EGAN: Mr. Riley moves for the adoption of subsection (a) under Roman numeral I.

ARMSTRONG: I'll second the motion.

PRESIDENT EGAN: Mr. Armstrong seconds the motion. Mr. Riley.

RILEY: To refresh memories, I'll say that these proposed rules or modifications are in response to a request or direction of the Convention a day or two ago.

PRESIDENT EGAN: That's correct. Mr. Ralph Rivers.

R. RIVERS: Mr. President, point of clarification. I mumbled something about Sub. (a) but I notice that Chairman Riley had both (a) and of Roman numeral I read so we are acting on both (a) and (b).

PRESIDENT EGAN: Are we acting under both? Under the Roman numeral I, it includes both (a) and (b).

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed rule be adopted by the Convention?"

SUNDBORG: Since this is in fact a modification to the amendment of our existing rules, I suggest that it require a two-thirds vote.

PRESIDENT EGAN: Is there an objection to the adoption of this first rule?

RILEY: Mr. President, in view of the fact that it represents a procedure which in a large part has evolved here the last few days, I'll ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the first rule be adopted. Is there objection?

AWES: Objection.

PRESIDENT EGAN: Objection is heard. Miss Awes.

AWES: There is only one phrase that I object to, and that's the phrase, "...standing committee chairman has explained an article and questions have been answered..." I object to that "questions have been answered." Is it all right for me to express my views at this point?

PRESIDENT EGAN: You may, Miss Awes.

AWES: I think that it has been worthwhile to have the committee chairman explain the article, but it seems to me that the asking of the questions sometimes takes hours, and before we get through people are asking questions that they could find out for themselves if they read the commentary. The same questions are being asked three and four times, and since this provides for a recess to hold a meeting with the committee and interested people, it would seem to me that if the committee chairman has explained the article, we would save a lot of time if we didn't have it open for question.

2097

PRESIDENT EGAN: Do you still object, Miss Awes? Mr. Riley.

RILEY: Mr. President, I think I may speak for the Committee in suggesting that the Committee would be agreeable to striking offending language, without objection.

PRESIDENT EGAN: You ask unanimous consent that that language be stricken?

RILEY: I ask unanimous consent that that language be stricken and that the unanimous consent request for adoption be renewed.

PRESIDENT EGAN: Is there objection to deleting the words "and questions have been answered"? Mr. Coghill.

COGHILL: Mr. President, I'm temporarily objecting from the standpoint that I thought that that was the reason why we had the time to ask the questions to be able to project the intent of the committee's thinking upon the record for reference in future data of debate on constitutional matters.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I wasn't entirely in accord with the Section I personally, and this practice that evolved recently seems to me has been a fruitful one. But I wonder if the problem that Miss Awes brought up couldn't be solved by having, instead of a recess, a lengthy recess, afterwards having the chairman explain it, and have questions and answers in a special hearing or before the daily session or after even, or something, where five or ten people will bring in their main differences and where a lot of things could be reconciled as we have done here. I think that the same thought that is embodied in Section I - - the practice of the last few days could be elaborated on and save a lot of time without needless debates and get good results. I think the Committee on Rules is on the right track, but hasn't arrived there yet.

RILEY: I don't know if that question was addressed to me necessarily.

PRESIDENT EGAN: Objection seems to be raised as to the deletion of those words.

RILEY: We had in mind that for the last several days we have been utilizing the morning and afternoon coffee breaks to some measure, and also the noon and dinner hours for the members of the Convention getting together with the committee on just such propositions. And as far as this language, which is stricken is concerned, I don't think that there is a mandate there that questions shall be answered. I think that our rather informal

procedure the last several days has indicated that the committee members will endeavor to answer questions. Certainly, the body isn't foreclosed from asking questions under this language, and I think that possibly if we rewrite the measure here on the floor, it will take a considerable time, but if there is still objection, I'll move that it be adopted.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I'll withdraw my objection, I was just more or less --

PRESIDENT EGAN: Mr. Coghill removes his objection. Mr. Fischer.

V. FISCHER: May I ask a question?

PRESIDENT EGAN: You may ask your question, Mr. Fischer.

V. FISCHER: Is it the intent of the Rules Committee that if this rule is adopted, it shall apply tonight to any amendments that may be submitted?

RILEY: It shall what?

V. FISCHER: It shall apply to any amendments to the article currently under consideration. In other words, no more amendments will be considered, even if they have been placed on the desk of the Chief Clerk under the pending article, if we adopt this rule?

RILEY: On the pending article, I should say no. Certainly an effective time would have to be given this, and the very fact that this brings in the consideration of an article would not, in my judgment make it effective during the consideration of pending amendments now on the Clerk's desk. I do think that the body, as a whole, should state when it becomes effective though.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I haven't withdrawn my objection. Mr. Riley, another question, this last sentence in (a) "Long or Complicated amendments shall not be in order..." That means practically that amendments have been foreseen, that have been submitted to the committee or amendments that you have foreseen, but not ideas that eliminate any idea that comes up through discussion because it would entail a long complicated discussion.

RILEY: Not entirely, I would say. For one thing, you're required under this, as you suggest, to anticipate your amendment insofar as possible. That isn't always possible, of course, because so often the direction of thinking will change during discussion; but, in that event the device has often been employed of asking for a recess, or deferring consideration of that point until your particular amendment can get to the "boiler room".

PRESIDENT EGAN: Mr. Riley, you are asking now that the words "and questions have been answered", on line 2 of this be deleted from the rule?

RILEY: Yes, sir, to satisfy Miss Awes' objection.

PRESIDENT EGAN: Mr. Kilcher still objects. Is there a second to the motion as offered by Mr. Riley to delete the words, "and questions have been answered"?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. The question is, "Shall the proposed amendment to the proposed rule be adopted by the Convention?" All those in favor will signify by saying "aye", all opposed by saying "no". The "ayes" have it, and the proposed amendment to the proposed rule is ordered adopted. The question now is, "Shall the proposed Rule No. I be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 53 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 0

Absent: 2 Robertson, VanderLeest.)

CHIEF CLERK: 53 yeas and 2 absent.

PRESIDENT EGAN: The "yeas" have it, and the proposed rule is ordered adopted. The Chief Clerk will please read Rule No. II. Mr. Sundborg.

SUNDBORG: I ask unanimous consent for the adoption of the following phrase on the first sentence: "The Committee suggests the following modifications to existing rules to become effective following consideration of Committee Proposal No. 10a in second reading."

PRESIDENT EGAN: Mr. Sundborg asks unanimous consent that these new rules will become effective after this Committee Proposal No. 10a has completed its second reading. Mr. McNees.

McNEES: Is there any reason why it shouldn't go in effect immediately?

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I was going to object to Mr. Sundborg's suggestion, because part of this certainly could go into effect immediately. Now, the first part that we just adopted should not properly go into effect because it involves these amendments that are now under way, but as to how many people can speak on a motion, etc., there is no reason why it shouldn't go into effect right now, if the Convention wishes to adopt it.

PRESIDENT EGAN: Objection is heard. Mr. Sundborg.

SUNDBORG: I don't care to renew the motion.

PRESIDENT EGAN: The Chief Clerk will please read proposed Rule No. II.

CHIEF CLERK: "II. A delegate may speak only once to any motion or amendment except the mover who may open and close debate thereon. The same restriction shall apply to amendments to amendments."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, to that I would attach the amendment proposed by Mr. Sundborg and ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. Riley would ask that this --

RILEY: That this rule become effective.

PRESIDENT EGAN: Mr. Riley asks that this rule become effective after we have completed second reading.

RILEY: I beg your pardon. Strike that, please. I ask unanimous consent that the rule, as read, be adopted.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for the adoption of proposed Rule No. II. Mr. Londborg.

LONDBORG: I wonder if it wouldn't be well to make it possible for the chairman of the committee to have more than one voice.

For instance, there is an amendment, and then you have the statement for the amendment, the chairman speaks, and then others come up, and the committee should, I believe, be entitled to the chairman giving an extra voice.

RILEY: Whenever the committee chairman handles his side of the debate, he can always close, and he does have a half dozen members on his committee who can fill in for him. That was the contemplation of the Rules Committee, that where a member not a member of the committee, has a proposed amendment which the committee opposes, the entire committee may speak to it if they see fit.

LONDBORG: I'll withdraw the objection. I just wanted to get a little information.

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed Rule No. II be adopted.

KILCHER: Objection.

PRESIDENT EGAN: Objection is heard.

KILCHER: For the purpose of information I mean. Mr. Riley, does this imply that you may speak only once about the question? I mean, what about information and questions about information. Would that be included in that once?

RILEY: I don't construe a question to be speaking on a motion or an amendment, and it has been so held here in the last few days a few times.

PRESIDENT EGAN: Mr. Kilcher, on that question, if a man or a delegate rises and asks a question, the Chair will never overrule them; but if it might be apparent that the delegate might be using the question to go into a lengthy debate, well, the Chair would feel that --

KILCHER: I have no objection, Mr. Riley.

DAVIS: I'll second the motion.

PRESIDENT EGAN: Mr. Riley so moves and seconded by Mr. Davis, that the proposed Rule No. II be adopted by the Convention.

KILCHER: Question.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Fellow delegates, the progress that has been made in the last few days has been slow. I think the voluntary acceptance of certain procedures the last few days has helped a lot in

achieving results. I think that the Rules Committee has learned a few things, too, since we convened last fall. I think if the Rules Committee had spent more of its energy to organize the Convention, past, present and future, if they would get their material organized and lined up instead of expending its energy --

McCUTCHEON: Point of order, Mr. President.

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

McCUTCHEON: My point of order is that he is castigating the Rules Committee.

PRESIDENT EGAN: The Chair will hold that your point of order is well taken. Delegates cannot make reflections about any committee or other delegates.

KILCHER: How about suggestions to a committee on the floor?

PRESIDENT EGAN: You can make suggestions, if you wish, relative to this proposed amendment for proposed Rule No. II.

KILCHER: Mr. President, I'm very serious about this point, and we have wasted time for lesser matters, and not by me necessarily. I'm serious this time. The more substantial of the articles, as far as I'm concerned, are past. The amount of interest that I will have in those to come depends largely upon how they are treated. If we are going to resort to proposals practically accepted by committees, why don't we accept them by experts if you want to be efficient. I think by organizing the material, as it is, by applying the rules as they are, some of them voluntarily upheld by the delegates, we could get just as far, or further, than adopting rules that might backfire on anybody. And I think -- I'd like to state on the record -- the future historians will wonder about some of the proposals that have come and will come out of this Committee. I hope that some of the substantive proposals, some that have concrete meat in it, the political proposals and issues, the compromises are necessary on the political basis, others on the theoretical basis. Some of them have facts, unless like the proposal we have now and some of the others, unknown to me, unsuspected to me, a much more political and concrete time bomb than I suspect. I hope that the proposals in the future will be given theoretical consideration and not be influenced by a fear; the fear number one that some party might profit or gain in the very immediate future by the outcome, or lose in the immediate future by the outcome of the proposal; and that theoretical considerations, which will not have anything to do with the next five years, the next 50 years, shall be given due consideration. That's what I'm afraid of, and that's why I urge strongly to consider before we employ "gag" rules.

McLAUGHLIN: I request a roll call.

PRESIDENT EGAN: Mr. White.

WHITE: Mr. President, it is with some reluctance that I want to speak just briefly against this proposed rule. I have seen it happen too often here where delegates are in genuine doubt about an issue, perhaps not too many people are speaking on the issue. I've seen it happen too often when we need to hear badly a second time from some of the people who know the most about the issue at hand and have something to say about it. I have seen it happen too often where a delegate can't necessarily make his entire argument the first time he rises; new points are brought up that need to be answered. I have voted in the past and I will continue to vote for evening sessions, against unnecessary adjournments, but I feel that debate involves a certain amount of give and take, and with two times for each delegate, we have restricted debate enough. I think we can perhaps relax our reluctance to moving the previous question a little to move debate along, but I do think that speaking once, in all instances, is too restrictive and we'll find ourselves lots of times wishing we could suspend the rules.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I'm for speeding up the process as much as possible, and I stand corrected and say that I haven't tried to lag in any way through unnecessary talking which might have seemed unnecessary at times. I know I have talked more than some, and possibly less than others. I don't know, but I think our existing rules, if they are enforced pretty much by ourselves -- the President can't do it all, I think he's done a wonderful job -- but I think the existing rules, if we each one take them seriously, will speed the thing right along. But when we limit debate on a serious issue -- and it might be the one man that might hold the key -- in presenting very good evidence, he may not get it across the first time. About the only thing we can do is call for a recess so that he can pass information to another committee member, or can go and get help from someone else, take five or ten minutes that way and come back into session, so that someone else can take his information and pass it on that everyone needs to know. I don't think that speaking two or three times slows it down, if there is something worthwhile that should be on the record. Furthermore, if we have five minutes to speak, I think we will be more inclined to use the whole time trying to get all that we can possibly think of across, rather than say a pertinent point, sit down; and, if another thing comes up, get up and say it and sit down again.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, far be it for me or from any member of the Rules Committee to want to gag anyone. If we had the time to do it I would only be too happy to allow us to go on and on until everything was said that could be said on any subject. The problem is that we are in trouble here. A sign over there says "24 days left". I don't know whether that is exactly correct or not, but in any event it is close enough to being correct, so we have got to watch what we are doing. Looking over on the board there, there are apparently, I think, five substantive sections that we haven't even touched. We are in the middle of a sixth one. Up to now we have been spending an average of about three days per section. By simple multiplication, if we took five sections at three days per section, that's 15 days, plus another day and a half on the one we are on, it's 16 1/2 days. Now, if we were done with our work here when we finished in second reading, we wouldn't have any problem. But it must be obvious that when we are meeting day and night, that Style and Drafting has no time to work on these things, except in recess. We have been doing it, in fact there are either two or three of the articles that have been presented to us that are practically ready. But we can't, I'm sure, keep it up indefinitely. There is still more than that. After the things come back to the floor from Style and Drafting we are going to give them another go-around, and we hope that they will be in such good shape when they come back that it won't take long, but we can't be sure of that. After that is all done, they go back to Style and Drafting again to place them in the entire constitution in their proper context. That is going to take some time. When we get it all done, everybody has to go over the complete constitution and sign it. Now if we go on as we have gone on, we just are not going to have the time to do it. And it is true, I think, absolutely true, that in the last couple of days we have been more restrained on our debates than we have been previously; but certainly, I think, everybody in the room will agree that we have -- and I'm talking about me, too -- we have made ill-considered amendments, we have made ill-considered arguments; we have, all of us, been guilty of arguing two or three times on a question when once would do the job. This is a device intended to make us think before we talk.

PRESIDENT EGAN: Mr. McNealy.

McNEALY: Mr. President, I want to support the proposed rule here. Just to state briefly, there have been many times when a subject has been up on the floor here where if it were a matter of law, on several occasions at least that I knew the answer, or as a matter of fact thought that I knew the answer, but it appeared it was going the right way; therefore, I didn't speak because others were, through the floor, taking up so much time speaking. Now this doesn't only apply to me. I talked to others here who have spoken a great deal less before the body than I have, whose opinions I consider very good. They expressed the same thought

that there are a number that are speaking so much, up two and three times asking questions and carrying on long harangues, using points of personal privilege and taking up the time that many of us felt constrained to speak. And I think that under this proposed rule here it will divide up the time, and maybe we'll have the thoughts of a greater number of the body rather than just a small group.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I wish to clear up just a couple of points. First, I'm not aware of any five-minute rule. It has been observed a time or two rather informally; and second, there is no self-starting on the Rules Committee in suggesting these rules. The body will recall that it was a voluntarily directed thing, and just as if adopted now it would be voluntarily adopted by two-thirds of those entitled to vote. And just as if someone has something compelling to be considered sometime and has used up his time, two-thirds again will allow him to speak.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, I would like to assure the delegates that this sign is correct. We are in our 55th day, and we have a calendar here numbered back down to the day. I might also, in support of this amendment, would like to state that if we go along as we are right now, we are going to run approximately 80 hours over our estimated 150 hours on the tape. We are running at the average of 6 7/8's hours a day in plenary session. If we continue the pace that we are going in plenary session, the tape recording of the Constitutional Convention is going to cost an additional \$4,000 above the \$8,000 that we have already got appropriated for it. I wish you would consider that also in argument favoring limiting debate and having substantial argument before you get on your feet.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: Mr. President, I speak very little at this Convention, and I do favor wholeheartedly Mr. Riley's motion. I believe in reading over the history of some of these constitutions that were made back in the days of Davy Crockett, and they were made in about 45 or 60 days, and it seems to me in our modern age of jets and tape recorders and everything, that we ought to be able to beat that record a little bit instead of going behind it.

PRESIDENT EGAN: Mr. Hinckel.

HINCKEL: Mr. President, I don't like to speak against this amendment, but I do feel strongly about it. I don't like to be limited to only speaking once on a subject because apparently I don't

speaking well enough at times so I can get it over the first time; but I think that we should speed up our operation, and I agree with practically every argument along that line, but I think we could save more time by stopping to think before we speak as to whether or not what we are going to say is absolutely necessary. It seems to me that lots and lots of time people get up and repeat the same argument that somebody else has already made and unless you can contribute something to the effort by talking, I don't think it pays to talk, but I would like to be able to speak in rebuttal occasionally when I make a statement that is apparently misunderstood or misconstrued or distorted by another speaker.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I want to say that I am going to support the committee proposals, but with this understanding: that on two subjects -- the subjects of resources and local government -- I believe they are very broad subjects and of great importance, and I'm going to at that time ask that we resolve into a committee of the whole for a more complete discussion. I think we have a recourse in the committee of the whole to discuss those things that are of vital importance to all of us for the future Alaska.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed new Rule No. II be adopted by the Convention?"

UNIDENTIFIED DELEGATE: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 45 - Armstrong, Awes, Barr, Boswell, Coghill, Collins, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Johnson, King, Knight, Laws, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Nays: 8 - Buckalew, Cooper, Harris, Kilcher, Londborg, Poulsen, Reader, White.

Absent: 2 - Robertson, VanderLeest.)

CHIEF CLERK: 35 yeas, 8 nays, and 2 absent.

PRESIDENT EGAN: So the "yeas" have it, and the proposed amendment to the rule is ordered adopted. Inasmuch as the mention of the cost of the tape, which was correct, was brought up on the floor, the Chair feels that it would be in order to have in the record a statement relative to our finances at this time, to the extent that it appears at this time that we are going to have a good many thousands of dollars left over to turn back to the Territorial treasury when this Convention adjourns, possibly in the amount of \$25,000 or \$30,000. The Chair felt that some of the delegates might feel that that meant we were running out of money, and I felt that it should be in the record.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, I regret to note that we need two-thirds; I think 35 fails.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would ask the Clerk again to announce the results; I think it was announced incorrectly.

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

CHIEF CLERK: It's 45 yeas, 8 nays, and 2 absent.

PRESIDENT EGAN: So the announcement is correct. Would the Chief Clerk please read the proposed Rule No. III.

CHIEF CLERK: "III. When a question has been put by the Chair, a roll call shall be in order upon the request of 10 delegates evidenced by a show of hands, provided that the Chair may order a roll call vote at any time."

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

RILEY: I ask unanimous consent for its adoption.

PRESIDENT EGAN: Mr. Riley moves for the adoption of the proposed amendment.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Riley.

RILEY: I have been advised that the full operation of a roll call vote requires five minutes or better of the Convention's time, and often times there may be 15 or 20 such occasions each day, which cost an appreciable amount of time. Now, if there is conscientious need for a roll call or a conscientious wish for a roll call, certainly it should be held. The figure "10" was

arbitrary, it's true. In the house of the Alaska legislature, it's my memory that five are required, but that is a body that is less than half the size of this, and, therefore, the Committee decided on the figure "10".

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, may I address a question to the Chair.

PRESIDENT EGAN: You may address your question.

V. FISCHER: I will support the proposed rule if the delegates can expect that if one person calls for a roll call that enough time be given for ten people to raise their hands instead of putting the question before the body.

PRESIDENT EGAN: The Chair would certainly attempt to give enough time that that could be accomplished.

V. FISCHER: I'll support the amendment.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I'd like to point out that I timed the last roll call from the time the President asked the Chief Clerk to call the roll until the announcement was made by the President. It was one minute and thirty seconds. Now perhaps there are other roll calls that have taken longer, but I think it can be done in that time, and I think the time lag for a show of hands will run us overtime.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to support this rule, but I think there has got to be some consideration given as to substance. I know the Chair will do that, but a good many of us in the matter of final passage of things may desire a roll call, and many cases wherever a roll call is to be reconsidered, where you're going to reconsider or move for rescinding action, I believe you must have a roll call in order to know what the vote was. You must in reconsideration, in any event. So when you adopt this rule, you're dealing with major substance matters and final passage, and you're also dealing with your right to reconsider.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: Mr. President, I have the same objection as Mr. Victor Rivers, and besides that, it seems to me that this single request for a roll call is a fundamental right. It involves something

that every one of us has the right to know about every other one of us, and I don't care what the question is, if anybody in this house desires to know how I stand on the proposition and wants a record of it, I think he's entitled to it the same way that I am. I'm against this particular amendment to the rule.

PRESIDENT: Mr. Hurley.

HURLEY: Mr. President, I really had another question on this same thing. I have been a little confused not knowing about all this record business. I'm just concerned that the President may have heard differently than I did on something, and I think that maybe a roll call would be a good idea, and that, then, would come after the voice vote but before the announcement of the Chair's decision as to the results of the voice vote. And the way I read this, the roll call would only be in order when a question has been put by the Chair, and before the voice vote. Now I may be wrong on that.

PRESIDENT EGAN: Now usually, Mr. Hurley, it is one of the main reasons why the Chair tries to put the question, even though he has put it before and someone has objected in order to be heard in debate, he says it again in order to give an opportunity for everyone to know right at that minute what is before them, and also to give them an opportunity to demand a roll call, if they so choose.

HURLEY: Am I wrong, Mr. President, in thinking that it is still possible to call for a roll call after the voice vote has been taken but before the President announces the results?

PRESIDENT EGAN: The Chair has recalled one instance in which the Chair didn't hear the person asking for the roll call, but many times, as a roll is being called, or as the voice vote was being evinced, why the Chair has stopped and had the roll called because he heard delegates requesting a roll call. Now the Chair doesn't wish to be too strict on that part. If at any time the Chair hears someone asking for a roll call before he announces the results, he will then ask that the roll be called. Mr. Hurley.

HURLEY: Mr. President, if someone can answer my question, is it proper to call for a roll call between the voice vote and the announcement by the President, I'll be satisfied?

PRESIDENT EGAN: That is questionable. The Chair has felt that before he actually announces the vote, that there is nothing anywhere in Robert's Rules or in our rules that says that you can't demand a roll call at any time before the Chair actually announces the vote. We looked it up one day and could find nothing on it, so the president would feel that if you asked for

a roll call, you have every right to get that roll call, if the Chair has not announced a vote.

HURLEY: Mr. President, I would like to take one more step and the reason for that is that a great many times -- and I'm guilty myself sometimes -- people do not vote on a voice vote, and therefore, if it's fairly close, why I would feel authorized, if I were particularly interested, to ask for a roll call at that time. On the other hand, I hesitate to request a roll call before the question is put on a voice vote, because if it goes so far the other way, why clutter up the record with a roll call.

PRESIDENT EGAN: Mr. Hurley, you're absolutely correct there. There have been many many votes in which I'll bet there haven't been 20 people participate even on both sides of the voice vote call, and in cases like that, why, you can't possibly refuse anyone the right to have a roll call.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, it's been my observation that the Chair has been scrupulous in calling for a roll call vote, whenever, in his estimation, the vote has been light, indicating that all the delegates aren't voting and in the other cases where the vote has been close. Now I know as we sit here in the house it often seems to us that the vote is some other way than it appears to the Chair, and I think the reason for that is that each of us is sitting adjacent to several delegates, and if three or four right around us are on one side, it seems like that side wins. Well, the Chair is not in that unfortunate position; he's up there in a neutral position and he can hear from the whole house and I think that he's called every single voice vote correctly during this session.

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: Mr. President, I have a question of Mr. Riley. If this rule is adopted now, an amendment to it would take two-thirds, if we should amend it now -- this rule?

RILEY: Yes, that is correct.

KILCHER: Well, I move to amend the figure "10" to "5".

PRESIDENT EGAN: Mr. Kilcher moves that the figure "10" be changed to "5". Do you ask unanimous consent?

KILCHER: Yes, sir.

PRESIDENT EGAN: Mr. Kilcher asks unanimous consent that the figure "10" be changed to "5". Is there objection? Hearing no

objection, it is so ordered, and the proposed rule has been changed to read from "10" to "5" delegates.

UNIDENTIFIED DELEGATE: Question.

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

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

Yeas: 33 - Barr, Boswell, Buckalew, Collins, Cross, Davis, Doogan, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, King, Knight, Lee, McCutcheon, McLaughlin, McNealy, Nerland, Nolan, Nordale, Riley, R. Rivers, Rosswog, Smith, Sundborg, Sweeney, Taylor, Walsh, Wien, Mr. President.

Nays: 20 - Armstrong, Awes, Coghill, Cooper, Emberg, H. Fischer, Harris, Johnson, Kilcher, Laws, Londborg, McNees, Marston, Metcalf, Peratrovich, Poulsen, Reader, V. Rivers, Stewart, White.

Absent: 2 - Robertson, VanderLeest.)

CHIEF CLERK: 33 yeas, 20 nays, and 2 absent.

PRESIDENT EGAN: So the proposed rule has failed of adoption. The Chief Clerk will please read proposed rule No. IV.

CHIEF CLERK: "IV. Notices of reconsideration and of motions to rescind must be given within one hour of the vote sought to be reconsidered or rescinded and the appropriate motion made within three hours of such vote. Neither reconsideration nor rescission shall carry without at least 28 affirmative votes. The following two exceptions apply to this rule: (a) If a recess prevents adherence to such time limits, the notice or motion involved may be announced or made at the next earliest opportunity; (b) If a vote is taken too late in the day to afford the full time above allowed, notice and reconsideration or action to rescind shall be accomplished before adjournment that day."

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

RILEY: Mr. President, this is the one on which I expected the oratory so I won't ask unanimous consent. I do move that it be adopted.

MCCUTCHEON: I'll second the motion.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I voted for every one of these rules so far, but I think if we adopt this rule we are hurting ourselves in trying to write a good constitution. I think that reconsideration is one of the most important tools that we have to correct errors in our own judgment. We have made some serious mistakes so far, and through reconsideration we have had a chance to go back and correct them. I think that we will find that we made an error today and we will probably correct it tomorrow. I feel that this three-hour limitation is fine in theory, "Let's get it over with," at the same time it presupposes that all a person does is go out in the corridors and talk to as many people as one can to change their minds about a certain vote. I think there are matters, the important ones, where research may be required, substantial research, to make sure that we are on solid legal ground. And I personally will vote against this kind of limitation upon our authority to write a good constitution.

PRESIDENT EGAN: Mr. Londborg.

LONDBORG: Mr. President, I'll make it brief. If this goes through, Friday the 13th will be a bad day in the history of this constitution.

PRESIDENT EGAN: Mr. Stewart.

STEWART: Mr. President, I wish to support the two arguments that have just been made.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall proposed Rule No. IV, be adopted by the Convention?" The Chief Clerk will call the roll.

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

Yeas: 17 - Barr, Collins, Davis, H. Fischer, Hellenthal, Hermann, McCutcheon, McLaughlin, McNealy, Nordale, Riley, R. Rivers, Rosswog, Sundborg, Taylor, Walsh, Wien.

Nays: 36 - Armstrong, Awes, Boswell, Buckalew, Coghill, Cooper, Cross, Doogan, Emberg, V. Fischer, Gray, Harris, Hilscher, Hinckel, Hurley, Johnson, Kilcher, King, Knight, Laws, Lee, Londborg, McNees, Marston, Metcalf, Nerland, Nolan, Peratrovich, Poulsen, Reader, V. Rivers, Smith, Stewart, Sweeney, White, Mr. President.

Absent: 2 - Robertson, VanderLeest.)

CHIEF CLERK: 17 yeas, 36 nays, and 2 absent.

PRESIDENT EGAN: The "nays" have it and the proposed rule is not adopted. Mr. Riley.

RILEY: I find myself in on awkward position. Mrs. Sweeney has called to my attention one of the backstopping provisions of Robert's, which states that, "Standing rules may be amended at any time by majority vote if previous notice has been given." The question is, has previous notice been given? Certainly, we all have been aware that this report was requested, and a couple of times it has been referred to on the floor. I feel constrained to mention this with respect to Roman numeral III, which was just announced to have failed for less than a two-thirds vote. I'll leave it to the body as to whether notice was had in compliance with that provision.

PRESIDENT EGAN: Mr. Riley, the Chair would feel that the notice hadn't been properly given until the delegates all had copies available to them of what actually was going to come before them. Mr. Johnson.

JOHNSON: Furthermore, Mr. President, our own rules provide that in order to change them you must have a two-thirds majority vote.

PRESIDENT EGAN: You are correct. Robert's wouldn't apply.

RILEY: I am in no doubt as to what our rules provide, Mr. Chairman, but I feel obliged to mention this because it is a provision that goes beyond ours, and it was called to my attention.

PRESIDENT EGAN: Would the Chief Clerk please read the "Other Suggestions".

CHIEF CLERK: "Other Suggestions. (a) It is suggested that the Rules Committee prepare a tentative schedule for completing work on each proposal, and that the Committee announce the time to be allotted a proposal before the Convention considers it. (b) Adhere strictly to the period of time stated for each recess."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may we have about a two-minute recess?

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

RECESS

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

SWEENEY: Mr. President, I give notice of my intention to reconsider my vote on Mr. Cooper's amendment to strike Section 6 of Committee Proposal No. 10a.

PRESIDENT EGAN: Mr. Buckalew's.

SWEENEY: I mean Mr. Buckalew's amendment to strike Section 6 in Committee Proposal 10a.

PRESIDENT EGAN: You have heard Mrs. Sweeney's statement that she serves notice of reconsideration on the proposed amendment striking Section 6 as offered by Mr. Buckalew. Mr. Johnson.

JOHNSON: Mr. President, I move that we adjourn until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Mr. Riley.

RILEY: I don't believe we are quite through with the matter of putting an effective date on this report, and that would be to this effect: that paragraph Roman II shall become effective immediately, and paragraph Roman I shall become effective following consideration of Committee Proposal 10a in second reading. I ask unanimous consent.

PRESIDENT EGAN: You heard Mr. Riley's unanimous consent request that Roman numeral Rule No. I become effective immediately following the consideration of Committee Proposal No. 10a in second reading, not until then, but that Roman numeral No. II shall become effective immediately. Mr. Riley has asked unanimous consent. Is there objection? Hearing no objection, it is so ordered. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I wonder about the wish of the body in regard to the suggestion that the Committee prepare a tentative schedule for our work upon these proposals?

PRESIDENT EGAN: Are there suggestions from the floor relative to the other suggestions as submitted by the Rules Committee? I don't hear any at this time, Mr. Ralph Rivers. Mr. Gray.

GRAY: I'm more concerned with part (b) adhering strictly to the period of time stated for each recess. I don't care whether we recess for 10 or 15 minutes, as long as we get back here, and not wait around. I think if you want a 20-minute recess, ask for one; if you want a 30-minute recess, ask for one rather than elongate. I think we ought to get together on that, but I'm more interested in (b) than in (a).

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Mr. President, is it the intention of the Rules Committee on this to -- if I may ask a question through the Chair to the Chairman of the Rules Committee -- to allot time and have a deadline date for a proposal, and we'll work all night to get the proposal out, or continue working on it until it is done?

PRESIDENT EGAN: Mr. Riley.

RILEY: Well, we had in mind in this suggestion, that a certain target date be established to be observed as far as reasonable.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Is that just a suggestion?

RILEY: That was a suggestion that that authorization be given.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I move that we adopt it into the rule.

PRESIDENT EGAN: Mr. Coghill moves that the suggestion under subsection (a) be adopted.

HELLENTHAL: Point of order.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: How can a rule be a suggestion that another suggestion be made?

PRESIDENT EGAN: Mr. Hellenthal, there you have a pertinent point. (Laughter) Mr. Ralph Rivers.

R. RIVERS: I had in mind that if the body is interested in seeing how a schedule like that works out, the body would adopt it after we have submitted it in detailed form. That's what I was thinking.

PRESIDENT EGAN: Miss Awes.

AWES: Mr. President, I'd like to make one comment on that motion. It seems to me that this evening we have adopted two new rules which will probably speed up our work considerably, and I don't think anyone, including the Rules Committee, knows what rate of speed we'll progress at, and I think it would be a good idea to

go along for a couple of days and see how this works out, and maybe then consider this.

PRESIDENT EGAN: Obviously Mr. Coghill's motion, as it was made, wouldn't work very good in rules. So what is your feeling, Mr. Coghill?

COGHILL: My feeling is still strong, but I'll withdraw my motion.
(Laughter)

PRESIDENT EGAN: We have before us Committee Proposal No. 10a. Do you wish to continue beyond Section 6 at this time? Mr. Harris.

HARRIS: I make a motion that we adjourn until tomorrow morning at 9:05.

V. FISCHER: I second the motion.

PRESIDENT EGAN: Mr. Fischer seconds the motion that the Convention stand adjourned until 9:05 a.m. tomorrow. The question is "Shall the Convention stand adjourned until 9:05 a.m. tomorrow?" All those in favor will signify by saying "aye", all opposed by saying "no". The "noes" have it, and the Convention is still in session. Are there amendments to Section 7? Miss Awes.

AWES: Reading Section 7 through 9, they depend so much upon what we do with Section 6, so wouldn't it be possible to pass them for this evening and to go on to Section 10, and then come back to them?

PRESIDENT EGAN: Is there objection to starting with Section 10 and deferring action on these three sections until we have handled the matter of the reconsideration? Mr. Taylor.

TAYLOR: I move and ask unanimous consent that we defer action on 7, 8, and 9.

PRESIDENT EGAN: If there is no objection, Mr. Taylor, it is so ordered. Are there amendments to Section 10? Do any delegates have amendments to offer to Section 10? Mr. Victor Rivers.

V. RIVERS: We have one committee amendment. This was submitted by one of the delegates during the recess. I have it here. I'd better read it to you. The amendment is in Section 10, page 5, line 5: strike the word "or" after "power" and insert a comma. After the word "duty" insert "or right". The line would then read "or to restrain violation of any constitutional or legislative power, duty, or right by any officer, department or agency of the state..."

PRESIDENT EGAN: Mr. Rivers, do you mean to insert a comma after the word "power"?

V. RIVERS: Yes, strike the word "or" after "duty" and insert the words "or right". It was thought by one of the delegates -- and it was agreed by the Committee -- that insertion of the words "or right" would broaden that particular power, and that he would then have the right to prevent possible discrimination, in that he would have the duty to enforce before the courts the rights under the constitution as well as the powers and duties of the constitution. I ask unanimous consent -- and the Committee is in unanimous agreement on this -- and I ask unanimous consent for the adoption of that amendment.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the proposed amendment to Section 10. Is there objection? Hearing no objection, the proposed amendment is ordered adopted. Mr. Victor Rivers.

V. RIVERS: Mr. President, there was another amendment along the same general line, which I will submit on the floor for discussion. There is no committee recommendation on this particular item.

PRESIDENT EGAN: Would the Chief Clerk please read it.

CHIEF CLERK: "Line 7, after the words 'subdivision' insert 'or by any licensee of the state'."

PRESIDENT EGAN: What page?

CHIEF CLERK: It's on page 5, line 7.

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

V. FISCHER: I'd like to move for the adoption of this amendment.

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

STEWART: I'll second the motion.

PRESIDENT EGAN: Mr. Stewart seconds the motion. Mr. Victor Fischer.

V. FISCHER: I'd like to explain briefly what the intent behind this motion was. As the section presently reads, we are granting the governor authority to enforce compliance with constitutional and legislative mandates; to restrain violation of any constitutional or legislative power, duty, or right. Now this provision, as is presently stated, applies to the departments of the state

and the political subdivisions of the state. Now the intent of the proposed amendment would be to also give the governor the authority -- mind you, not require him -- but just grant him the authority, if he deems it necessary, he could step in and protect the rights of other individuals, the citizens of the state, whose rights may be infringed by any licensee of the state. I might just briefly explain the use of the term "licensee", and I have no pride of authorship that may be involved, but the state in performing its governmental functions gives its sanction to the carrying on of various businesses and functions. It seems to me that in compliance with the constitution, it would be quite proper for the state to require that whoever receives a license from the state, observes the mandates of the constitution, the bill of rights, or whatever other protections are granted in the constitution.

PRESIDENT EGAN: Mr. Gray.

GRAY: Mr. President, may I ask Mr. Fischer a question?

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

GRAY: You have a business and you get a \$10 license: does that mean that the governor can come in and run your business for you under this?

V. FISCHER: No.

GRAY: Like it was one of his offices or agencies?

V. FISCHER: No. My point here is, he would not run your business for you, but if you in running your business, for instance, practice racial discrimination, that you will not sell to certain customers, then the governor can use the authority of the state to step in and prevent this violation of an individual's constitutional rights.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President. Mr. Fischer, although this section probably wouldn't allow the governor to run your business, it is intended by you -- is it not -- that this term covers anybody who holds a business license under the state?

V. FISCHER: Yes.

DAVIS: And that's everybody that has any type of business, including attorneys and all sorts of professional men, and that sort of thing?

V. FISCHER: Yes, sir.

PRESIDENT EGAN: Mr. McNees.

McNEES: Couldn't it be so broadly interpreted, Mr. Fischer, to even a man who has a licensed automobile by the state?

V. FISCHER: I think it could. The point is, what does it apply to? It's not a matter of the governor using the authority of the state to discriminate against a man who has an automobile; it's the authority of the governor to step in when he sees a violation of somebody else's rights or guarantees of the constitution, to step in and restrain that violation through the courts.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, I can understand the intent here, but the power is far too broad. Every person, every citizen in Alaska is subject to the laws and subject to the constitution, including the bill of rights. Such a provision as this would set these licensees aside as being under additional restriction or additional supervision by the governor, which I do not think is right. Everyone has recourse to the courts if their rights are not taken care of; and I don't believe that any licensee, any businessman or any other licensee should be discriminated against by being further supervised; and, I just think it's too broad and gives too much power to the governor.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, may we have a one-minute recess?

PRESIDENT EGAN: The Convention will stand at recess, if there is no objection, the Convention will stand at recess for several minutes.

RECESS

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

V. FISCHER: Mr. President, after discussing this matter with 14 attorneys, I would like to withdraw the motion I made. (Laughter)

PRESIDENT EGAN: The Convention will come to order. Mr. Fischer asks unanimous consent that his proposed amendment be withdrawn. Is there objection? Hearing no objection, it is so ordered. Mr. Victor Rivers.

V. RIVERS: Mr. President, there is one small amendment that has been called to my attention which I discussed in part with the

Committee, I will insert it at this time. It has to do with instead of calling the senate alone, call either house alone. That's on page 5, lines 13 and 14. Our motion would be to strike the words "the senate alone," and insert in lieu thereof "either house alone". I ask unanimous consent.

PRESIDENT EGAN: Mr. Victor Rivers asks unanimous consent for the adoption of the amendment.

SUNDBORG: Mr. Rivers, there was a paper that has been passed up to the Clerk which would strike the balance of the line, also. Is there any necessity of having "or the two houses in joint session"?

V. RIVERS: We thought there was a necessity for calling the houses in joint session at the times they were meeting or to call them for joint sessions alone for purposes of confirmation in view of the legislative act. It was discussed in Committee, we thought the words were of value.

PRESIDENT EGAN: Is there any objection to Mr. Rivers' unanimous consent request for the adoption of the proposed amendment? Will the Chief Clerk please read the proposed amendment again.

CHIEF CLERK: "Strike the words on line 13 'the Senate alone' making it 'either house alone'.

V. RIVERS: And that was all there was to my amendment.

PRESIDENT EGAN: Is there objection? Mr. Johnson.

JOHNSON: Mr. President, I have no objection. I would like to rise on a point of information.

PRESIDENT EGAN: Your point of information, Mr. Johnson?

JOHNSON: If we leave in the language "or the two houses in joint session", would that in any way conflict with the legislative article which provides for the calling of special sessions?

V. RIVERS: We in the Committee didn't think it would. We thought we should have, in view of the rather large number of functions which the joint sessions perform, authority to call them in joint session. Now that could be subject to some discussion. I'm merely expressing the majority opinion of the Committee after some considerable discussion.

PRESIDENT EGAN: Is there objection to the unanimous consent request? There being no objection, the proposed amendment is ordered adopted. Mr. Barr.

BARR: Mr. President, I have a short amendment here. I'm going to submit it so I may tell why, and then if there is any objection by the Committee members, I'll withdraw it. On line 17, Section 10, page 5, after the word "prepare" insert "and submit to the governor-elect". I move the adoption of the amendment.

PRESIDENT EGAN: After the word "prepare" on line 17 --

BARR: Insert "and submit to the governor-elect".

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

KNIGHT: I'll second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Mr. Barr.

BARR: Mr. President, my recollection may be faulty, but as I remember in Committee the idea of having the governor submit this in writing was to avoid any publicity in case he intended to castigate the incoming administration or to give weak excuses for his administration's performance of duty. In addition to this, the new governor makes an address before the new legislature, outlining his program. But the new governor has been in office only a very few weeks and really doesn't have too much information at his fingertips as to the past performance or the financial condition of the Territory; the old governor has that information. We thought that he should give that to the incoming governor so that he would have this at his fingertips and be better prepared to report to the legislature. But we realized there was a danger that the old governor -- if he were of a different party, or if he didn't see eye to eye with the incoming governor -- he might use that report, if it were published or broadcast, for his own personal reasons. So this amendment here is to point out that he is to submit this written report to the governor, and he is not to report it publicly to the legislature or to the press, or to anyone else. And that would obviate the possibility of him using it that way. Now does anybody in the Committee object to this or is my thinking wrong on it? May I ask the Chairman?

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: In answering that question, there was some discussion on this point in Committee. We left the wording out after some discussion. I have no objection as an individual, but I can't speak for the other members of the Committee. At the moment I just don't recall their position on this.

BARR: Can you recall why it was left out?

V. RIVERS: Well, no. I just don't exactly recall the reason, but I remember we discussed it, but that was some time ago

BARR: The reason I submitted this, Mr. Chairman, is because I don't remember it being left out, and I think myself, that it is a little important.

PRESIDENT EGAN: Mr. Barr, the Chair does not wish to interrupt and the Chair does not wish to admit that he's watching the clock, but your amendment is before us, and if you would so choose to do so, we could hold the amendment in abeyance, and maybe you could have time to see the committee members on it.

BARR: Mr. President, subject to committee announcements, I move that we recess until 9 o'clock tomorrow morning.

PRESIDENT EGAN: Are there committee reports or announcements of committee meetings? Mr. Coghill.

COGHILL: This is not in the way of a committee report. The Veterans of Foreign Wars dinner is tomorrow night, and if the Convention is not going to be in session, we would like to have you leave your name with Mr. Wilson as to how many wish to attend. General Dean will be our guest at the doing.

ROSSWOG: I'd like to have a Local Government Committee meeting for a few minutes in the gallery as soon as possible.

PRESIDENT EGAN: Are there other announcements? If there are no other announcements, the Convention will stand adjourned until 9 o'clock tomorrow morning.