

ALASKA CONSTITUTIONAL CONVENTION

January 25, 1956

SIXTY-FOURTH DAY

PRESIDENT EGAN: The Convention will come to order. We have with us today the Reverend James Gamble of the Pentecostal Holiness Church. Reverend Gamble will give our daily invocation.

REVEREND GAMBLE: Almighty and eternal God, whose glory is in all the world, we commend this session of this momentous Convention to Thy merciful care. May it be guided by Thy great hand of Providence. May weary bodies be strengthened and grant that the minds of these leaders who have wrestled with each part of this constitution these many days receive new quickening from Thee at this hour; may these who serve here on behalf of the people move with fear. Through Jesus Christ, Our Lord. Amen.

PRESIDENT EGAN: Thank you. At this time the Chief Clerk will call the roll.

(The Chief Clerk then called the roll.)

CHIEF CLERK: Two absent.

PRESIDENT EGAN: A quorum is present. The Convention will proceed with its regular order of business. At this time the Chair would like to announce that the Secretary has a sheet that he would like to have each delegate sign. It will be in the order -- the signatures will be in the order that you will sign the final draft of the constitution. The Fairbanks Daily News-Miner plans to put out a special edition with relation to the Constitutional Convention and its closing ceremony. We would ask that the delegates sign this sheet in order, so that the printers might have all your signatures and be able to have them engraved or cut, as they have had to do, to expedite the work at the paper in preparing for this edition. So if the Chief Clerk will call the roll of the regular roll call and as each name is called if the delegate will come forward and sign his or her name; Mr. Stewart has the pen here, then as that person signs the sheet the next one in line will be called. The Convention will be at ease.

(The delegates signed the sheet as requested and indicated in the preceding statement.)

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

BUCKALEW: I had a committee amendment to Sections 20 and 21.

PRESIDENT EGAN: Well, we will go down the order of business first. Mr. Robertson?

ROBERTSON: Mr. President, I would like to ask a question, if you please. As I understand, we are signing our names for the purpose of publicity in this edition of the Fairbanks Daily News-Miner that it expects to get out?

PRESIDENT EGAN: Mr. Robertson, yes, the publisher of the paper desires to print in that edition the entire constitution along with the names as they will be signed by each delegate. In order to accomplish that in time for this edition, it is necessary that he have the names so that he can make his cuts.

ROBERTSON: If that is true then, Mr. President, I ask unanimous consent that at this time that it be the policy of the Convention that when we adjourn, we adjourn in honor of Judge James Wickersham, one of our foremost Alaskans, and the man who introduced the first statehood bill in Congress.

PRESIDENT EGAN: You are asking that that be the --

ROBERTSON: Unanimous consent, when we finally adjourn.

PRESIDENT EGAN: When final adjournment is made? Is there objection? Hearing no objection -- Mr. Rivers.

V. RIVERS: I would like to say that I think we should add the name of Anthony J. Dimond, and would ask the consent of the mover in making it in joint honor of the two men who have been outstanding characters in our political lives.

PRESIDENT EGAN: Would you have objection, Mr. Robertson?

ROBERTSON: I have no objection. I thought we adjourned our recess in honor of Judge Dimond is why I confined it to Judge Wickersham, Mr. President.

V. RIVERS: If that was the case, then I will withdraw my suggestion.

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, if memory serves me, we observed Anthony J. Dimond Day, the day following the day set by statute, but I do not believe that we recessed in his honor.

ROBERTSON: Then I agree. I was a great friend of Judge Dimond, too.

PRESIDENT EGAN: Then your motion would be asking unanimous consent that the final adjournment of this Convention be in honor of Judge Wickersham and Judge Anthony J. Dimond? If there is no objection that will be the policy of the Convention. Are there any communications or petitions from outside the Convention? The Chief Clerk will please read the

communications.

(The Chief Clerk read the following communication: telegram to Herb Hilscher from Cliff Webber of Anchorage, criticizing him for neglecting to put in fish and wildlife provisions.)

PRESIDENT EGAN: The telegram will be referred to an informal committee the Chair has appointed, composed of Mr. Smith, Mr. White, and Mr. Boswell, who will attempt to answer each and every message that we have received relating to this subject. Are there reports of standing committees? Mr. Smith.

SMITH: I would like to report that the Committee on Resources has several minor amendments to offer to Committee Proposal No. 8/a, and I ask that consideration of these amendments be made the first order of business this morning in order that this report may be referred to the Committee on Engrossment and Enrollment.

PRESIDENT EGAN: Is there objection to the request of Mr. Smith? Then, Mr. Smith, when we come down to the order of unfinished business, we will take that up. Mr. Sundborg.

SUNDBORG: Mr. President, your Committee on Style and Drafting reports to the Convention its redraft of the preamble and the declaration of rights, and also reports to the Convention its redraft of the article on the legislature.

PRESIDENT EGAN: Would the Chief Clerk read the reports of the Committee for the first time.

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the preamble on the article on bill of rights for consideration by the Convention."

PRESIDENT EGAN: The report is referred to the Rules Committee for assignment to the calendar.

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the article on the legislature for consideration by the Convention."

PRESIDENT EGAN: The report is referred to the Rules Committee for assignment to the calendar. Mr. Sundborg.

SUNDBORG: Mr. President, the Committee on Style and Drafting worked until 11:00 o'clock last night and worked from early this morning until the time of convening of the session and should have several additional articles to report to the Convention tomorrow. In order that the delegates may have a better understanding of some of the things we are trying to do in the Committee, I wonder if we might ask the permission of the Convention to have Mr. Kimbrough Owen, who has been here as an

adviser to our Committee for the past week, speak very briefly to the entire session to point out some of the matters with which we have been dealing. I really feel, Mr. President, that this would be beneficial to everybody to know about the care with which many of the questions which are going to come up through the years with respect to the constitution are being considered in detail now. I would like to ask unanimous consent that we grant the privilege of the floor to Mr. Owen to make a brief statement.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? Mr. Victor Rivers.

V. RIVERS: Mr. President, I have no objection. I think in view of the fact that we have had a rule to the effect that we do not have consultants appear in person, that this rule should be abstained from or withheld, because Mr. Kimbrough Owen will be speaking not of substance but of composition, style, and drafting, and I, for one, would be very much in favor of hearing him.

PRESIDENT EGAN: Is there objection to Mr. Sundborg's unanimous consent request? Hearing no objection, Mr. Owen, will you come forward and favor us with a few brief remarks as to the work being done by the Style and Drafting Committee?

OWEN: Mr. President and delegates, I think it is not unusual for the work of a style and drafting committee of a convention to be either ridiculed or regarded with great suspicion, but I think that the document when it is finished will not be interpreted in terms of one article alone but will be regarded by the court as a total document, and it is the opportunity of the Style and Drafting Committee to regard each article in relation with all the other articles of the constitution. It is not the purpose of the Style and Drafting Committee, of any style and drafting committee, to make a constitution pretty. Some people consider it as sort of an embroidery process whereby pretty words are substituted for plain words or words are just deleted. The purpose of a style committee is to see that the desire and intent of the convention is reflected as clearly as possible throughout the entire document. In order to do that, there are certain rules which are generally followed. One of those is that terms should be consistently used from article to article to express the same intention. I would just like to give you a few examples of that. One of the most common that you find in constitutions is a reference to the voting of the legislature. For example, you are talking about a two-thirds vote of the legislature, you can read it generally referred to as "two-thirds of the members", "two-thirds of the membership", "two-thirds of the house", "two-thirds of the members to which it is entitled". Now I think that any one of these expressions or combination of them can be used, so we must be careful to use the same expression when we want two-thirds of 40

as when we want two-thirds of 20, that the same expression should be used; in the same case if we mean two-thirds of those present, assuming that you have a majority, then another expression should be used. Since each article is drafted by a separate committee, it is quite possible that two committees mean the same thing and yet they will use a different expression which would be interpreted by the courts differently than the intent of the framers. So what we have attempted to do is to take the expressions that are commonly used throughout the constitution and see that they are used uniformly so that the intent will not be misunderstood. There are several expressions in the constitution in addition to voting; for example, the use of the expression, "the qualified voter" or "elector". We attempt to use, throughout the constitution, wherever we think "qualified voter" is meant, the expression "qualified voter" rather than "elector", because "elector" is not defined in the article on suffrage and elections but "qualified voter" is. Now, the same way in terms of residence requirements; if the residence requirement of the governor is expressed in one way, and the legislators in a different way, the courts can imply that a different type of residence is involved. The Louisiana Constitution is about the poorest example of a constitution in the country, but I would like to cite you an example of poor drafting in the Louisiana Constitution. On one page there is the requirement, for example, that constables be able to read and write, and two pages later there is a requirement that justices of the peace be able to read and write correctly. (Laughter)

PRESIDENT EGAN: The Convention will come to order.

OWEN: Now that expression was in the early Louisiana Constitution, but it has had to be carried along in every subsequent constitution because the framers felt that if they deleted the word "correctly", it might be interpreted as reducing the requirement of one office, and if they added it to the other it might be considered as increasing the requirements of the office. You have such a wonderful opportunity here in this first constitution, because from now on out, every time you adopt another constitution, if you delete a phrase, then the court will interpret it that you meant to change something, so you have an opportunity to start out fresh. Not only do we try to use terms consistently with the meaning of the framers but also we attempt to arrange subject matter logically. We are following the principle that every section of the constitution should be confined as much as possible to one principle thought so that if the constitution has to be amended it would be very easy to amend a particular section of the constitution. Similarly, we have tried to make each section self-sufficient without reference specifically to other sections, so that the amendment of another section of the constitution will not necessarily affect that one. We attempt then to take the sections and arrange them logically so that they will read, not easily,

but that they will read at least in terms of the consecutive thoughts involved. We attempt to clarify the meaning of the constitution even when it means rearranging the words. For example, there is one expression about, "The legislature shall meet on the fourth Monday in January unless otherwise provided by law." The question is: does the "unless otherwise provided by law" affect only the month and the day or does it affect the meaning of the legislature in annual session. If there is any question about it, it should be stated so that it is quite clear that what the legislature is supposed to change is the day and month rather than the year. In some cases we have attempted to make the meaning more specific and less ambiguous than it was in the original draft. It is a unique opportunity because we have here all of the drafts at their latest stage, and we are constantly going through to see how one article of the constitution affects another; how the use of one word in one article could be used to interpret another article in a sense different from that intended. It is not an easy process, I assure you. We have here on cards almost every important word that is used anywhere in the draft, with the meaning of it, so that we can be sure that we are getting a consistency of expression throughout the constitution, and the point is not, as I say, to make it pretty or to sound good, but to be sure that the meaning of the document is exactly what you want and it will be so interpreted. Thank you, Mr. President. (Applause)

PRESIDENT EGAN: Thank you, Mr. Owen. The Convention will come to order. Are there reports of special committees? Does the special committee to read the journal have a report to make at this time? Mr. White.

WHITE: No report at this time, Mr. President.

PRESIDENT EGAN: That report will be held in abeyance. Are there any motions or resolutions? Mr. Marston.

MARSTON: Mr. President, at this time I would like to re-offer this resolution, "Friendly Relations with Canada", if I may.

PRESIDENT EGAN: You wish to offer the resolution?

MARSTON: Re-enter the one that I had entered here and it went through channels and ended here and was taken back for a little correction.

RILEY: May I interrupt?

PRESIDENT EGAN: You have the floor, Mr. Marston. Your question, Mr. Riley?

RILEY: The original resolution is still in the Rules Committee for placement on the calendar, and I thought it had been understood that it was to have a place on the calendar after

some of the substantive matters were cleaned up.

MARSTON: We have done that now.

RILEY: We are not speaking of that particular resolution, Colonel Marston, but it would seem appropriate that when the resolution is entered on the calendar that that could properly come in as an amendment to the resolution, or certainly the Rules Committee would have no objection to your withdrawing your earlier one.

PRESIDENT EGAN: Mr. Marston, what Mr. Riley is saying is that they have the original in the Rules Committee for placement on the calendar. It might be proper either that you withdraw the original and offer this as a new resolution, or offer this as an amendment to the resolution that the Rules Committee will place on the calendar.

MARSTON: I will offer this as an amendment to the one they have on the calendar.

PRESIDENT EGAN: When that resolution comes on the calendar then, it would be more properly handled at that time. If there are no more resolutions, we are now down to our regular order of business, which is Committee Proposal No. 17, was it?

CHIEF CLERK: It's on the calendar.

PRESIDENT EGAN: I don't have a calendar.

SMITH: Mr. President, did we pass over unfinished business?

PRESIDENT EGAN: We are down to unfinished business now, Mr. Smith.

SMITH: Well, under the heading of unfinished business, I would like to ask unanimous consent to revert to consideration of the Committee Proposal No. 8/a, for amendment purposes.

PRESIDENT EGAN: Is there objection to referring to Committee Proposal No. 8/a at this time for committee amendment purposes? If not, we have before us Committee Proposal No. 8/a at this time. Mr. Smith.

SMITH: Mr. President, I would like to ask Mr. Riley to present the committee amendments.

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

RILEY: Mr. President, there are several committee amendments which are on the Clerk's desk. I might preface the reading of those by pointing out to the Convention that Article 8/a was retained in second reading only because we felt obliged to

3051

have an interpretation from some of those who had worked in assisting the Committee, as to the full implication of the various amendments made on the floor. We have received that information and in addition we have a few of our own to offer, simply to clarify the meaning.

PRESIDENT EGAN: Are these amendments in the order as you wish them read?

RILEY: Yes, they are.

PRESIDENT EGAN: The Chief Clerk may read the first proposed committee amendment.

CHIEF CLERK: "Page 1, line 10 --"

PRESIDENT EGAN: Page 1, line 10? Mrs. Hermann.

MRS. HERMANN: I think many of the delegates haven't found 8/a yet. I am still looking madly for it and I notice several others are.

PRESIDENT EGAN: Do all the delegates have their copies of committee proposal on natural resources -- Committee Proposal No. 8/a?

UNIDENTIFIED DELEGATE: No.

PRESIDENT EGAN: If there is no objection the Convention will be at recess.

TAYLOR: Are you referring to the enrolled copy?

PRESIDENT EGAN: No, the old copy, the original copy of 8/a. The Convention will be at recess for two minutes while the Sergeant at Arms brings down some of the copies.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the proposed committee amendment.

CHIEF CLERK: "Page 1, line 10, strike 'now'; line 11, strike the period and add 'upon the date of ratification of this constitution by the people of Alaska'."

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

RILEY: I ask unanimous consent for the adoption of the amendment as read.

PRESIDENT EGAN: Mr. Riley asks unanimous consent for adoption of the proposed committee amendment as read. Would the Chief Clerk please read the proposed committee amendment again.

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

V. RIVERS: Mr. President, I rise to a point of objection only to discuss the matter. We have said in our constitution we shall establish no ex post facto laws, laws after the fact. Now, in this constitution, we are intending to adopt something that is based upon ratification by the people. Ratification does not mean that it is in actual effect. It seems to me that the only way we can do that is to say "on the effective date of this constitution". I, for one, do not believe that on the day of ratification by the people it will abrogate any act of the legislature that may take place between now and the time we become a state. I think "upon the date of ratification by the people" is actually enacting within this constitution an ex post facto law and I do not believe that it could be considered to be effective unless we say "upon the effective date of this constitution", and I, for one, do not believe the words "upon ratification by the people" mean that it can be effective until such time as the constitution is actually a constitution of this state, it is not so until such time as we actually put it into effect.

PRESIDENT EGAN: Mr. Riley, do you ask for a two-minute recess?

RILEY: I don't think it is necessary, Mr. President.

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

RILEY: Yes, I do.

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed committee amendment. Is there a second?

WHITE: I second.

PRESIDENT EGAN: Seconded by Mr. White. The motion is open for discussion. Mr. Riley.

RILEY: Mr. President, the whole purpose of this substitution of language is the word "now" relating to the present Territorial boundaries. The present Territorial area is not fixed as to time and we seek to accomplish no action by ratification; we seek only to set the time when the known and fixed territorial limits, or boundaries, shall be defined; and that is the whole purpose of this particular amendment. We have adopted it elsewhere with respect to the minerals section of this article, minerals subject to the federal mining laws as of the date of ratification of this constitution.

PRESIDENT EGAN: Is there further discussion of this? Mr. Rivers.

V. RIVERS: Mr. President, may I add that my comments on "effective as of the date of ratification" applied to all uses, not just this one, because I do not believe, for one, that we can make it effective until such time as the constitution is effective.

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

BUCKALEW: Mr. President, I think this is a golden opportunity for the attorneys. I think this is probably the only occasion that all the attorneys will agree that ex post facto only applies to the criminal law. Maybe we ought to poll them, but I think Vic's fears are unfounded.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee be adopted by the Convention?" All those in favor of adopting the proposed committee amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. The Chief Clerk will read the next proposed committee amendment.

CHIEF CLERK: "Pages 1 and 2, Section 2, strike lines 15 and 17 on page 1, and strike through the word 'state' on line 1 of page 2."

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

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

PRESIDENT EGAN: Mr. Riley moves the adoption of the proposed committee amendment. Is there a second?

WHITE: I second the motion.

PRESIDENT EGAN: Mr. White seconds the motion. Mr. Riley.

RILEY: Mr. President, I might state first that I have meanwhile made my peace, as it were, with Delegates Barr and Hurley, who sought various ways to accomplish this purpose when it was first considered in second reading, and for a number of reasons, the Committee has adopted the thinking expressed by several of the delegates that evening. For one thing, we still have before us Mr. Smith's proposed amendment of yesterday, having to do with our consenting to the terms of the enabling act. That is before us today on a reconsideration, perhaps. In any event, some action of that nature may be taken. Another thought in the Committee's mind is that the use of this language was pretty much a gesture to the Congress, not wholly necessary but an indication to the Congress that we were mindful of

certain limitations which might touch on resources in the enabling bill. We think it is superfluous, that the law will be the law, and we will be bound by whatever it says or whatever mention we give it here. The third point the Committee had in mind was to remove all possibility of confusion of the nature suggested by Mr. Sundborg, having to do with pending legislation in the Congress, whereby fish traps might be terminated over a 10-year period. We do not feel that there is any hazard there, except a hazard of misunderstanding, a hazard of confusion whereby the ratification of the constitution might be damaged through a campaign of distortion, shall we say. And for that reason the Committee recommends the striking of this language.

PRESIDENT EGAN: The question is, "Shall the proposed committee amendment 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 "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments? The Chief Clerk may read the next amendment.

CHIEF CLERK: "Page 2, line 6, change the period to a comma and add 'subject to preferences among beneficial uses'."

PRESIDENT EGAN: Mr. Riley.

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

PRESIDENT EGAN: Mr. Riley moves the adoption of the amendment.

STEWART: I second the motion.

PRESIDENT EGAN: Mr. Stewart seconds the motion. Mr. Riley.

RILEY: Originally, in one of our earlier editions of this article, that language, or language substantially resembling it, was included. The Committee itself had stricken the language thinking that it appeared elsewhere in enough places to cover our purpose. However, it has been brought to our attention by more than one specialist in the field that it has particular application to the sustained yield principle, and that without the language we have just suggested, that the sustained yield principle mentioned becomes somewhat meaningless and ineffective.

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

CHIEF CLERK: "Page 2, line 6, change the period to a comma and add 'subject to preferences among beneficial uses'."

PRESIDENT EGAN: The question is, "Shall the proposed committee

amendment be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other committee amendments? The Chief Clerk may read them.

CHIEF CLERK: "Page 2, line 8, strike 'as defined by the legislature' and insert the same language on page 6, line 2, following the word 'state'."

PRESIDENT EGAN: Mr. Riley.

RILEY: Mr. President, this might properly be a matter for reference to Style and Drafting, but to make it more certain I move its adoption.

PRESIDENT EGAN: Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion. Will the Chief Clerk please read the proposed amendment once more. The Convention will come to order.

CHIEF CLERK: This was an amendment which was adopted, so it might not be in your copy but I have it on mine. It is on line 8, it should actually be on line 7. It was on mine, Mr. Riley; it was after the word "waters".

RILEY: Yes, change that reading to line 7.

CHIEF CLERK: On line 7 after the word "waters", there had been inserted "as defined by the legislature" and they want it taken out of there and inserted on page 6, line 2, after the word "state".

PRESIDENT EGAN: Mr. Riley has moved and it has been seconded that the proposed amendment be adopted. Mr. Riley.

RILEY: I might say, Mr. President, that this language "as defined by the legislature" in its present placement on line 7 of page 2, was responsive to the request of Mr. Poulsen and various others of the delegates, and the Committee did not object to its inclusion. But we feel that, in a sense, it muddies the waters when placed in the general reservations section and, as I say, we think this could be corrected by Style and Drafting, but we prefer to have action on the floor whereby it shall be placed in the access section as against the general reservations section.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed committee amendment 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 "ayes" have it and the proposed amendment is ordered adopted. Are there other proposed committee amendments?

CHIEF CLERK: "Page 4, lines 1 and 2, strike 'or interests therein'."

RILEY: Mr. President, I move the adoption of the amendment as read.

STEWART: I second the motion.

PRESIDENT EGAN: Mr. Riley moves the adoption of the amendment, seconded by Mr. Stewart. Mr. Riley.

RILEY: That is simply a redundancy. It appears in a subsection and it appears earlier on page 3 in the language qualifying the subsection.

PRESIDENT EGAN: Mr. Riley has moved, it has been seconded that the proposed amendment be adopted by the Convention. Mr. Hurley.

HURLEY: May I ask Mr. Riley again where it appears before that?

RILEY: On page 3, Mr. Hurley, on line 24.

PRESIDENT EGAN: Is there further discussion? If not, the question is, "Shall the proposed committee amendment be adopted by the Convention?" All those in favor of adopting the amendment will signify by saying "aye"; all opposed by saying "no". The "ayes" have it and the proposed amendment is ordered adopted. Are there other committee amendments?

CHIEF CLERK: "Page 5, line 20 --"

RILEY: I would like to suggest to the Clerk that the word "the" might help the sense of that amendment. Shall I read the amendment?

CHIEF CLERK: Yes, please.

PRESIDENT EGAN: Mr. Riley.

RILEY: On line 20, we had, by action of the Convention, inserted, "except mineral and medicinal waters". That particular insert should, under this amendment, follow the word "shall" instead of the word "use". It was adopted following the word "use", but in the judgment of the committee, it would better follow the word "shall" for clarity of, meaning -- "except mineral and medicinal waters" inserted after the word "shall"

and set off by commas. I move its adoption.

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

KNIGHT: I second it.

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

TAYLOR: I am not objecting; this is just for information. Mr. Riley, did your Committee, in considering this amendment as to mineral springs or mineral and medicinal waters -- is that the definition as given in the Bureau of Land Management regulations?

RILEY: I would say that it is not full, but representatives of BLM in town, in Fairbanks that is, suggested to us that it would satisfy the point raised by you and others the other evening.

TAYLOR: That is right. I think that was my amendment and I wasn't sure whether that was as it was set forth.

RILEY: Yes, that is right. I am sorry I didn't check with you before.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Mr. Riley, I take it this is a matter of substance or we wouldn't be asked to pass on it.

RILEY: I would say it is a matter of substance.

HELLENTHAL: How is it a matter of substance?

RILEY: As I read it now, Mr. Hellenenthal, it states, "All waters reserved to the people for common use except mineral and medicinal waters..." which would suggest that mineral and medicinal waters may not be reserved to the people for common use; but, if it is read following the word "shall": "All waters reserved to the people for common use shall, except mineral and medicinal waters, be subject to appropriation." There is a prospect there of misunderstanding, we feel, of a substantive nature. The point of the whole sentence is that these waters with that exception shall be subject to appropriation. We don't want to suggest that all other waters except mineral and medicinal waters are subject to reservation. The reservation applies across the field.

HELLENTHAL: Style and Drafting can still work on it after this amendment?

RILEY: I am sure, but with this to clarify our meaning.

PRESIDENT EGAN: The question is, "Shall the proposed amendment 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 ayes have it, and the proposed amendment is ordered adopted. Are there other committee amendments?

CHIEF CLERK: "Page 5, line 24, strike 'of' and substitute 'among'."

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

PRESIDENT EGAN: Mr. Riley moves the adoption of the amendment. Is there a second?

MARSTON: I second the motion.

PRESIDENT EGAN: Mr. Marston seconds the motion. Mr. Riley.

RILEY: The Committee feels that the substitution of the word "among" in that instance ties in more clearly with the concept of concurrent use. That, too, might have been a Style and Drafting change but we feel that it does touch on substantive matter.

PRESIDENT EGAN: The question is, "Shall the proposed amendment 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 "ayes" have it and the proposed amendment is ordered adopted. Are there other amendments?

CHIEF CLERK: "Transpose Sections 7 and 8, page 3."

PRESIDENT EGAN: Transpose Sections 7 and 8. Mr. Riley.

RILEY: Here, Mr. President, I would waive the motion to adopt, thinking it would serve the purpose to call the matter to the attention of Style and Drafting.

PRESIDENT EGAN: Are there other amendments for Committee Proposal No. 8/a?

R. RIVERS: May I address a question to Mr. Riley?

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

R. RIVERS: Mr. Riley, I refer to page 3, first to line 7, which I have marked down as a new Section 8, and it speaks of "lands and interests therein". The same question applies to new Section 10 on line 24, "or interests therein", and I would like to know what that means: "or interests therein"?

RILEY: I should like to ask for a five-minute recess and

refer various correspondence to Mr. Rivers.

PRESIDENT EGAN: If there is no objection this Convention will be at recess for five minutes.

R. RIVERS: Mr. President, I want something in the record as to the meaning of those terms and I don't understand myself what it means.

PRESIDENT EGAN: You would rather have it explained in session then?

R. RIVERS: Yes.

PRESIDENT EGAN: The Convention will come to order. Riley.

RILEY: There is a duality of meaning, Mr. Rivers, as the Committee regards "or interests therein". Initially, the language was adopted with a view to its including or being confined to the cover and the content, you might say, of the land, the resources themselves. The question has arisen from time to time throughout the Committee consideration of that language, and we have recognized at times that it would also cover the leasehold itself, the documentary evidence of an interest in the land, but clearly the Committee intends by "lands and interests therein" to cover the entire resource field, embraced by the land itself.

R. RIVERS: Thank you.

PRESIDENT EGAN: Are there other proposed amendments to Committee Proposal No. 8/a? If not, the proposal is referred to the Committee on Engrossment and Enrollment. Mr. White.

WHITE: Mr. President, are we still under the heading of unfinished business?

PRESIDENT EGAN: We are, Mr. White.

WHITE: Mr. President, under that heading, I would at this time move for reconsideration of my vote on the amendment by Mr. Smith yesterday, proposing a new Section 2 to committee Proposal No. 16.

PRESIDENT EGAN: Mr. White moves for reconsideration of this vote on that amendment. Mr. White.

WHITE: Mr. President, I ask for a one-minute recess so that the new Section 2, which I propose and which has been mimeographed, can be placed on the members' desks, because I feel that in order to discuss this thing intelligently we should have that before us.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. White moves for reconsideration of his vote on the amendment to Section 2, Committee Proposal No. 16. Is there a second to the motion?

MARSTON: I second it.

PRESIDENT EGAN: Delegate Marston seconds the motion which puts us back to the question, "Shall the proposed amendment be adopted?" Mr. White.

WHITE: Mr. President, yesterday I referred to the action taken on this matter in somewhat heated terms. I hope that the members will accept that as a measure of my interest, and not as a censure upon the members individually, or collectively. I do think this is a matter of the greatest importance and deserves further consideration by the Convention. Now, initially, I will agree that, eventually, we must accept such a section in order to obtain statehood. I will also agree that, if we should put such a section into our constitution as proposed here, there is probably another way around the matter of accepting an enabling act we don't like. We could probably refuse to set up our state government, as has been suggested on the floor. I think this approach that I suggest is a more direct and a more -- perhaps "honest" isn't the word -- but a better approach to it. Now why does the question arise at all? It arises because we are holding our Constitutional Convention before the passage of an enabling act. Should we be doing it the other way around, the enabling act would be before us; we would know what it says, and we would write our constitution, present it to the people of Alaska for ratification, and should the people of Alaska not like the enabling act, or not like the constitution itself, they could reject it. Most of the enabling acts have made that provision; moreover, they have made the provision that, in that event, we could call a second constitutional convention, and should the people turn the second constitution down, there would be no more conventions held under that particular enabling act. That method has always left up to the people of the State of Alaska the final say on whether or not they want to accept statehood under the terms of a particular enabling act, but we are now in a position of drawing our constitution before an enabling act is passed. We have no way of knowing what that enabling act will finally say. That is why the question arises. Now we have already dealt with this matter on two other instances. First of all, the original Committee Proposal No. 16 came out, it had a Section 2 which read. "The State of Alaska and its people hereby consent to all and singular the provisions of the enabling act that is passed by the Congress and approved by the President for the admission of Alaska

into the Union of States." We all, or the great majority of us, agreed that that was a blank check that we should not, and in clear conscience on behalf of the people of Alaska, could not sign until we struck that section. We have, just a few minutes ago, taken a similar action in relation to the boundaries of the future State of Alaska. Why? Because we cannot sit here and say we will accept any boundaries. So that in our resources article we have defined the boundaries as the boundaries of the Territory of Alaska existing upon the date of ratification of the constitution. That will give us the option in the future, should a partition plan be proposed, to say "yea" or "nay" to that partition plan. Now this matter before us is merely the same thing all over again, albiet perhaps a lesser degree. Section 2, as proposed by Mr. Smith, that we adopted yesterday, reads: "All provisions of the act admitting Alaska to the Union, which reserve rights or powers to the United States, as well as those prescribing the terms and conditions of the grants of lands or other property made to Alaska, are consented to fully by the State of Alaska and its people." Now I will agree that, under certain sections of the constitution, we cannot be discriminated against as a state and that we have certain protections under the constitution. I am referring here primarily to the "terms and conditions of grants of lands or other properties made to Alaska." Now the question arises; is there harm in adopting this section as we have adopted it? I say there is harm. It was pointed out yesterday that improvements in statehood bills have been won over a period of many years by dint of hard work, and I would suggest that further improvements are not necessarily impossible, but here we deliberately say we consent to the terms and conditions of the grants of lands, whatever they may be, and in so saying we suggest to congressmen that we are not interested in further improvements in statehood bills. We suggest to them in writing that, if they wish to make the terms more restrictive or less attractive, that we are not going to object. For example, the Resources Committee, in considering the great problem of handling our resources, has felt, I am sure unanimously, that a period of 25 years is not sufficient to intelligently and thoroughly study the problem and make the selection of our 100,000,000 acres of land. We would like to see Congress change that to, say, 50 years. Why suggest here in writing that we are satisfied with the enabling act as it stands? More seriously, I feel that in adopting this section we tie our delegate's hands. We remove from him what little bargaining position he has and we have to go back to less than a year ago, if you recall, the withdrawal proposal that was made, or several withdrawal proposals that were made. Those withdrawal proposals, even among those of us who were working hard for statehood, wanted statehood badly, wanted to accept it under almost any terms, threw us into consternation for a period of time. Perhaps some of us were willing to accept the withdrawal proposals immediately. Perhaps, after a week or two of consideration we were willing to accept it, but the fact remains that there was doubt passed; the fact remains that our delegate to Congress initially, did not know what to say to some of these proposals that were being made until he heard from the people

of Alaska. And I say to you that if we put this section in the constitution, unnecessarily, we are tying his hands and removing from him what little bargaining position he has in trying to get for Alaska the best statehood enabling act that he possibly can. Even worse for us here, I feel that the insertion of this paragraph gives to whatever opposition there may be to the ratification of our constitution, an ideal, ready-made platform on which to stand. Earlier, in urging the committee members on the resources article, Mr. Riley referred to a campaign of distortion, and I say to you, that this Section 2 which was adopted yesterday provides the grounds for the greatest campaign of distortion that you have ever seen. Now in the current statehood enabling act there is a provision that the state must retain title to all its minerals. Those of us here may or may not like that provision. We may or may not agree that it is going to be there whether we like it or not. I will be the first one to agree that there appears to be very little chance of ever getting that changed, but I would also like to point out that, of all the matters contained in the enabling act, that is far and away the most unpopular among the people of Alaska and not necessarily just among the mining industry. It is unpopular among the homesteaders, the man in the street, and everyone I have talked to, and I think that for us to sit here and deliberately, in writing, accede to that and cut the ground out from under individual Alaskans or groups of Alaskans who hope to go to Congress and try and get that changed, would be folly of the highest order. It would be the simplest thing in the world for people who are opposed to the adoption of the constitution to embark on a campaign of distortion and say that the delegates to the Convention are willing to accept statehood, if the Congress gives us one acre of land, or if they are going to propose withdrawal programs in the next statehood enabling act, they won't withdraw just 40 per cent of an area north of a certain river, but will withdraw the whole State of Alaska. There is a serious question under the current withdrawal provision as to the rights of the people living within that area. Now I might be willing to accept that and you might be willing to accept it but how easy it is going to be for opponents of statehood to go to the people and say, "Maybe that one is all right but the next one is going to be worse and do you want to accept that?" Now, the question arises: is it necessary for us to put this provision in the constitution now, and I feel that it is not necessary. I cannot conceive of a single congressman or a single senator, taking into consideration the fact that we are adopting our constitution prior to the passage of an enabling act, being offended by the fact that we have not inserted such a section in our constitution. It seems to me that a reasonable congressman or senator would admit to himself that that was merely the straightforward, businesslike approach for the people of Alaska to take, that the people of Alaska want to see the wares of Congress before they buy and I submit that there is nothing unusual about that. Now, the question has arisen that if we do not insert

this section, will it delay statehood? I submit that it won't delay statehood five minutes, whether we go by the Tennessee Plan or by some other plan. In any event, we are going to have to have an enabling act, and in any event, we are going to have to set up our state government. Now the amendment that I have had drawn and placed on the members' desks takes from HR 2535 the provisions that have been applied to Hawaii. You will find them on page -- starting at the bottom of page 11 and continuing to pages 12 and 13 of HR 2535. Suppose Hawaii left this section out and Congress has merely said to Hawaii "You must, at the time you elect your governor, submit to the people this proposition for a vote by the people -- yea or nay. If they vote 'yea' this proposition will be deemed a part of the constitution. The constitution will be so amended and you are on your way." There is no delay there at all. They have to go to the polls to vote for their governor and state officers anyway. I have read, in my interest in statehood, hundreds and hundreds of pages of the Congressional Record and I have yet to read one reference -- one derogatory reference to Hawaii because they left this provision out of their enabling act. I suspect they did it deliberately and I say we should do it deliberately. Now, as I say, the amendment which I have drawn here, I think would cover the situation, would show Congress that we haven't forgotten to put this in our constitution, that we have it in our minds, but that we are not willing, as American citizens, sovereign citizens of the future State of Alaska, to sign a blank check. There is nothing unreasonable, there is nothing that anyone, in my mind, could ever criticize about that action.

PRESIDENT EGAN: Mr. White, this is a proposed amendment you desire to offer after we vote on this particular reconsideration?

WHITE: Yes, Mr. President. If the section, as it stands, were deleted, I would propose to offer this new Section 2. Now, I, along with all of you I am sure, have worked hard for statehood for many years, much less than most of you, and I am willing to accept statehood under almost any terms, but I feel that this is a blank check again, even be it a smaller blank check than the one we talked about before, but it is a blank check all the same and it is one which I cannot, in clear conscience, sign. I feel it is undignified, unnecessary, and un-Alaskan.

PRESIDENT EGAN: Will the Chief Clerk please read the proposed amendment that the Convention will be voting upon when we consider this reconsideration motion. It was Mr. Smith's.

CHIEF CLERK: "Section 2. All provisions of the Act admitting Alaska to the Union which reserve rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska, are consented to fully by the State of Alaska and its people."

PRESIDENT EGAN: Now the Convention adopted that particular amendment, is that correct?

CHIEF CLERK: Yes.

PRESIDENT EGAN: If the motion made by Mr. White is carried, if the vote is "yes" on the reconsideration motion, it stays in; if you vote "no" on the motion to reconsider, you are voting to delete the Section 2 that had been adopted yesterday.

UNIDENTIFIED DELEGATE: No, no.

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

RECESS

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

ROBERTSON: I voted yesterday for Delegate Smith's Section 2, but I admit I did it with some doubts in my mind. I publicly debated and wrote a thesis on statehood some 10 years ago and I have always maintained that Congress be very liberal in giving us our natural resources. In fact, I have often been appalled at the enabling act and I am not at all satisfied with it and I think that Mr. Barrie White has a very good point here and I believe it should be considered, so we can have an opportunity to consider his amendment and I don't think his proposed amendment, if I may mention it, contemplates that we have to actually vote on the constitution again, it is just a question of whether or not we include this particular provision in the constitution. So I hope we do vote favorably on Mr. White's motion for reconsideration of this matter.

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

SMITH: If I shared for a minute Mr. White's fears, I would certainly withdraw my amendment in favor of his, and I would say, too, that I have never doubted Mr. White's sincerity and his beliefs. Now I simply cannot bring myself to the point where I share the fears expressed by Mr. White. The Tenth Amendment to the United States Constitution reads, "The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people." This means that Congress has only those powers expressly delegated to it by the Constitution. This Constitution is the supreme law of the land. This Constitution would certainly govern or supersede any provisions written into the act admitting Alaska into the union or any matter written into the constitution of the State of Alaska. Therefore, what we are consenting to in this section under discussion is

the reservation of rights and powers which Congress has under the Federal Constitution. It is not a blanket grant; it is only those rights which Congress has. As to our consent to the terms and condition of the grants of lands or other property, this consent is necessary for these grants are in the nature of a contract and can only be charged at any future time by and with the consent of the state and the United States. Under Article IV, Section 3 of the United States Constitution, Congress is empowered to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States. Under this authority Congress can make any disposal it might see fit to make of any lands owned by the federal government in Alaska. In this connection I hope that no one here is under the delusion that Alaska will assume ownership of 103,000,000 acres of land on its admission into the union. Alaska will not assume ownership of even one acre of land other than that owned now by the Territory and the land on which the Federal Building and jail in Juneau are now situated. What Alaska will receive is the right to select, within 25 years, 103,500,000 acres of land and if the land provisions in the latest enabling bills are carried forward, the land so selected will become the property of the state only after the state has made its selection and the land has been surveyed and patent issued. After patent is issued to the state the lands are then, of course, beyond the reach of Congress, they are the property of the state. Until patent is issued, however, all the lands within the state boundaries, I should say with the exception of submerged and tidal lands, will still be the property of the United States and will still be subject to any reservations that the federal government might want to impose. Actually, I don't feel that we are in any manner or in any form signing a blank check by saying we consent to the reservations of powers because I think that Congress already has those powers and that those powers are limited by the provisions of the United States Constitution.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, what we are trying to do here, and have been since the beginning of this Convention, is to adapt our constitution to an act of Congress which was not written with the thought that a constitutional convention would ever be held before the act itself was passed. I am sure that if Congress were drafting an enabling act which would have been passed after the Constitutional Convention of Alaska had been held and after the Alaska constitution had been ratified, they would not have required in the enabling act that the people of Alaska would have to consent in advance to whatever they might write into an enabling act. I think if we should, upon reconsideration, again write into our constitution the language proposed by Mr. Smith, we would be raising a real question in Washington in the minds of many members of the House and Senate as to our sanity and to our good judgment

because we would be consenting in advance without any knowledge of what the act might contain, to the provisions of the act. I can hear it now, the clamor that is going to be made throughout Alaska, when we come down to the ratification election with respect to this section alone, and it is going to be said, what kind of people are we Alaskans that we will crawl on our bellies to Congress and say we will take statehood under any circumstances and any kind of conditions you want to lay down." It will be said that Congress need not give us a single acre of land, a single dollar of money, and that it can impose upon us all kinds of conditions which are not in the latest enabling act but which Congress could do, I am sure, if we adopt the language proposed by Mr. Smith. I spoke yesterday on this and I feel just as I did then about it today, after more reflection. I cannot, in conscience, vote to put a thing like this in the Alaska constitution. Now I think that if we do it, we will be cutting the ground from under Delegate Bartlett and others in trying to get any change in the mineral leasing provisions of the latest enabling act. Whenever the Delegate would go to any committee of Congress to talk about that subject, the committee would very rightfully say, "Well, what is the use of our listening to you? The people of Alaska have already agreed to anything we would do here and they did it with specific reference and when they had before them the enabling act which was the one that was before the latest Congress." I really think that the way to handle it is the way that Mr. White would propose and that is that at an election to be held after the passage of the enabling act by Congress, we would consent to the conditions in that act. Now I wonder if everyone here understands that we don't get statehood anyway and we do not become a state until after we have elected our governor; that is, after we have held the first full election under statehood and after the enabling act was passed. That is set forth very clearly in the enabling act. We don't become a state until upon issuance of a proclamation by the President of the United States which it says in the act, he will not issue until after we have certified to him the results of the election of our state officers, etc. So, I contend that that election is the time, after we have had an enabling act, after our people have had a chance to see what is in it, that we should consent to its conditions and not one minute before.

PRESIDENT EGAN: Mr. Buckalew had been trying to get the floor.

BUCKALEW: I will yield, if it is permissible, Mr. President, I will yield to Delegate Awes.

AWES: Well, I wanted to raise a question on Barrie White's proposed amendment. Is this the time to do it or are we supposed to vote on the reconsideration?

PRESIDENT EGAN: Well, that amendment is not before us, Miss Awes, at all. Mr. Hurley.

HURLEY: Point of order on that. I think the amendment has been discussed so thoroughly it has a direct bearing on the way we are going to vote on this particular item and, if necessary, I ask unanimous consent that we be allowed to talk on it.

PRESIDENT EGAN: If there is the unanimous consent -- if there is no objection, Mr. Hurley, it can be done, but the amendment is not before us. Miss Awes, if there is no objection you may ask a question with relation to the amendment that is not before us.

AWES: Well, I have serious doubt as to the validity of this last sentence. Maybe Mr. White has considered it but it says, "In the event that the foregoing proposition is not adopted..." etc., "the Act of Congress admitting Alaska to the States of the Union shall cease to be effective." Well that, in effect, says that the people of Alaska shall vote to void an act of Congress. I don't think we have the power to do any such thing.

PRESIDENT EGAN: Well, do the delegates wish to argue this amendment that is not before us? Mr. White.

WHITE: Mr. President, I would attempt to say that that language could not be improved. It may be subject to some question but we would here merely be inserting on our own behalf, the exact language that Congress has inserted in the Hawaiian Enabling Act, in behalf of Hawaii. Since we are the ones taking the action, we are the ones now, if we adopt my amendment, who will have to say something about it. I read from the Hawaiian Enabling Act: "In the event the foregoing propositions are not adopted at said election by a majority of the legal votes cast on said submission, the provisions of this act shall thereupon cease to be effective. Congress has granted that right to Hawaii and there is no reason to assume that Congress would not similarly grant the same right to Alaska. Moreover, as this Act intended when it was written, we would have the same option in voting to adopt or not adopt our constitution.

PRESIDENT EGAN: If there is no objection to arguing this amendment that is not before us, Mr. Johnson, you may argue the amendment.

JOHNSON: Well, in connection with Miss Awes' point I had the same question and in looking at the Act which is HR 2535, I believe Mr. White has misunderstood the meaning of the language which appears at the top of page 13. I think the Congress here intends that its own Act shall be ineffective if Hawaii should turn down the referendum. It doesn't mean that Hawaii would have the right to make this Act ineffective, but the Act itself would be ineffective by reason of this negative vote on

the referendum, so it is still an Act of Congress. I think some other provision should be made or would have to be made with reference to the last sentence in Mr. White's proposed amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, I have a parliamentary inquiry. If it appears that we should strike the subsection, that is, strike Section 2, and then it should appear thereafter when Mr. White's proposal is submitted, that the proposal contradicts an article in the resources, which has already been adopted by the Convention, would that take a two-thirds vote to amend something which has been adopted by the resources, that is, the resources article?

PRESIDENT EGAN: What is your question, Mr. McLaughlin?

MCLAUGHLIN: If it appears upon, let us assume that Mr. White's amendment is before the body, and if it appears that that amendment contradicts or amends an article of the Resources Committee that has already been adopted, would that take a two-thirds vote?

PRESIDENT EGAN: Well, Mr. McLaughlin, the proposed amendment of Mr. White, if it ever gets before the body will be subject to amendment itself with a majority vote at any time while it is before us.

MCLAUGHLIN: What I am concerned about, sir, is if it does amend the resources article now, would it require a two-thirds vote?

PRESIDENT EGAN: If it amended the resources article or if it conflicted with the resources article, then if you wanted to go back and amend the resources article, it would take unanimous consent or a two-thirds vote under suspension of the rules; but under those circumstances, the Chair couldn't feel that there would be much of an obstacle.

SUNDBORG: May I rise to a point of order?

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

SUNDBORG: My point of order is that no part of the resources article has been adopted by the Convention.

PRESIDENT EGAN: That is right, but it would take, after it goes to Engrossment and Enrollment to make any substantive change, a two-thirds vote. Mr. Hilscher.

HILSCHER: If I understand this correctly, I believe that anyone who is opposed to statehood should heartily endorse Mr. Barrie White's amendment and I wish to carry this line of

reasoning on just a bit to show how that would apply. Number one, we are going to ask the people of Alaska to ratify our constitution in April. Let's assume that they do, that they ratify the constitution. Let's assume that they go for the Tennessee Plan. Then we will send our two senators and representative back to Washington, and suppose then, as a result of their good hard work plus our own propoganda, plus the aid of the American people, we are admitted to the union. Then we have to come back to Alaska, and the people of Alaska then have to hold another election to agree to this proposition in Section 2 and what a marvelous opportunity at that time, for the second time or the third time, that the antistatehood people would have to "unsell" the people of Alaska on statehood. I think it raises a very serious situation. I know that Mr. White is ardently in favor of statehood but I think this raises a very serious problem and I, for one, shall not favor it unless it can be shown otherwise.

PRESIDENT EGAN: Now, the Chair considers that by virtue of the fact that there was no objection that you have suspended the rules and are allowing debate on this particular amendment that is not before us. Mr. Fischer.

V. FISCHER: I would like to say that I am in favor of Mr. Smith's motion, not because I think that Mr. White's motion would open the door to anti -- statehood opponents, but I think, under Mr. Smith's motion we are not going to harm ourselves, but on the other hand we may expedite our cause. I think this might have been pointed out: if we adopt Mr. Smith's motion we will be telling Congress, "You have drafted a bill and passed it and the people of Alaska have already said they are willing to accept it." I think that will be a strong asset right there. I am not worried at this point about a blank check. One might ask oneself why has Congress provided all these grants of land in HR 2535. They have done so not because Alaskans have demanded those; not because Alaskans would not have accepted statehood with 20,000,000 acres. They have done that because they felt that the success of the state requires that 100,000,000 acres be granted; that the facilities of a road commission be turned over; that grants-in-aid be made for road construction. They have done it, not at our request, they have done it because they felt it was necessary. I feel that if somebody comes to Congress with a just cause for removing restrictions on disposal of mineral rights, if Congress feels that it will be necessary for the success of the state, that it will not be against the basic principles previously stated by Congress, that Congress would include that even if the people of Alaska already accepted what is in there now. I don't think we will be done out of anything. I think that it may help statehood much sooner and I am for Mr. Smith's amendment.

PRESIDENT EGAN: Mr. Barr.

BARR: We are considering two possible amendments here. One would, as we have been saying, give a blank check; the other one would submit the question to the people after an enabling act is passed. Now, with the adoption this morning, or this afternoon, of Mr. Riley's amendment, or the committee amendment, we have taken out any reference so far to agreement with future enabling acts. And I believe that is just the way the constitution should stand, and with Mr. White's amendment here it will be submitted to the people; but I am afraid that this is somewhat a complicated question to submit to the people. I fear that the first time they will be confronted with the question is when they will walk in and see it printed on the ballot and this has many ramifications -- this question of lands and rights, etc. It takes in the tidewater question, the tidelands questions; it takes in the reservation of mineral rights to the state, as well as the land given to the state by Congress; and it also takes in the withdrawal of large areas of land for possible military reservations, such as suggested by President Eisenhower. It is just too much to make a snap decision on when you walk in to vote. The other amendment, by Mr. Smith, says it will agree to anything Congress wants us to agree on now and in the future. Mr. Armstrong made an eloquent plea yesterday for us to trust everyone, to trust Congress, they would do what was right by us. Governor Gruening's speech, that he made on the first day to us here, has been printed and I would suggest that Mr. Armstrong obtain a copy of it and read it. It gives a long list of grievances. It gives a long list of discriminatory acts perpetrated on the people of the Territory of Alaska by the Congress of the United States. Now, perhaps that was because we were only a Territory; maybe they will reform, maybe when we are admitted as a state we will be taken into their camp as one of their brethren. But I don't know, I am a little skeptical. I believe that, as our constitution is written now, with the acceptance of Mr. Riley's amendment, where we do not bring the subject up at all, it is much better for us. If Congress has any doubts as to whether or not we agree to the present enabling act, all they have to do is read the constitution and they will see that we do agree to it. We agree to their proposition of reserving mineral rights to the state; we do not particularly like it but we agree to it so I don't think that there will be any thought in their minds of rejecting this constitution on those grounds.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: I voted against Mr. White's amendment yesterday and I feel as Delegate Sundborg -- excuse me, Mr. Smith's amendment -- and I believe that Barrie White's amendment is very fine. I would like to remind the people of the Westward part of Alaska that this is an insurance that when we have to sell the ratification of the constitution to the people that we are not taking a blank check; that we are, in effect, asking the Congress to provide us with a good enabling act, and it is not

selling the people a partitioning plan which has been brought out and which might very well be brought out again. I think that the people from the Westward part of Alaska should consider this proposition real well before they vote on it. I think that Mr. White's reconsideration is well taken and the people should vote for voting down Mr. Smith's amendment.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I rise to this question of the amendment to which Mr. White is proposing. I gave this serious consideration and the question, as I analyze it, is whether or not we place our faith in Congress and their desire to do the right thing by us in the enabling act, and from all indications in the past it has been that they would. They would not turn us loose without first giving us the chance to properly survive under the American system of free enterprise and of government by the consent of the governed; and again I have the other thought: first, should we approve, in advance, the acts of Congress, taking them at their face value and in good faith, or should we reserve that power to the people? That has bothered me and I appreciate the earnestness and sincerity and the honesty that goes into this effort and on the part of both the proponents of the Smith amendment and of this Barrie White amendment. Now, it seems to me that, we have a choice to make here and the majority will decide, but it seems to me that Mr. Smith has taken the identical words that Congress would ask us to approve in advance of their act. Mr. Smith has taken the identical words which Congress prescribed for Hawaii to take in obviating the lack of that same provision in their Constitution. I must frankly admit that I am in considerable doubt as to the best approach: should we approve it in advance by the people or should we resubmit it to the people for approval as it is drawn out and passed by Congress? I hold with Miss Awes' question, both in regard to the last line "cease to be effective" and also in regard to the use of the words "Enabling Act" which she did not bring up. I think we have, more or less, tacitly agreed that it should be considered an act of admission, rather than an act of enabling us to become a state, there may not be any particular question. I, for one, am now of the opinion that I will rescind my position and go along with Mr. Smith's thinking that we should allow the people to approve the congressional act after the enabling act rather than before.

BUCKALEW: Mr. President.

PRESIDENT EGAN: Mr. Marston has been attempting to get the floor, Mr. Buckalew.

MARSTON: Thank you. I, strange as it may seem, am going along with Barrie White today. It's a strange position I am in and I am not happy with the Smith proposition. I am not sure just where I am but I am not happy with that Smith proposition, but

I would like a chance to get out and get on firmer ground. I think we are gaining nothing by drawing out that so-called blank check. I don't think we will get paid for it and I think we are in a better position to go along with some of the ground that Barrie White has brought up here and I hope we get a chance at it before we close this thing up.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, an awful lot has been said here about a blank check. I would like to point out that when you give a check, blank or otherwise, it assumes that you have got something to dispose of. So far as these lands are concerned we don't have anything to dispose of; the lands all belong to the United States. It is just a question as to whether or not we will accept what they want to give us. It is like saying, "I am not going to let my grandfather make a will because it may not give me as much as I would like to get when he does." Now, so far as I can see it, and I appeared on this particular question before Congress in 1950, before the Senate subcommittee, and I know, I think, pretty well how these senators look at something like this. Each one of them, and a good many on that committee were people that were favorable to statehood for Alaska; some were not. At that time Senator Butler was not. But most were favorable to statehood for Alaska. But each one was examining the thing in the light of what his own state had, and I think we might as well remember that the present act gives Alaska many times more land than the most liberal provision of the previous enabling acts and, as was pointed out by somebody else here, that wasn't because of anything that Alaskans did. That was because the folks in Congress thought that we ought to have that land to make the new state work. They also had in mind that their own states, particularly in the Western states, are burdened with a large part of the public domain being held by the federal government rather than by the states. I feel just as Reverend Armstrong felt yesterday when he said that this is something over which we are not going to have any control, anyway. It is something that we are going to have to take, whatever Congress may prescribe so far as these lands are concerned. Now we hope it will be liberal and there is no reason at all to believe that it won't be liberal but it seems to me that unless we adopt a provision, such as is provided in Mr. Smith's amendment, we have left a very grave question to our friends in Congress, and it seems to me that we have provided a much better system of ammunition for those who might be against statehood than we will if we say, "Yes, we are going to abide by the laws of Congress and we are going to accept whatever our friends in Congress are willing to give us."

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I have heard a lot of talk here, Mr. President, at this Convention about taking bold, new steps and I am in favor of the Tennessee Plan but Mr. White is just a little too bold

for me. It even scares me. Now if we look at this proposal he has drawn, we go back to Senator Calhoun's doctrine of nullification. Now that was settled during the Civil War and I don't see how you can draw this proposal that he has got without nullifying an act of Congress. Now I don't know how that is going to sit with the congressmen, but I think it will embarrass the people here in Alaska, because I don't think we are in a position now to nullify any acts of Congress.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: I am sorry to take up the time, Mr. President, but I would like to enlarge upon those who have spoken in favor of Mr. Smith's amendment and against the reconsideration vote on the matter of putting our trust in Congress. I think if we consider that our friends in Congress have had quite a free rein in drawing bills for statehood -- if we didn't know it before I think we had a good exposition the other night as to why we are not a state, and it is not a matter of the gifts or the grants to the new state, but a matter of strictly political balance within the Congress of the United States. Now I think that we can be fairly sure that all bills enabling Alaska to become a state that may be introduced in Congress will be as liberal or more liberal than the one that we have now, because the opposition is going to be based on a preservation of the cloture rule and not on how nice a bill is for Alaskan statehood. I am willing to put this matter into the constitution now and depend on the future to bring what it may. I am one of those who, as Delegate White said a while ago, is willing to take statehood with only an acre of land because I feel that once I get that position, I will have two senators and a congressman to give me back my other 595,000,000, or however many there are left over. I favor keeping things as they are.

PRESIDENT EGAN: Is there anyone else who wishes to be heard before Mr. White closes? Mr. Metcalf.

METCALF: I would like to ask a question. I believe the article as is, with the consent to whatever Congress may decide to do in the way of an enabling act, if we are accepted as a state, are we bound then to go ahead or can we still back out?

PRESIDENT EGAN: Are you asking the Chair that or the Chairman of the Committee?

METCALF: Well, I'll take any of the chairmen of any of the committees -- whoever --

PRESIDENT EGAN: Mr. Metcalf, there have been states who have not accepted the enabling act and they had such as boundary disputes and for reasons of other disputes, have not accepted the enabling act and Congress has gone back and changed the enabling act. Does that answer your question?

METCALF: Thank you.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I ask that this body stand at recess until 4:05 o'clock.

UNIDENTIFIED DELEGATE: Objection.

PRESIDENT EGAN: Do you so move, Mr. McNees?

MCNEES: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. McNees so moves. Mr. Johnson seconds the motion. Miss Awes.

AWES: Is it all right to make committee announcements?

PRESIDENT EGAN: Are there committee announcements at this time?

AWES: I would like to call a meeting of the Bill of Rights Committee for just a few minutes immediately upon recess.

PRESIDENT EGAN: Bill of Rights immediately upon recess. Are there other committee announcements? The question is, "Shall the Convention stand at recess until 4:05?" All those in favor of standing at recess until 4:05 will signify by saying "aye"; opposed, by saying "no". The "noes" have it and the Convention is still in session. The Convention will come to order. Are there others who wish to be heard before Mr. White closes the argument? Mrs. Hermann.

HERMANN: Mr. President, I don't want to be heard at length but I do want to stand up and be counted as one who approves of the Smith amendment in preference to the Barrie White amendment and to say that I, too, was a witness at the hearing in 1950 of which Mr. Davis spoke, and well recall that after the long discussion had been heard on what lands should be given to Alaska, Clinton Anderson rose up and said, "We don't have to follow the approved pattern of giving lands to Alaska. Why can't we be bold and strike out on a new trend. I propose that we give the State of Alaska 100,000,000 acres of land to be selected from any place without the public domain that they can find." I can't say his exact words but I do know that that was the attitude of Mr. Anderson at that time and it has been included in every enabling act bill since that time.

PRESIDENT EGAN: Mr. White.

WHITE: May I close the argument?

PRESIDENT EGAN: You may close the argument. Mr. Hinckel.

HINCKEL: Aren't we voting on Mr. Smith's amendment? Mr. White has already spoken.

PRESIDENT EGAN: Mr. Hinckel, under these circumstances, Mr. White made the motion that brought the question before us again. It is sort of complicated but it is the opinion of the Chair that while it is Mr. Smith's amendment, that Mr. White made the motion that brought it before us, and the rules say that the maker of the motion that brings this subject before us has the last say. Mr. White.

WHITE: Mr. President, I will try and be as brief as I can. Mr. Smith, in discussing the retention of his motion, spent most of his time discussing the reservation of powers and rights of the United States. With that part I have little or no quarrel at all. I have granted, from the beginning, that the Constitution of the United States probably takes care of that. Most of the rest of the argument in favor of the retention of the Smith amendment has been in the nature of expressing pious hopes as to what the Congress has done and will do in the future. I feel that the proponents of the amendment have not answered the question; that this would result in a campaign of distortion at the time of ratification of this constitution; that leaving the section in would cut the ground out from under the feet of our Delegate to Congress and that it would cut the ground out from under the feet of the individual or groups of Alaskans who wish to go to Congress and have further redress of their grievances, or have listened to further proposals on their behalf that they would like to see included in statehood enabling acts. Now I would agree with Mr. Davis and Mrs. Hermann that the present treatment of Alaska in the enabling act is generous, but I also recall Mr. Davis saying that most congressmen approach the subject having in mind the treatment that their own states had gotten, and being fully conscious of the fact that Alaska is getting far more generous treatment. In effect, what I would do is to keep Congress in the same position and not say to them that should some senator get up and say in committee, "By golly, they are getting far too generous a treatment. Let's cut them down a little bit." That is possible when we say in advance that we will accept anything Congress wishes to do. I merely wish to preserve the status quo and, if possible, to improve it. Mr. Buckalew has raised the question of the legality of all of this and I can only point out again that if my amendment should go in it is no more and no less than Congress has already granted to the people of Hawaii in which they provide that the people of Hawaii shall vote on a similar proposition and they go on to say: "In the event the foregoing propositions are not adopted in said election by a majority of the legal votes cast on said submission, the provisions of this Act shall thereupon cease to be effective. In answer to a question awhile back, the Chair

answered that other states have turned down their enabling acts and I would point out that in those instances, the people, the citizens of those states, had not said in advance, "We will accept any enabling act you wish to give us." Therefore, the way was open for them to have a further redress of their grievances. Now Mr. Hilscher has said that my stand is an ideal stand for the antistatehood people because it gives them another crack at the subject later on. That is true, it would give them another crack; but Mr. Hilscher is a salesman and I would suggest to you that it is much easier to sell a given product than it is to tilt at windmills, as we will be tilting at windmills at the time of ratification when people wish to embark, as Mr. Riley says, on a campaign of distortion. That kind of campaign is very difficult to answer. I think you and I and the other delegates here could go out today and sell the current enabling act because there we have something positive to work on.

PRESIDENT EGAN: We will now be voting on the adoption of the Smith amendment. The Chief Clerk will please read Mr. Smith's proposed amendment.

CHIEF CLERK: "Section 2. All provisions of the Act admitting Alaska to the Union which reserve rights or powers to the United States as well as those prescribing the terms or conditions of the grants of lands or other property made to Alaska are consented to fully by the State of Alaska and its people."

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

SUNDBORG: May we have a roll call?

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 31 - Armstrong, Awes, Buckalew, Collins, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McCutcheon, McLaughlin, McNees, Nordale, Peratrovich, Riley, R. Rivers, Rosswog, Smith, Stewart, Taylor, VanderLeest, Wien, Mr. President.

Nays: 22 - Barr, Boswell, Coghill, Cross, Gray, Harris, Johnson, King, Laws, Londborg, Marston, Metcalf, Nerland, Nolan, Poulsen, Reader, V. Rivers, Robertson, Sundborg, Sweeney, Walsh, White.

Absent: 2 - Doogan, McNealy.)

3077

PRESIDENT EGAN: The Convention will come to order.

STEWART: I wish to change my vote to "yes".

PRESIDENT EGAN: Mr. Stewart changes his vote from "no" to "yes".

CHIEF CLERK: 31 yeas, 22 nays and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Mr. McNees.

MCNEES: Inasmuch as we have transacted some business, I again move that we recess this body until 4:10.

PRESIDENT EGAN: Mr. McNees moves and asks unanimous consent that the Convention stand at recess until 4:10. Is there objection? Hearing no objection it is so ordered.

RECESS

PRESIDENT EGAN: The Convention will come to order. We have before us Committee Proposal No. 16. Are there other amendments to Committee Proposal No. 16?

V. FISCHER: Point or order.

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

V. FISCHER: According to the calendar the next business is Style and Drafting reports.

PRESIDENT EGAN: Well, Mr. Fischer, that is correct, but it is the recollection of the Chair that we were on, as unfinished business, Committee Proposal No. 16. Then Mr. White made his motion, or served notice of reconsideration and that brought Committee Proposal No. 16 back before us in, its original position. If there are no other amendments we could have it on its way to Engrossment and Enrollment quickly; that is the only feeling the Chair had on it.

V. FISCHER: I don't want to be the one to delay this matter, but I have a question on the first section.

PRESIDENT EGAN: Well, it would be before us, the proposal. That reconsideration brings it back in its original status at that time before the body.

V. FISCHER: May I address it to the Chairman of the Ordinance Committee?

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

V. FISCHER: The section deals with a disclaimer to property held by the United States and the property claimed or owned by Natives of Alaska. The language followed is that in House Bill 2535. Has the Committee taken into consideration the fact that, the Senate, in its enabling bills, has considered a different section covering this matter and that there has been very strong disagreement between the two houses, the Senate not being willing to yield to the House version.

PRESIDENT EGAN: Mr. McNealy, could you answer that question?

MCNEALY: Mr. President, the Committee had considered that particular point and our thought and purpose of containing the language of the house bill was due to the fact that the house bill is still in the House of Representatives as it is. This particular house bill wasn't defeated; it was sent back to the committee and our only thought of it on that point was that since it was back to committee and there was even a possibility of that same bill coming out or the same bill being reintroduced at the next session of Congress or, if by any long chance, that that bill should be reported out of committee again this year, why then it would be the exact language of the house bill which, in effect, isn't completely dead, although it is pretty well buried in Committee. It was, of course, impossible for us to set up two alternatives, we more or less figured the lesser of the two evils.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I was wondering whether Section 2 might not possibly -- Mr. Smith's amendment which we adopted as Section 2 -- might not possibly cover the reservations of rights to the federal government and other matters covered?

MCNEALY: Well, that is possible. It is certainly very broad language in there. We felt, however, in adopting this other language out of the house bill and, if you will remember, it was the Committee that came on the floor with the recommendation then to strike Section 2 because we felt that it was almost a duplication.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I have an amendment before us on the desks that I think solves the problem. It is an amendment that proposes to delete Section 1, and I move that Section 1 be deleted.

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

CHIEF CLERK: "That Section 1 be deleted."

PRESIDENT EGAN: Mr. Hellenthal, do you so move?

HELLENTHAL: Yes.

PRESIDENT EGAN: The adoption of the amendment --

TAYLOR: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Taylor. Mr. Hellenthal.

HELLENTHAL: The reason that I make this amendment is that Mr. Smith's proposal clearly covers the subject matter of Section 1. There is no question about it. This is purely a matter of Style and Drafting and I have consulted with the Chairman of the Style and Drafting Committee and he feels that way too, but because of the fact that it is a quote from the house bill he believes it should be put before the body, but there is no ulterior motives, no designs, no nothing. This is just merely an effort to delete some 28 lines from the constitution that are totally unnecessary. The house bill lists five things that in the House's opinion should have been in the constitution. The last of the five is the Smith amendment and the Smith amendment treats of two things: provisions of the enabling act reserving rights or powers to the United States, and provisions of the enabling act prescribing terms or conditions of the grants of land or other property. Section 1 deals with precisely those things, nothing more, nothing less. It deals with the reservation of rights or powers in the United States and it deals with the prescribing of terms or conditions of grants of lands, so when the Smith amendment was adopted the necessity for the Section 1 was entirely obviated; and I have talked to Mr. Smith about it and he also agrees with me, and our sole purpose here is to prevent redundancy and to keep our constitution brief.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I fail to see any valid reason for using the Style and Drafting Committee as an excuse for striking a section which I believe is entirely proper. This section deals with the disclaimer as to Native lands and fishing rights and certainly isn't covered by Section 2, which is known as the Smith amendment. I believe it is a necessary article to have in the constitution and I think that the amendment should be defeated.

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Mr. President, may I ask Mr. Hellenthal a question?

PRESIDENT EGAN: You may ask a question, Mrs. Nordale.

NORDALE: Mr. Hellenthal, if you feel that that is absolutely

unnecessary, why do you suppose Congress put it in the act? It says, "The Convention shall provide in said constitution the first, second, third, fourth, fifth." This is second and the Smith amendment is fifth.

HELLENTHAL: Now, the fifth said that all provisions of the act reserving rights or powers to the United States, as well as those prescribing the terms or conditions, are consented to fully. Well, the condition of disclaimer, which we presume will be carried forward into the enabling act, if it is carried forth in the Smith amendment, we say that we consent to it fully. There is no out that the Smith amendment covers it and covers it very, very clearly.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think that section should be read in its entirety. It says, "... as well as those prescribing the terms or conditions of the grants of lands and for other property herein made to the state."

HELLENTHAL: Do you infer by that that I gave it a twisted meaning?

V. FISCHER: No. No, I think it could be misinterpreted.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, if it is the official statement of the Chairman of the Style and Drafting Committee that he saw no reason for it to be in there --

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, please, I am sure I never said such a thing to anybody.

PRESIDENT EGAN: The Convention will come to order.

HELLENTHAL: And I didn't say that in my remarks.

PRESIDENT EGAN: Mr. McLaughlin has the floor: Mr. McLaughlin.

MCLAUGHLIN: Mr. Chairman, we have, after much debate, put into our constitution every requirement as set forth in the enabling act. We have provided that no law shall be enacted respecting the establishment of religion; we have provided that the debts and liabilities of the Territory shall be assumed by the state; we have provided that provision will be made for the establishment and maintenance of a system of public schools; we have put in specifically -- we have put in the Smith amendment; and we have provided that mines and other property belonging to citizens of the United States residing without the state shall

never be taxed higher than the lands or other property belonging to residents thereof. We have had quite some debate on very controversial issues. Now when it comes down to adding 28 lines which, in substance, might be critical or essential, merely because it adds 28 lines to the constitution, I don't think is any argument for ignoring it. I frankly believe it should be in there; that if the assertion is that it merely adds 28 lines, as an individual member of Style and Drafting, much opposed to our art, I would prefer -- no matter how inartistic it is -- that it be in there verbatim.

PRESIDENT EGAN: Mr. Smith.

SMITH: Mr. Hellenthal did talk to me yesterday about this and I stated that I did believe that the second section covered the requirements of this particular section, but on the other hand I wonder if Congress would look at it in that manner. I have before me the Senate committee report referring to this section which says that, "Special attention is directed to the disclaimer clause which is set forth as a section in that part of Section 3 which lists the provisions that must be in the Alaska state constitution." It goes on to say, "The requirement of a disclaimer clause is the customary feature of the acts providing for the admission of new states into the union." Now I have checked on quite a number of the constitutions of the Western states in particular, and they do in every instance, contain a clause similar to this one. I simply could not vote for Mr. Hellenthal's amendment merely to eliminate the wordage.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Hellenthal 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 "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to Section 1?

HELLENTHAL: I had an amendment where I wanted to abbreviate it to four lines but I withdraw that now.

PRESIDENT EGAN: Are there other amendments to the proposal? If there are no other amendments to the proposal, it is referred to the Committee on Engrossment and Enrollment. The proposal is referred to the Committee on Engrossment and Enrollment. We now have before us on our calendar -- Mr. Sundborg, does the Style and Drafting Committee have reports on the legislative branch, the bill of rights, and suffrage and elections -- do you wish that carried over and go on with the rest of the calendar?

SUNDBORG: We are ready to proceed any time the Convention wishes to do so, Mr. President, and my understanding was that the Rules Committee had purposely put them at the head of the

calendar so that they would be cleared.

PRESIDENT EGAN: Well, then, the next item of business is the report of the Committee on Style and Drafting on the legislative branch. At this time, before we proceed, Mr. Coghill, as Chairman of the Committee on Administration, have you made arrangements for supper upstairs tonight or notified them? Is it the understanding of the Convention that we will be in session this evening? We have a full calendar to go through as yet. Then Mr. Coghill you might take care of it. The Chief Clerk may read the report of the Style and Drafting Committee, on the legislative branch for the second time.

(The report was then read by the Chief Clerk.)

PRESIDENT EGAN: Mr. Sundborg, do you or some other member of your Committee wish to explain the Style and Drafting Committee's work on this?

SUNDBORG: This article was redrafted by a subcommittee consisting of Mr. Davis, Mr. Fischer, and myself; and after the redraft was prepared, it was given to the Committee on the Legislative Branch which reviewed it and reported to us that no changes in substance had been made in our redraft and that everything of substance which was in the enrolled copy had been included in our redraft. It was then reviewed by our full Committee and is here reported to the floor. We have asked Mr. Fischer to explain the changes that have been made and to answer any questions that delegates may have with respect to the article.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: As Mr. Sundborg pointed out, no major changes were made. We did, in Section 1, reinsert the number for the membership of the senate and the membership of the house, as previously agreed when those were deleted. While on Section 1, I would like to explain the use of the term "membership" in Section 1. As Mr. Owen pointed out earlier this afternoon, one of the important jobs that has faced the Committee has been the establishment of uniformity in terminology, and that has been a particular problem when we have come up against different wording for the various types of majorities required to approve or disapprove certain measures. For sake of uniformity we have adopted the following rule: when the term "membership" is used, it means the total number of legislators to which each house is entitled or to which the legislature is entitled. To be exact, it means 20 senators, if we speak of the senate, 40 representatives, or 60 legislators. When the term "members", "senators", "representatives", or "legislators" is used in reference to a specific vote, that refers to the number affected, actually holding office and alive; not necessarily voting, but all of the members who are in existence. When we use the term "of the

house", for instance, "two-thirds of the house" or "two-thirds of the senate", that refers to the number actually voting on a particular issue, and that terminology is followed all the way through. We have, in no case, changed the original intent in applying these three categories. We have always followed the original language, insofar as intent was concerned, using the standardized language. The only other point that I would like to bring out concerns Section 2. We have run into a conflict which is substantive. In line 8, in lines 8 and 9, we refer to "resident" for a certain period immediately preceding his filing for office. In the executive article the language is similar except it refers to "immediately preceding his election to office". It is the feeling of the Committee that this matter should be decided by the Convention; we did not feel it within the scope of the Committee to make any substitution. However, it was pointed out that there are three categories which could be used in here. First of all, "immediately preceding his filing for office", "immediately preceding his election", or "immediately preceding the taking of office". Now, the last one is not used in a single instance, so far. It is the law, by the way, that governs the Constitutional Convention, that the qualifications apply as of the time that members were sworn in. Insofar as the filing is concerned, it was pointed out that there is a certain vagueness in the term because there is no specific date, as such, upon which filings are made. They can be made a year in advance of a certain election, whereas the actual election is a definite term. However, this is a matter which we left to the Convention to decide. I will be glad to answer any specific questions. We have rearranged a few of the sections so as to follow more logically the content of the article.

PRESIDENT EGAN: Are there questions to be asked of the Style and Drafting Committee? Mr. McNees.

MCNEES: I would like to ask, on page 2, lines 9 and 10, where the contents came from?

V. FISCHER: Those lines refer to, "This section does not apply to employment by or election to a constitutional convention." That comes from Section 5 of the enrolled draft which says "This section shall not apply to positions of employment in or election to any constitutional convention."

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I would like to ask for a one-minute recess to discuss something pertinent.

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Mr. Cooper, did you have --

COOPER: No. My question is answered.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: I just wondered if there were any more questions.

PRESIDENT EGAN: Are there other questions to be directed to the Style and Drafting Committee? Mr. Ralph Rivers.

R. RIVERS: Are we on any particular section?

PRESIDENT EGAN: No. The Chair feels that we should begin with questions relating to Section 1 first.

R. RIVERS: I have a question pertaining to page 4, line 15.

PRESIDENT EGAN: Mr. Rivers, the Chair will ask if there are questions relating to Section 1 first; the Chair should have done that previously. Are there questions relating to Section 1? With relation to Section 2? Mr. Londborg.

LONDBORG: Mr. President, I would like to have the Style and Drafting Committee explain the difference and why they have switched from the words "have resided" to being "a resident of". I wonder if there is any difference.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, the Committee looked into this particular matter. The word "resident" is used throughout the other articles; it is used in the article on suffrage and elections. If we had used the word "resided" in this case, as Mr. Owen pointed out, it could have raised all sorts of legal questions. We then looked into the difference between "resided" and "resident" and from a legal standpoint we were advised that there would be no difference; that "resided" is the same thing as "resident".

LONDBORG: Well, it would seem to me that if you were residing some place, you are actually living there; you are keeping a home there; you are maintaining your habitat, etc., whereas, being a resident, you are merely a resident in name; you can live anyplace else that you want to.

V. FISCHER: Well, apparently the term "reside" means about the same thing.

PRESIDENT EGAN: Are there other questions with relation to Section 2? Mr. Hellenthal.

HELLENTHAL: I move and ask unanimous consent that in place of the word "be" on line 5, the words "have been" be inserted and the words "who has been a resident" on line 6 be deleted.

PRESIDENT EGAN: Mr. Hellenthal, perhaps before we accept amendments, we will proceed, under the rules, through the section by section questioning and then come back for any proposed amendments.

HELLENTHAL: I thought this was the time when such amendments would be in order.

PRESIDENT EGAN: Mr. Robertson.

ROBERTSON: What decision has been reached during this recess as to whether we are going to have this "immediately preceding his filing for office" or "immediately preceding his election to office"?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: To my knowledge, Mr. President, the informal meeting of the Committee was on an entirely different subject, not related to this question.

PRESIDENT EGAN: Are there other questions with relation to Section 2 at this time? Mrs. Sweeney.

SWEENEY: I was wondering about the deletion of the words "and shall otherwise be a qualified elector".

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: In line 5 we say, "a member of the legislature shall be a qualified elector" or a "qualified voter" -- excuse me. Again this is a matter of standard use of nomenclature. We defined what "a qualified voter" is. There is no definition in the whole constitution of what a "qualified elector" is.

PRESIDENT EGAN: Are there other questions with relation to Section 2? If not, are there questions relating to Section 3? Section 4? Are there questions relating to Section 5? Mr. Cooper.

COOPER: I have one. In one other article, I forget exactly what it was, I believe it was the executive, it said service in the state armed forces did not apply to a position of profit. Does that apply in this case, also?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, I think it was previously pointed out that the intention was to include that particular provision

in the general and miscellaneous article where it would apply to all.

PRESIDENT EGAN: Are there other questions with relation to Section 5? To Section 6? To Section 7? The Convention will come to order. Are there questions relating to Section 8? Mr. Hellenthal.

HELLENTHAL: In Section 6, is a legislature a tribunal?

V. FISCHER: Mr. President, that, first of all, is language from the enrolled copy. Secondly, I think, and some of the attorneys might correct me, that that is standard language used for this particular provision in most, if not all, constitutions and possibly in the federal Constitution.

PRESIDENT EGAN: Mr. Fischer, if the Chair may, isn't that the language, Mr. Hellenthal, that is used in the Organic Act, with relation to that subject?

HELLENTHAL: I don't have the Organic Act committed to memory to that extent, but even if it does, I don't ordinarily think -- this makes the legislature a tribunal because it treats of the classification with other tribunals, and is questionable.

V. FISCHER: I would say that the legislature is a tribunal for impeachment cases.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I might just suggest that where the language is the same as it is in the enrolled copy, that we are wasting our time on the Style and Drafting report to go into the matter of the use of words, where we have the same words as we have here.

PRESIDENT EGAN: Mrs. Hermann, did you desire --

HERMANN: Mr. Davis said it better than I could.

PRESIDENT EGAN: Are there other questions relating to Sections 6, 7, or 7? Are there questions relating to Section 9? Section 10? Mr. Hurley.

HURLEY: Referring back to Section 9, I didn't have the question worked out. I ask this question merely because this is a different procedure. In Section 9, where you are calling a special session by a canvass of the legislators, now as I recall before, we had reference to using the term "members", if you used this, then it would be a majority, but, of course, in this case there is no session so it would be two-thirds of all of them, is that right?

V. FISCHER: That is correct; that is, the members who are alive.

PRESIDENT EGAN: Are there other questions relating to Sections 9 or 10? Are there questions on Section 11? On Section 12? The Convention will come to order. Mr. Victor Rivers.

V. RIVERS: On line 2, page 4, it says, "... but a smaller number may adjourn from day to day and may compel attendance of absent members." Such a use of the word "adjourn" as against "convene" bothers me.

DAVIS: Once again the language is exactly the same as the enrolled copy, Mr. President.

R. RIVERS: Do they adjourn before they convene or do they convene and then call a session? The use of the word "adjourn" there might deserve some consideration, I thought.

PRESIDENT EGAN: That is the language that appeared in the enrolled copy as it left the --

HELLENTHAL: Point of order.

PRESIDENT EGAN: Mr. Hellenthal, your point of order.

HELLENTHAL: Is it not entirely proper that anything can be questioned at this stage of the proceedings, or must we confine ourselves to a certain type of mistakes?

PRESIDENT EGAN: Well, Mr. Hellenthal, we are now -- of course, what Mr. Davis meant, as the Chair understands it, is that we are now reviewing the report of the Style and Drafting Committee. Now, when we go back through the article again in its amendment stage, it will be possible to make such changes as you might think are necessary by a proposed amendment. Mr. Kilcher.

KILCHER: Point of information. Are we now reviewing what the Committee on Style and Drafting have changed, or what it also might have overlooked in making the changes?

PRESIDENT EGAN: Do you have some questions that you felt -- if any delegate has a question that he wishes to ask the Style and Drafting Committee in relation to, "Why didn't you change this?" or something --

KILCHER: (Statement inaudible.)

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: A point of inquiry. With reference to the question that Mr. Victor Rivers asked regarding the use of the word

"adjourn", it occurs to me that if there isn't a quorum present, that they couldn't convene, so the only procedure left would be to adjourn.

PRESIDENT EGAN: Are there other questions relating to Section 12? Section 13? Section 14? Mr. Ralph Rivers.

R. RIVERS: I will renew my question regarding line 15. Line 14 says, starting on line 13, "No bill may become law unless it has passed three readings in each house on separate days, except that any bill may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it." I know that in practice the Alaska legislature had the first reading by title only, second reading in full, paragraph by paragraph, for purposes of amendment, and then it is only read by title in its third reading.

PRESIDENT EGAN: Mr. Rivers, the Chair does not mean to -- if the Chair may -- it is the recollection of the Chair that this subject came up for discussion at the time we had the legislative article before us, and there were amendments voted on at that time just on the particular subject that you are raising.

R. RIVERS: I wanted to ask Mr. Fischer if it is unnecessary to say that any two of said readings may be by title only, or is that unnecessary?

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, we could not go into that question since that was not subject for our inclusion in this particular section. It was previously included and we felt that anything in that range would be substantive.

PRESIDENT EGAN: Mrs. Sweeney.

SWEENEY: Mr. President, if I recall, when this proposal was on the floor, the Committee announced that it had been the intent of the Committee that the procedure for the reading of bills would be the same as it is now, with the title first, the second reading to be section by section, and the third reading by title again.

PRESIDENT EGAN: The Chair does not recall exactly what it was, but I do remember that there was some discussion. Are there other questions in relation to Sections 13 or 14? If not, are there other questions relating to Section 15? Section 16? Are there questions relating to Section 17? To Section 18? To Section 19? Are there questions relating to Sections 19 or 20, or 21? Mr. Fischer.

V. FISCHER: Mr. President, if there are no further questions on the committee report, I move and ask unanimous consent that the

report of the Committee on Style and Drafting be approved.

PRESIDENT EGAN: Mr. Fischer moves and asks unanimous consent that the report of the Style and Drafting Committee, with relation to Article II, the article on the legislature be accepted. Is there objection? If there is no objection it is so ordered. Are there more proposed amendments for Section 1? Mr. Sundborg, what is your pleasure?

SUNDBORG: I wonder if we might have a recess for several minutes so I can ask the Committee to consider a proposed amendment?

PRESIDENT EGAN: If there is no objection, the Convention will stand at recess until 5:15.

RECESS

PRESIDENT EGAN: The Convention will come to order. Are there any committee amendments to be proposed? Mr. Sundborg.

SUNDBORG: No committee amendments, Mr. President.

PRESIDENT EGAN: Are there amendments to be proposed for Section 1? Section 2? Are there any amendments to be proposed for this article?

SUNDBORG: Mr. President, I would just like again to call attention, as Mr. Fischer did, to the inconsistency which exists here in Section 2, and between it and the article on the executive, where it speaks here of the man having to be "a resident immediately preceding his filing for office" and in the other article, "immediately preceding his election to office," and I would like to suggest that that be resolved one or the other way in both cases, or the third alternative, which Mr. Fischer mentioned that "immediately preceding his taking office"; and I don't have the amendment myself to offer on that, but I should think someone here would, to make them all uniform.

HELLENTHAL: I propose that the word "election" be substituted for "filing" and so move.

PRESIDENT EGAN: Mr. Hellenthal moves that the word "election" be substituted for the word "filing" on line 8 of Section 2. Is there a second to the motion?

HERMANN: A point of order. Would it require a suspension of the rules?

PRESIDENT EGAN: On your point of order, it would require a suspension of the rules.

HERMANN: Yes, unless he asks unanimous consent.

PRESIDENT EGAN: Do you ask unanimous consent for the adoption of that amendment, Mr. Hellenthal?

HELLENTHAL: No.

DAVIS: I had a point before he does. It seems to me that if you were going to use the word "election" at that point, it would have to be "preceding his election, period", strike the "for office" or else say "election to" in the next line. It would require one or the other to make sense.

HELLENTHAL: I would prefer to amend my motion to make it "election to" in substitution for the words "filing for".

PRESIDENT EGAN: Mr. Hellenthal moves that the proposed amendment be adopted. Is there a second? It will take a two-thirds vote to carry the proposed amendment.

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion.

HINCKEL: I ask unanimous consent.

METCALF: I object.

PRESIDENT EGAN: Unanimous consent is asked. Mr. McCutcheon.

MCCUTCHEON: Mr. President, the intention of the Committee, and I think we were unanimous in this respect, was that a person should be a full resident at the time they put their name on the document which declared them for office. Obviously, there is a technicality here which we didn't consider. There is a point, however, which can be made in favor of our terminology here, but they may still require an amendment. Our idea would be that the cutoff date on filing should be utilized. For instance, I think currently it is February 1 and that they shall be a resident for a full period of term prior to the cutoff date of filing. Now a man may file the last minute, or he may file three months ahead of time. I can see that there is an inconsistency in that, but it was the intention of our Committee that the person shall be a full resident of Alaska prior to the time that they file for office. Now, I can't speak for the whole Committee inasmuch as they haven't had a meeting but I think it makes little difference to us actually which way this is accomplished, for purposes of consistency in the constitution, but our intention was that before you could file for office that you had to have the complete qualifications, and that you could not run on a basis of incomplete qualifications, assuming that if you were elected, you would be qualified to hold office.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: May I ask the Chairman a question?

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

JOHNSON: Well, Mr. McCutcheon, if you use the cutoff date of February 1, that wouldn't solve the problem, would it, because somebody could file before February 1 who might not be qualified at the time of filing?

MCCUTCHEON: Well, Mr. President --

JOHNSON: He might file, or was it your intent, or was it the Committee's intent, that at the time he filed his declaration of candidacy, at that time he must be a citizen? He might not be until February 1; then he would be having a gap in there. At least that occurs to me.

MCCUTCHEON: I grant that there is a point where it would require further amendment if we assume the cutoff date at the end of filing would be the period, but, as I say, I don't think the Committee has any objection to using the terminology that has already been used elsewhere in the constitution as it has been adopted so far. It was just a matter that we dealt with in one fashion, another committee dealt with in another fashion, and I don't think there is anything to hassle about at all.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: Mr. President, I would like to point out that as it stands here and without being amended, it would be perfectly possible for me to file tomorrow for election to the legislature at the 1966 election, to move outside and live in Seattle for 10 years and still to be qualified under this article. Now, I believe we ought to tighten it up somewhat more than that; and I favor the suggestion of Mr. Hellenthal that we fix it, both in this article, and in the one on the executive, to the date of election.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: A question, Mr. President. Doesn't the terminology "election" include filing, running, being elected, being certified? Wouldn't the term "election" cover it from the date of actual closing of the filings? "Election" would actually consist of the whole process as I visualize it, and as we discussed it briefly in the Committee.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I, frankly, have no preference as long as it is a fixed date, but an election isn't completed until you are elected and the votes are counted, and I don't see how you could say that an election would be completed with filing. It would be

the complete election. In other words, the counting of the ballots -- that is your election. I favor "election" just solely for this reason: that there is a matter of discretion in the candidate, if you tie it in with filing, and he can adjust as he sees fit, but if you tie it in with election, it is more fixed and it is more involuntary than the other amendment.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, I believe that the present wording should be retained for the reason as advanced by Mr. Victor Rivers, the fact that a filing is a part of the process of being elected. If a man wishes to file prior to the first of February why he can do so, but he must be of the legal age, 21 years for the representative and 25 years for the senator. Now following the reasoning of Mr. Sundborg, which I was unable to see in the same light, a person residing outside could not be elected. He couldn't file, because I don't believe Mr. Sundborg read the article which said that he must have been a resident for at least three years in the Territory and in the district in which he seeks to be elected for one year preceding his filing for office. Now how could he be out 10 years and come back and file because he wouldn't be a resident in that district? So I think that this should be, if he files on February or whether he files on January 31, I think he should be of age when he expects to be elected, because he is coming in then and trying to do something when he hasn't reached the age.

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

KILCHER: I wish to abstain from voting because I was not here for all of the discussion.

PRESIDENT EGAN: You wish to abstain, Mr. Kilcher, because you were not present?

KILCHER: Yes.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, there is one more observation I would like to make here before we finally get the balloting on this. The question arises in my mind is: when is a person actually elected? We assume that a person is actually elected when they have received, from the secretary of state or some such other official, a notice of certification that the election has been accomplished. Now, that date could be variable by as much as two or three weeks, depending upon how the precincts were coming in in their final counting. Consequently, it is possible that you could have someone filing without proper qualifications who may assume that the final returns won't be

canvassed and the certificates elected until a month after the election, and he may be counting on that. It may be that the votes are finally canvassed and the certificates are issued only three weeks after the election, and consequently, he would then be one week short of actual qualification in running here. So, it seems to me that if there is going to be a change made from this, it is going to have to be more specific than just a plain "election to" because a notice of election is a variable situation.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I succumb to Mr. McCutcheon's compelling logic and withdraw the amendment.

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

RECESS

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

HILSCHER: I move that the Convention be at recess until 7:00 p.m.

PRESIDENT EGAN: Mr. Hilscher moves and asks unanimous consent that the Convention stand at recess until 7:00 p.m. Are there committee announcements? Mr. McCutcheon.

MCCUTCHEON: Legislative Branch Committee will meet in the rear of the gallery immediately after recess.

PRESIDENT EGAN: Legislative Branch Committee will meet immediately upon recess in the rear of the gallery. Are there other committee announcements? Mr. Collins.

COLLINS: Committee on Referendum, Initiative and Recall will meet at 6:45 in the gallery.

PRESIDENT EGAN: Committee on Referendum will meet at 6:45 in the rear of the gallery, and what else was that, Mr. Collins?

COLLINS: Full attendance of the Committee is requested.

PRESIDENT EGAN: Mr. Collins requests a full attendance of his Committee. Are there other committee announcements? Mr. Hellenthal?

HELLENTHAL: Committee No. VI will meet at 6:45.

PRESIDENT EGAN: Committee No. VI, Committee on Suffrage and Elections will meet at 6:45.

HELLENTHAL: Upstairs in one of the rooms.

PRESIDENT EGAN: Upstairs in one of the committee rooms. Mr. McNealy.

MCNEALY: Mr. President, the Committee on Ordinances will meet in one of the committee rooms upstairs at 6:30.

PRESIDENT EGAN: Committee on Ordinances at 6:30 in one of the committee rooms upstairs. Are there other announcements? Mr. Kilcher? If there are no other announcements, the Convention -- Mr. Sundborg.

SUNDBORG: Mr. President, the subcommittees of the Committee on Style and Drafting will meet throughout the dinner hour.

PRESIDENT EGAN: Subcommittees of the Committee on Style and Drafting throughout the dinner hour. 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. Are there amendments to be proposed? Mr. White.

WHITE: Mr. President, may we revert to the business of reading the journal?

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

WHITE: Mr. President, the Committee to read the journal reports the journal of the 57th Convention day, Wednesday, January 18, without any recommended changes and the journal for the 58th Convention day, Thursday, January 19, without any changes, and ask unanimous consent for their adoption.

PRESIDENT EGAN: Mr. White asks unanimous consent that the journals for the 57th and 58th Convention days be adopted as read by the special committee to read the journal. Is there objection? Hearing no objection the journals are ordered adopted. Is there other business to come before the Convention before we proceed with the legislative article? If not, do we have a pending amendment to that article? Mr. Barr.

BARR: Mr. President, I have an amendment on the Secretary's desk.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. Barr. Mr. Riley.

RILEY: Mr. President, point of inquiry, if not a point of order.

On what basis are amendments before us?

PRESIDENT EGAN: They are before us on the basis of substance. Mr. Riley.

RILEY: Has the article been returned for specific amendment?

PRESIDENT EGAN: The article is not in third reading. The report of the Style and Drafting Committee has been accepted, Mr. Riley. Substantive amendments would necessarily take a two-thirds vote.

RILEY: That is what I am asking. Thank you.

PRESIDENT EGAN: That is correct. Mr. Barr, it was the understanding of the Chair that the Legislative Committee had several amendments to offer. Would it be in order to have them propose their amendments first?

BARR: I would rather have them do so first.

PRESIDENT EGAN: If there is no objection, then, Mr. McCutcheon.

MCCUTCHEON: Mr. President, your Committee met and considered some of the discrepancies that appear in the legislative article. We wish at this time to submit an amendment. Page 2, Section 5, line 4, beginning of the section, insert ahead of the word 'during' this material: 'No legislator shall hold any other office or position of profit under the United States or the State'." I will ask unanimous consent for the suspension of the rules and the adoption of the amendment.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent that the proposed amendment be adopted. Is there objection? Would the Chief Clerk please read the proposed amendment once more.

CHIEF CLERK: "Page 2, Section 5, line 4, begin the section with the following by inserting ahead of the word 'during': 'No legislator shall hold any other office or position of profit under the United States or the State'."

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Is there objection?

MCCUTCHEON: Mr. President, I will say, before objection is made, that it was the intent of the Legislative Committee that there should be no dual office holding from the standpoint of a legislator, and it was drawn to our attention that our article, Section 5 at least in the article, wasn't entirely clear that dual office holding was prohibited. So this terminology has been offered in order to clarify and fortify that point.

PRESIDENT EGAN: Is there objection to the unanimous consent

request? Mr. Johnson.

JOHNSON: A question, Mr. President. Is this a complete sentence, Mr. McCutcheon?

MCCUTCHEON: No, it is not a complete sentence. It continues on.

PRESIDENT EGAN: Would the Chief Clerk read that first sentence then as it would appear if this amendment is adopted.

CHIEF CLERK: "No legislator shall hold any other office or position of profit under the United States or the State during the term for which elected and for one year thereafter, no legislator may be nominated, elected or appointed to any other office or position of profit which has been created, or the salary or emoluments which have been increased while he was a member."

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

RECESS

PRESIDENT EGAN: The Convention will come to order. Would the Chief Clerk then please read the proposed amendment. Mr. McCutcheon, is it your desire there be a period after the word "state" and "during" remain as the beginning of another sentence? The Chief Clerk will please read that sentence.

CHIEF CLERK: "No legislator shall hold any other office or position of profit under the United States or the State."

PRESIDENT EGAN: Unanimous consent has been asked for the adoption of the proposed amendment. Is there objection? Mrs. Nordale.

NORDALE: Mr. President, may I ask a question?

PRESIDENT EGAN: If there is no objection.

NORDALE: Mr. McCutcheon, this would exempt anyone holding an office in a political subdivision of the state, would it not?

MCCUTCHEON: That is true; it wouldn't prohibit them from holding an office somewhere down the line, like a mayor of a city, or some such thing as that.

PRESIDENT EGAN: Hearing no objection, the amendment is ordered adopted. Are there other Legislative Committee amendments? Mr. McCutcheon.

MCCUTCHEON: Mr. President, on this same Section 5, beginning

on line 9, we strike lines 9 and 10 and insert the following: "This section does not prohibit the election of any person as governor, secretary of state, or member of a constitutional convention, or the employment of any person by a constitutional convention."

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

MCCUTCHEON: This section does not prohibit the election of any person as governor, secretary of the state, or a member of a constitutional convention, or the employment of any person by a constitutional convention.

PRESIDENT EGAN: Do you ask unanimous consent for the adoption?

MCCUTCHEON: Mr. President, I ask that the rules be suspended and that unanimous consent is asked for the adoption of this section.

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the proposed amendment. Mr. Riley.

RILEY: I will object for purposes of inquiry, if I may address a question to Mr. McCutcheon through the Chair. Mr. McCutcheon what, in your judgment, would the application of this section be to a legislator who sought to run for Congress, either house of Congress?

MCCUTCHEON: Well, it would appear to me personally that, inasmuch as the state had no concern with the emoluments of the office of Congress, it would not prohibit him from running for Congress.

RILEY: That is because it is a federal situation?

MCCUTCHEON: Yes. The reason for this additional material here is that it was felt that it was not desirable, necessarily, to prohibit a legislator from advancing to the office of governor or secretary of state. The absolute prohibition might involve restraining a number of persons who might otherwise be valuable to the state, as the governor or secretary of the state.

RILEY: But your language, if I may continue just a moment, states: "No legislator shall hold any other office or position of profit under the United States or the State." And your specific exemptions creates a question in my mind -- should not the Congress be mentioned?

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

RECESS

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

MCCUTCHEON: As a point of clarification, the Committee would include in the amendment offered, the words "or election to the Congress". I think that makes it specific.

PRESIDENT EGAN: Then the sentence would read -- would the Chief Clerk read the sentence then, if those words were added.

CHIEF CLERK: "This section does not prohibit the election of any person as governor, secretary of state, or member of a constitutional convention, or the employment of any person by a constitutional convention, or election to the Congress."

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. Chairman, it occurs to me that that language then would make it possible for a legislator to be both a member of the legislature and a representative to Congress if the exception applied to the whole section.

PRESIDENT EGAN: You mean the way the sentence would be worded? Mr. McCutcheon, do you have anything to say?

MCCUTCHEON: The point is that if there appears to be a conflict in it, the intent is that we are not prohibiting a person from running for Congress. Obviously, if they are elected to Congress, they can't sit in the state legislature. I am sure that Style and Drafting will have that drafted up, and I venture to say they will take out "election to Congress".

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

SUNDBORG: Mr. President, just a question on procedure. Does Style and Drafting get this back now that a good many amendments have been made?

PRESIDENT EGAN: Style and Drafting will get this back, as the Chair understands it, after this article is adopted by the Convention as a part of the constitution, not until then.

SUNDBORG: And we can change it at that time? That was not my understanding of the rules.

PRESIDENT EGAN: That isn't the understanding of the Chair either, that Style and Drafting can do the work that they have done up to this time, after the third reading procedure has been accomplished on the floor.

SUNDBORG: The simplest manner might be for Style and Drafting to request that after we have finished making these amendments

that it be recommitted to Style and Drafting for their consideration of the amendments which have been made.

PRESIDENT EGAN: That could be done if there was no objection.

SUNDBORG: Mr. President, I have a question to address to the Chairman of the Legislative Committee. Mr. McCutcheon, would this section, as it is now written, prohibit a member of the legislature, say the president of the senate or the speaker of the house, from succeeding to the office of governor, if the salary of the governor might have been increased while that legislator was in the legislature? I notice you have said "prohibit the election of any person as governor". How about the succession to the governorship from one of those top positions in the legislative branch?

MCCUTCHEON: It appears to me that in the line of succession as it is set up by the executive department, making specific provision for that, that that would carry the automatic exemption. Now, I may be in error in my opinion, but it would appear to me that the president of the senate, despite the fact that the governor's salary may have been increased, would not be prohibited from advancing to that position in case the circumstance came about.

SUNDBORG: Mr. McCutcheon, as I recall our action here, I think we deleted on the floor the specific succession and we just left that up to the legislature; that is, after the secretary of state who succeeds, anyone who might succeed after that, would be provided for by the legislature, so there is no specific provision in our constitution saying that any member of the legislature might succeed to the office of governor.

PRESIDENT EGAN: Mr. Sundborg, would it be advisable that we have a two- or three-minute recess at this time and consult with Mr. McCutcheon and others interested to delve into this question?

SUNDBORG: It would be all right with me.

PRESIDENT EGAN: If there is no objection, this Convention is at recess.

RECESS

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

MCCUTCHEON: Mr. President, in order to satisfy in the point of the possible succession to the governorship in the case of death or accident of some nature, the Committee has found it advisable to insert after the word "election" in the proposed amendment offered, "appointment or succession". This offering

is predicated on the theory that it will permit the president of the senate or the speaker of the house to advance to the office of governorship, in case it becomes vacant or it would permit, in the case of a vacancy, the United States senators or congressman for appointment to the national Congress.

PRESIDENT EGAN: The Chief Clerk will please read the proposed amendment as offered by Mr. McCutcheon with the addition.

CHIEF CLERK: "This section does not prohibit the election, appointment, or succession of any person as governor, secretary of state, or member of a constitutional convention, or the employment of any person by a constitutional convention, or election to the Congress."

MCCUTCHEON: I will ask unanimous consent for the adoption of the amendment.

The Convention will come to order.

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent for the adoption of the amendment which is tantamount to the suspension of the rules. Is there objection? Hearing no objection the amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: Mr. President, the Committee has another amendment to offer on page 2, Section 6, line 12, after the word "made" strike the words "or action taken" which continues on line 13.

PRESIDENT EGAN: Strike the words "or action taken".

MCCUTCHEON: After the word "duties" add "while the legislature is in session". I will ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: Mr. McCutcheon asks unanimous consent for the adoption of the amendment. Is there objection?

MCCUTCHEON: The Committee thinking behind this matter is that it was the idea of the Committee that a legislator should be given proper immunity for any of his actions during an active session of the legislature, but that that immunity should not continue to any investigative interim committee where he might utilize that immunity to the detriment of others. That is the reason why the Committee asks unanimous consent for the adoption of this amendment.

PRESIDENT EGAN: Is there objection? Hearing no objection, the amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: On page 4, Section 12, line 4, the Committee asks

unanimous consent to change the word from "may" to "shall".

PRESIDENT EGAN: Unanimous consent is asked for the adoption of the amendment. Is there objection?

HELLENTHAL: I object.

PRESIDENT EGAN: Objection is heard. Do you move?

MCCUTCHEON: I so move, Mr. President.

PRESIDENT EGAN: Mr. McCutcheon, do you move then that the rules be suspended?

MCCUTCHEON: Yes. I will ask a suspension of the rules.

PRESIDENT EGAN: Mr. McCutcheon moves that the rules be suspended. Is there a second to the motion?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mrs. Hermann.

HERMANN: I think the motion should be that the rules be suspended for the introduction of this specific amendment, not for general purposes.

PRESIDENT EGAN: That is right -- the rules be suspended so that this specific amendment can be voted on. The Chief Clerk will call the roll on the suspension of the rules in order that this specific amendment may be offered.

(The Chief Clerk called the roll at this time 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.

Absent: 2 - Robertson, VanderLeest.)

PRESIDENT EGAN: The Convention will come to order.

CHIEF CLERK: 53 yeas, 2 absent.

PRESIDENT EGAN: The "yeas" have it, and the rules have been suspended. You may offer your amendment if you so choose.

MCCUTCHEON: Mr. President, "Section 12, page 4, line 4, change the word 'may' to 'shall'." I move the adoption of the amendment, Mr. President.

PRESIDENT EGAN: Is there a second?

MCNEES: I second the motion.

PRESIDENT EGAN: Seconded by Mr. McNees. Mr. Hellenthal.

HELLENTHAL: I voted to suspend the rules because I don't want to insist on a two-thirds vote. I think this should be debated like anything else and I don't want to take any advantage of the Committee. Now, I want to be heard just briefly on it. As a matter of principle, I see nothing wrong in all lobbying. Lobbying by citizens' groups is to be encouraged. The word "lobbying" in itself has no nasty or evil connotation. It is a good word, but, if we put the "shall" in there, we are adopting, I think, rather the juvenile principle that lobbying is a dangerous thing in all cases, and I don't want to do that. That is the first point. The second point is, I trust the legislature. I think that they are going to regulate evil lobbying, but I don't want to tell them to do it. I think that they have good sense. We debated this on the floor once, and we reached the conclusion that it should be "may". I think "may" is healthy. This is some more of that old organic-act thinking, where we have boogiemen in the closets. We are grown up and don't have to worry about it. We are going to have a legitimate, decent legislature, and I don't think we should start leading them around by the nose.

PRESIDENT EGAN: The question is, "Shall the proposed amendment, as offered by the Committee, 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 "ayes" have it, and the proposed amendment is ordered adopted. Are there any other questions or proposed amendments to the article? Mr. McCutcheon.

MCCUTCHEON: "Page 5, Section 16, beginning on line 4, strike the words 'and bills dealing with taxation or affecting expenditures'; insert in lieu: 'and bills to raise revenue'." Mr. President, the Committee will ask unanimous consent for the adoption of the amendment.

PRESIDENT EGAN: The Committee, Mr. McCutcheon asks unanimous consent that the amendment be adopted. Is there objection?

TAYLOR: I object.

PRESIDENT EGAN: Objection is heard.

TAYLOR: Just for the purpose of getting the Committee's thinking on this.

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: To set forth some of the Committee thinking on this matter: arguments have been presented to the Committee that the words "and bills dealing with taxation or affecting expenditures" was too broad a term and that virtually any bill could be construed, in effect, to, in one fashion or another, be affecting expenditures or dealing with matters of taxation. The matters might only be of an administrative nature not actually affecting the rise or the fall of the revenue. So, consequently, it was the Committee's desire to include the words "and bills to raise revenue" which makes it more specific. The thought in this matter was that, inasmuch as we have a strong executive arm who shall propose a budget and, in the event he has an increase in budget, the governor shall indicate to the legislature the areas in which the revenue should be derived in order to substantiate his increase in budget; that, by including the words, "and bills to raise revenue", would be of direct application to those things affecting the actual increase of the burden upon the citizen. Consequently, therefore, it should be submitted to the three-fourths veto override rather than two-thirds.

PRESIDENT EGAN: Is there objection to the unanimous consent request of the Committee for the adoption of the amendment?

TAYLOR: I withdraw my objection.

JOHNSON: May we have the amendment read again?

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

CHIEF CLERK: "Section 16, page 5, beginning on line 4, strike the words 'and bills dealing with taxation or affecting expenditures'; insert in lieu thereof the following: 'and bills to raise revenue'."

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption? Mr. Hinckel.

HINCKEL: I have a question. The way she read the last time, are the words "items and" still left in?

CHIEF CLERK: ". . . or items" is in.

PRESIDENT EGAN: Would the Chief Clerk please read it again?

HINCKEL: Read the whole thing as it would be.

CHIEF CLERK: "Appropriation bills or items or bills to raise revenue, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature."

PRESIDENT EGAN: Mr. McNees.

MCNEES: I believe, if I may ask Mr. McCutcheon a question, I believe that was to read "and the bills to raise revenue". That is the way I picked it up in Committee, anyway.

PRESIDENT EGAN: Is that correct, Mr. McCutcheon, the word "and" instead of "or"?

MCCUTCHEON: That is possible that it is.

HELLENTHAL: I have a question. What does the word "items" mean as used here?

MCCUTCHEON: In a general appropriations act, it could be an item pertaining to one particular department.

HELLENTHAL: Do you think it says that here? Do you mean appropriation bills or items of the appropriation bill?

MCCUTCHEON: Yes, items of the appropriation bills.

HELLENTHAL: I think that should be made clear then.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: It is referred to in Section 15 and this is just a further reference to it. In Section 15 it says "he", meaning the governor, "may by veto strike or reduce items in appropriation bills. . ." and this just follows to tell what happens when he sends his message back, and I believe it is clear and refers to those items.

HELLENTHAL: It will undoubtedly be clearer when you get through with it in Style and Drafting.

PRESIDENT EGAN: The Convention will come to order. The Committee ask a unanimous consent that this amendment be adopted. Is there objection? Mr. Doogan.

DOOGAN: I didn't get it. Is that supposed to be "and bills" or "or bills"?

PRESIDENT EGAN: Mr. McCutcheon, it is supposed to be "and bills", is that correct? Does the Chief Clerk have that as "and bills"? Will the Chief Clerk read it as it is now.

CHIEF CLERK: The sentence?

PRESIDENT EGAN: Yes.

CHIEF CLERK: "Appropriation bills or items and bills to raise revenue, although vetoed, become law by affirmative vote of three-fourths of the membership of the legislature."

PRESIDENT EGAN: Is there objection to the unanimous consent request? Hearing no objection, the proposed amendment is ordered adopted. Mr. McCutcheon.

MCCUTCHEON: On page 5, Section 18, it appeared advisable to make an adjustment there by striking the whole section and inserting the following terminology: "Laws passed by the legislature become

effective ninety days after enactment unless otherwise provided by law."

PRESIDENT EGAN: You ask unanimous consent?

MCCUTCHEON: I ask unanimous consent for the adoption of the amendment.

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

CHIEF CLERK: "Strike Section 18, page 5, line 18, and insert the following: 'Laws passed by the legislature become effective ninety days after enactment unless otherwise provided by law'."

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: Mr. President, the device of Section 18 was instituted originally because of a section that was stricken from the original bill which had to do with the setting out to referendum by a bill lost in the house either by veto or by the legislature, whereby either the governor could send a bill out for referendum, or the legislature, on failing to overcome a veto, could send a bill out for referendum; and it was necessary under those circumstances, to set up a specific cutoff date. Inasmuch as that particular section of the legislative article was stricken, it was felt that, under those circumstances, that we set forth a 90-day effective period and let the legislature establish such terminology as they wished for the emergency act, if it were required, or to establish any other period of time for some reason or another that may be necessary for a law to become effective. I think a quite similar practice is currently being followed in our Territorial legislature.

PRESIDENT EGAN: Is there objection? Mr. Johnson.

JOHNSON: Yes, I object to that because the procedure that Mr. McCutcheon refers to is provided for by our Organic Act, and I think it ought to be in the constitution.

PRESIDENT EGAN: Objection is heard. Do you so move for the suspension of the rules, Mr. McCutcheon.

MCCUTCHEON: No.

R. RIVERS: Mr. President, I move for suspension of the rules to entertain this amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the rules be suspended.

TAYLOR: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Taylor, so that this specific amendment might be considered.

WHITE: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the rules be suspended. Is there objection? Hearing no objection the amendment can be placed before us for consideration.

MCCUTCHEON: I move for adoption of the amendment. Mr. President.

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

MCNEES: I'll second the motion.

PRESIDENT EGAN: Mr. McNees seconds the motion. Mr. Ralph Rivers.

R. RIVERS: Mr. President, I sat in there during committee deliberations for a while this evening, and part of the objection to Section 18 or part of the point discussed in connection with Section 18 was that this says ". . . effective ninety days after adjournment of the session at which enacted." That is the language we have in Section 18 now. Well, with a legislature that has employment the year round, Mr. Bebout says that sometimes his state legislature worked all year with intermittent recesses, and, in that case, a bill wouldn't become effective until 90 days after the next year started, and that under our present Territorial Organic Act, bills become effective 90 days after passage and approval - that is, of the passage of a specific act. Now, I don't think we can leave it in here the way it is. We don't want to say that with indefinite terms like our legislature will be going through under the new setup that we should wait until 90 days after the adjournment of a legislature before a particular law is going to go into effect. We wouldn't know, after the law was passed, within a period of months, perhaps, when that law was going to become effective, and nobody could figure out an exact time or plan accordingly. So, whether there is objection to this proposed amendment or not, we can't leave Section 18 in there the way it is, I don't think. Now, as to this proposed amendment, "Laws passed by the legislature become effective ninety days after enactment unless otherwise provided by law." That would call forth only one possible criticism, and that would be the meaning of the word "enactment". Our Organic Act now says "passage and approval", but every once in a while, an act becomes the law without the signature of the governor in case he just lets it become law without signing it, which he sometimes does during a legislative session. So if you say "ninety days after passage and approval", then you have to say "except when an act becomes the law without the governor's signature." So, instead of that, the Committee has just stuck in here "unless otherwise provided by law." Now then, the legislature can plug up the hole as to what happens if the governor does not sign a bill, and the legislature can, also, without monkeying with the emergency clauses, say, fix any other specific effective date for a particular enactment, such as, July 1, to coincide with the fiscal year, or "thirty days from date hereof", or "effective immediately upon passage and approval" -- so this actually, in short language, covers the whole subject, and I think it

coincides most closely with what we have now under our present procedure.

PRESIDENT EGAN: Mr. Johnson.

JOHNSON: I disagree. I think that striking the entire section, particularly the part that refers to the enactment of emergency legislation, is a dangerous thing. At the present time, we have that covered by our Organic Act, and my objection is to the fact that the amendment which they have offered does not go far enough. They should have reinserted the provision provided in the last four lines of the present Section 18. If they had wanted to strike the first four lines -- that is all right, and then substitute the language which they have offered. I would have had no objection, but I see no reason for doing away with the emergency process.

PRESIDENT EGAN: Mr. McCutcheon, would you have objection to a two- or three-minute recess at this time?

MCCUTCHEON: No, I have no objection, Mr. President.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. Did you so move the adoption of the amendment?

MCCUTCHEON: Yes.

PRESIDENT EGAN: It has been moved and seconded. Is there further discussion?

HELLENTHAL: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment -- Mr. Kilcher?

KILCHER: I am opposed to this amendment, unless it can be amended under the same suspension of rules that we are dealing with in this section now.

PRESIDENT EGAN: What is your question, Mr. Kilcher?

KILCHER: If this amendment that is on the floor now is subject to amendment under that same suspension?

PRESIDENT EGAN: That question has never come before the Chair before. The question is, now that we have suspended the rules, put it in this position for specific amendment, can there be an amendment to that amendment offered at this time? The Convention will be at recess for a few minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The opinion of the Rules Committee is that you cannot -- we arrived at this point by suspending the rules to consider a specific amendment, and that it cannot be amended. The proposed specific amendment cannot be amended at this time. That would have to be the ruling of the Chair. Mr. Kilcher?

KILCHER: Mr. President, in that case, I have to ask another question. Can this question be divided? I think it should. There are two substantial amendments in this one amendment, and I wonder if it could not be divided in that case?

PRESIDENT EGAN: The question when we suspended the rules was, "Shall we go into this procedure in order to introduce a specific amendment?" Now the specific amendment is before us, and the Chair would have to hold that, at this time, the only way we could reach that, Mr. Kilcher, would be after this action that we are about to undertake here is completed, that by a same motion for suspension of the rules, we would go back either by unanimous consent or suspension of the rules, that we would consider another amendment.

KILCHER: Mr. President, I intend to show that this amendment consists of two definite parts and I am going to explain what I mean and then ask the Chair again if it couldn't be divided; namely, I fully agree to the first part of the amendment that changes the word "adjournment" essentially to "enactment" and some other small changes that are merely a matter of grammar. Since we don't know how long our sessions will be, it is logical that "adjournment" be changed to "enactment" -- "ninety days after enactment". This is a substantial amendment, I think, and, personally, I am in full agreement with it. But then, in the last two sentences, from line 21 on to 24 there is a substantial part of Section 18, which has nothing to do at all with the first part of Section 18, with which change I agree fully. In the last part we say that deviation from that 90-day rule, be it 90 days after adjournment, or, as we have it here in the amendment -- "90 days after enactment." A deviation from that rule shall be arrived at only by a concurrence of two-thirds of both houses, and I think this matter is entirely divisible and we should vote on one amendment first and then on the other amendment -- two amendments.

PRESIDENT EGAN: Mr. Kilcher, in answer to your question, Mr. McCutcheon read the specific amendment that he was going to offer before we suspended the rules to go into this, to come to the point where we are now, where we were to consider that specific amendment. If there was any question, it should have been raised at that time, and the whole question in the mind of the Chair seems to hinge around, not the fact that this whole question is one question, but there is the question there -- whether, in some of the delegates' minds, whether or not it should be left to the legislature by law to provide that length of time, or whether it should be specifically stated by a two-

thirds majority, or whatever you would have. The Chair would have no other ruling it could make other than to say that the proposed amendment is in order and that it was offered as a specific amendment; the rules were suspended for that purpose.

KILCHER: A motion to divide the question would not be in order, in other words?

PRESIDENT EGAN: That would have to be the opinion of the Chair because we arrived at this point to consider this specific amendment.

KILCHER: Well, Mr. President, in that case I have to talk against the amendment as a whole. There is another amendment -- I hope the first part of this amendment will come up on its own behalf. I really think that we should give it due consideration before we change a matter that has been given a lot of thought in second reading. The first part of this amendment is all right. However, since the second part is too substantial a change for our previous thinking, I think the whole amendment should be voted down and you give way to a partial or a different amendment. I do not think that the house with the regular majority as this here would imply if the amendment were adopted, -- that the house with a regular majority should at will be allowed to name an act an emergency act, even if the emergency doesn't even say any more than the new Section 8, being if this amendment passes that the emergency should be expressed in the act. It doesn't even mention "emergency". The word "emergency" is gone. It doesn't even have to be an emergency act any more if Mr. McCutcheon's amendment is adopted. It will just simply say "laws passed are valid ninety days after enactment" unless the legislature decides different; unless they say the laws will be in effect tomorrow or six months later. Whether it is emergency or no emergency, the legislature here is actually being given carte blanche to do as they see fit, and this in in contradiction to our entire previous way of thinking where for emergency measures it would take two-thirds of the house.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, I wanted to speak again unless someone else wants to be heard ahead of me.

PRESIDENT EGAN: You have been heard on this, Mr. Rivers?

R. RIVERS? Yes, but I want to be heard again.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I would just like to say that I agree with Mr. Kilcher. I think the matter is two very different subject matters and I, too, am very sorry, but I will have to vote against the amendment because of the fact that I feel the last two sentences should definitely be in our constitution.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I feel the same way. There are often times when bills are enacted that they are real emergencies and they should become effective immediately. There are other times when bills are enacted when there is time needed for preparation by the people to take into effect, to learn about the law and to put it into effect. They say that ignorance of the law is no defense. They should at least, however, have the 90 days in which to accustom themselves to and prepare themselves to follow the law that we set up. Now, if we adopt the amendment as Senator McCutcheon has submitted, it would mean that by the simple majority by which the bill was passed, it would also be made operative, if they so desired, and, in the heat of the legislative activities, I can readily see that there will be practically all bills effective immediately. Some grave injustices might be done to people by reason of their not being able to prepare for the law as passed, and they would therefore perhaps be in violation and might even be held for certain violations because of this. I think, actually, that the waiting period on everyday laws, with the exception of emergencies, is good and I am merely restating here now some of the original committee statements made in defense of the measure at the time we adopted that part. I would much favor the amendment if they would only leave the last two lines in.

SUNDBORG: Mr. President, I wonder if we could have a two- or three-minute recess.

PRESIDENT EGAN: If there is no objection, the Convention will be at recess.

RECESS

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

RILEY: Mr. President, before the question, I would simply like to state that I think that the last three speakers, namely Mr. Victor Rivers, Mr. Hurley, and Mr. Kilcher, have indicated pretty well what I believe to be the thinking of the group, and, in the event that the pending committee amendment is voted down, I am sure that one will go in, -- or that a suspension of the rules will be sought to enable a specific amendment to accomplish that purpose.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by the Committee 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: 18 - Awes, Buckalew, Coghill, Collins, Cross, Doogan, H. Fischer, Hellenthal, Hilscher, Knight, Lee, McCutcheon, McNealy, McNees, Marston, Metcalf, Nolan, Taylor.

Nays: 33 - Armstrong, Barr, Boswell, Cooper, Davis, Emberg, V. Fischer, Gray, Harris, Hermann, Hinckel, Hurley, Johnson, Kilcher, King, Laws, Londborg, Nerland, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Absent: 4 - McLaughlin, Nordale, VanderLeest, White.)

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

PRESIDENT EGAN: So the "nays" have it, and the proposed amendment has failed of adoption. Are there other proposed committee amendments? Mr. McCutcheon.

MCCUTCHEON: The matter has been brought to the attention of the Committee which would provide for a transitional provision which relates to Section 5. This provision would read: "The provisions of Section 5 of Article II of this constitution shall not prohibit the appointment of any member of the legislature first organized under this constitution to any state civil office or position created by this constitution or created during his first term."

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

CHIEF CLERK: Is it an amendment?

MCCUTCHEON: Actually, Mr. President, it would be an addition to the article as a transitional matter relating to Section 5. It would have to be a transitional matter inasmuch as it only relates to the first term of our state legislature.

PRESIDENT EGAN: Mr. McCutcheon, would that then be more proper in the article on transitional measures?

MCCUTCHEON: Yes, it would.

PRESIDENT EGAN: Would it be in order that it be referred to the Ordinances Committee for possible inclusion in the transitional matters? Mr. McNealy?

MCNEALY: Mr. President, at this late date we would be very happy to see that it gets in as part of the ordinances, but when that particular matter comes out on the floor, if the Committee doesn't understand the ramifications and background -- if Mr. McCutcheon will agree to explain it at that time.

PRESIDENT EGAN: If there is no objection, that matter is referred

3112

to the Committee on Ordinances.

HERMANN: Parliamentary inquiry.

PRESIDENT EGAN: Your parliamentary inquiry, Mrs. Hermann.

HERMANN: Just how many amendments can a substance committee introduce at this stage of the game?

PRESIDENT EGAN: Mrs. Hermann, that is entirely up to the committee and the body as to whether they accept or reject the amendments. Mr. McCutcheon.

MCCUTCHEON: The Committee has no further amendments.

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

RILEY: Mr. President, in line with my last remarks, I have an amendment to submit, and I ask suspension of the rules, unanimous consent for purposes of this specific amendment which has already been described.

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

CHIEF CLERK: "Page 5, lines 18 and 19, strike the words 'except general appropriation acts, do not'; line 19 strike 'until'; line 20 substitute 'enactment' for 'adjournment'; place a period after 'enactment' and strike the balance of the sentence."

PRESIDENT EGAN: Would the Chief Clerk please read that section now as it would be if this proposed amendment was adopted.

CHIEF CLERK: "Laws passed by the legislature become effective ninety days after enactment." Then the rest goes on, isn't that right? "The legislature may by concurrence of two-thirds of . . ."

PRESIDENT EGAN: Was that your amendment, Mr. Riley?

RILEY: Yes

PRESIDENT EGAN: Mr. Riley asks unanimous consent that the proposed amendment be adopted. Is there objection? Mr. Hurley.

HURLEY: I have an objection and I ask for a 30-second recess.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for 30 seconds.

RECESS

PRESIDENT EGAN: The Convention will come to order. Unanimous consent is asked that the proposed amendment be adopted. Mr. Riley, do you have anything?

RILEY: Nothing further, Mr. President.

STEWART: Mr. President, may we have it read?

PRESIDENT EGAN: Would the Chief Clerk please read the section as it would be if the amendment was adopted.

CHIEF CLERK: "Laws passed by the legislature become effective ninety days after enactment. The legislature may, by concurrence of two-thirds of the membership in each house, provide for an earlier effective date in case of emergency. The emergency must be expressed in the Act."

PRESIDENT EGAN: Is there objection to the unanimous consent request for the adoption? Mrs. Hermann.

HERMANN: I have an inquiry I would like to address to Mr. Riley.

PRESIDENT EGAN: If there is no objection, Mrs. Hermann.

HERMANN: Mr. Riley, do you think that word "earlier" might better be "another effective date" rather than "an earlier effective date"?

RILEY: I certainly wouldn't object to your suggestion.

HERMANN: It isn't a suggestion. I am asking for information, but in view of Mr. Rivers' statement that it is sometimes necessary to have additional time to prepare for effective dates, it would seem to me that it might be that "another" might fill the purpose better than "earlier".

RILEY: I think it is constructive in allowing greater latitude.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Generally, when they want to say "This act shall become effective six months from now", there is no emergency. That is something that reaches out for the convenience of the public. I would rather have it "earlier" than "another".

PRESIDENT EGAN: Mr. Kilcher.

KILCHER: May I ask a question of Mr. Riley?

PRESIDENT EGAN: If there is no objection.

KILCHER: In the same line of thought with Mrs. Hermann, I had also a version of this amendment where I supplanted "earlier" with "other" and made a period after "effective date"; drop "in case of emergency" on the last sentence. Forget about "emergency" -- just have it read ". . . legislature may, by concurrence of two-thirds of the membership of each house, provide for another effective date."

ARMSTRONG: Point of order. It seems to me, Mr. President, that Mr. Riley has the floor with his amendment.

PRESIDENT EGAN: If there is no objection -- Mr. Riley.

RILEY: We may be at an impasse here, Mr. President, by reason of the rules being suspended for specific amendment only and, perhaps, if all concerned have not gotten together --

PRESIDENT EGAN: If there is no objection the Convention will be at recess.

HELLENTHAL: I object. (To a suspension of the rules.)

RECESS

PRESIDENT EGAN: The Convention is in session. Objection has been heard. Do you move, Mr. Riley, that the rules be suspended?

RILEY: The motion is well stated.

PRESIDENT EGAN: Mr. Riley moves that the rules be suspended. Is there a second to the motion?

TAYLOR: I second the motion.

PRESIDENT EGAN: Mr. Taylor seconds the motion. The question is --

HELLENTHAL: Mr. President, I would like to be heard.

PRESIDENT EGAN: The motion to suspend the rules is not debatable. The question is, "Shall the rules be suspended in order that Mr. Riley may offer a specific amendment?" The Chief Clerk will call the roll.

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

Yeas: 50 - Armstrong, Awes, Barr, Boswell, Buckalew, Coghill, Collins, Cooper, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, Kilcher, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sundborg, Sweeney, Taylor, Walsh, White, Wien, Mr. President.

Nays: 4 - Helleenthal, Hinckel, Laws, McNees.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 50 yeas, 4 nays and 1 absent.

PRESIDENT EGAN: Mr. Riley, do you desire to offer your amendment at this time?

RILEY: I have one amendment, Mr. President, on the floor and Mr. Helleenthal objected to a recess -- and at this point, to give effect

to the motion just passed, I will ask for a three-minute recess.

PRESIDENT EGAN: Is there objection to the three-minute recess at this time? Hearing no objection, it is so ordered.

RECESS

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

RILEY: Mr. President, I confess to having been under a slight misapprehension as to the unanimous consent when first asked. The amendment as originally proposed is the one under consideration.

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

CHIEF CLERK: "Page 5, lines 18 and 19, strike the words 'except general appropriation acts, do not'; line 19, strike 'until'; line 20, substitute 'enactment' for 'adjournment'; place a period after 'enactment' and strike the balance of the sentence."

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

MARSTON: May we have it read so it makes sense?

PRESIDENT EGAN: The Chief Clerk will please read the section as it would appear if the amendment is adopted.

CHIEF CLERK: "Laws passed by the legislature become effective ninety days after enactment."

PRESIDENT EGAN: Read the remainder of the section.

CHIEF CLERK: "The legislature may by concurrence of two-thirds of the membership of each house provide for an earlier effective date, in case of emergency. The emergency must be expressed in the act."

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Riley 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 "ayes" have it, and the amendment is ordered adopted. Are there other amendments to be proposed for Article II or is there further discussion? Mr. Barr.

BARR: Mr. President, I have an amendment on the Secretary's desk.

PRESIDENT EGAN: Would the Chief Clerk please read the proposed amendment as offered by Mr. Barr.

CHIEF CLERK: "Section 16, page 5, line 1, after the word 'message', strike the comma and the balance of the sentence on lines 2 and 3 and substitute the following: 'The house receiving it shall immediately reconsider its passage, and, if passed, shall transmit it

to the other house without delay.'" "

SUNDBORG: Point of order, Mr. President.

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

SUNDBORG: This very amendment was offered when the thing was in second reading, originally, and was rejected.

BARR: Would you like to quote me that amendment that was offered before, Mr. Sundborg?

SUNDBORG: I know it was a provision to provide for consideration of vetoes by both houses separately rather than in joint session, and it was rejected.

BARR: This amendment of mine now describes the procedure when the vetoed bill is received. It describes how it shall be received, how it shall be acted upon, and how it shall be transmitted to the other house without delay. It does provide for action by both houses, that is true, but it is not like any other amendment that has been submitted before.

SUNDBORG: I renew my point of order.

PRESIDENT EGAN: Mr. Sundborg, the Chair recollects that this matter had been open for considerable discussion at the time the legislative article was before us but cannot recall whether -- Mr. Riley?

RILEY: Is there anything properly before the house now?

PRESIDENT EGAN: There is nothing properly before the house now except Mr. Sundborg's point of order on Mr. Barr's being able to attempt to offer his amendment, and the Chair is in doubt as to whether or not such an amendment was previously offered. The only way we could determine that would be to have the Rules Committee go back through the records and check that point. Mr. Riley.

RILEY: Mr. President, did Mr. Barr seek to have the rules suspended to have this amendment proposed?

PRESIDENT EGAN: He has not as yet.

BARR: I propose doing that, yes.

PRESIDENT EGAN: But it is always in order that the amendment be read -- an objection was heard on a point of order. If there is no objection, the only thing the Chair can do is ask the Rules Committee to go through the record and determine if such an amendment was previously offered.

JOHNSON: Point of order.

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

JOHNSON: Inasmuch as this would have to be acted upon under a suspension of the rules, I do not think Mr. Sundborg's point of order is any good, because if the rules are suspended we can act on any sort of proposition. If he asks to suspend the rules for a specific amendment and the rules are suspended for that purpose --

PRESIDENT EGAN: Mr. Johnson, your point of order would take precedence over Mr. Sundborg's point of order. That is true, if Mr. Barr asks that the rules be suspended. Mr. Barr.

BARR: Mr. President, I move and ask unanimous consent that this amendment be considered under a suspension of the rules.

PRESIDENT EGAN: Mr. Barr moves that the rules be suspended and that he be allowed to offer this specific amendment if the rules are suspended.

COGHILL: I object.

BARR: I so move.

JOHNSON: I second the motion.

PRESIDENT EGAN: Mr. Barr so moves, seconded by Mr. Johnson. The question is "Shall the rules be suspended?" The Chief Clerk will call the roll.

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

Yeas: 21 - Armstrong, Barr, Boswell, Collins, Cross, Harris, Hurley, Johnson, Knight, Laws, Londborg, Metcalf, Nerland, Nolan, Poulsen, Reader, Robertson, Rosswog, Sweeney, Walsh, Mr. President.

Nays: 33 - Awes, Buckalew, Coghill, Cooper, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hellenthal, Hermann, Hilscher, Hinckel, Kilcher, King, Lee, McCutcheon, McLaughlin, McNealy, McNees, Marston, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers Smith, Stewart, Sundborg, Taylor, White, Wien.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 21 yeas, 33 nays, and 1 absent.

PRESIDENT EGAN: So the motion has failed and the rules have not been suspended. Are there further amendments? Mr. Ralph Rivers.

R. RIVERS: I have an amendment, and I hear groans.

PRESIDENT EGAN: The Convention will come to order. Would the Chief Clerk please read the proposed amendment that is to be offered.

R. RIVERS: There are two parts and they are both the same amendment.

CHIEF CLERK: "Section 18, lines 22 and 23, change the word 'earlier' to 'another'; line 23, put a period after the word 'date' and strike the balance of the section."

R. RIVERS: I move the adoption of the proposed amendment.

PRESIDENT EGAN: Do you move that the rules be suspended?

R. RIVERS: I move that the rules be suspended so this may be brought before the body.

PRESIDENT EGAN: Mr. Ralph Rivers moves that the rules be suspended and that the amendment might be offered as a specific amendment. Is there a second to the motion of the suspension of the rules?

KNIGHT: I second the motion.

PRESIDENT EGAN: Mr. Knight seconds the motion.

R. RIVERS: Mr. President, I would like the privilege of stating in just a few words the purpose involved so --

JOHNSON: Point of order.

PRESIDENT EGAN: Your point of order.

R. RIVERS: I am asking the privilege -- I am asking that I may state the purpose of the amendment.

PRESIDENT EGAN: Are you asking the privilege of the floor. Mr. Rivers?

R. RIVERS: Well, if that would be the way. If I could justify -- just before they decide whether to suspend the rules and vote on that, I would like to be heard for a few moments. That is my purpose.

BUCKALEW: Mr. President, does he have to state the reason that he is asking? What is he asking for, a personal privilege?

R. RIVERS: No, it is not. It is the privilege of the floor so I can state my purpose before the vote is taken.

PRESIDENT EGAN: The Convention will be at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order.

BARR: Point of order, Mr. President.

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

BARR: Mr. President, I believe there is a motion before the house now. Is it in order to grant privilege of the floor while there is a motion before the house?

PRESIDENT EGAN: On a motion to suspend the rules it is not debatable and the question should be put.

R. RIVERS: I hesitate to take advantage of the rule of asking for personal privilege. I ask unanimous consent to be heard for a moment as to the purpose of my amendment.

PRESIDENT EGAN: Is there objection to Mr. Ralph Rivers being heard on his reason for asking for suspension? Is there objection to this?

DOOGAN: I object.

PRESIDENT EGAN: Objection is heard.

DOOGAN: Point of order. If he wants to speak on it he can ask for the privilege of the assembly.

R. RIVERS: Then I ask for the privilege of the assembly and I ask unanimous consent.

PRESIDENT EGAN: Mr. Ralph Rivers asks unanimous consent for the privilege of the assembly. Is there objection?

BARR: I object.

PRESIDENT EGAN: Objection is heard.

BARR: When the rest of us have to go through the motions of suspending the rules here --

HELLENTHAL: Point of order, Mr. President.

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

HELLENTHAL: I don't think this is debatable. The objection speaks for itself.

BARR: It certainly does.

PRESIDENT EGAN: Objection is heard, Mr. Ralph Rivers. The question is, "Shall the rules be suspended?" The Chief Clerk will call the roll -- for the purpose of specific amendment.

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

Yeas: 38 - Armstrong, Boswell, Cooper, Cross, Doogan, Emberg, H. Fischer, Harris, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, King, Knight, Laws, Londborg, McLaughlin, Marston, Metcalf, Nerland, Nolan, Nordale, Peratrovich, Poulsen, Reader, Riley, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, Sweeney, Walsh, Wien, Mr. President.

Nays: 16 - Awes, Barr, Buckalew, Coghill, Collins, Davis, V. Fischer, Gray, Johnson, Lee, McCutcheon, McNealy, McNees, Robertson, Taylor, White.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 38 yeas, 16 nays, and 1 absent.

PRESIDENT EGAN: So the "yeas" have it and the rules have been suspended. Mr. Ralph Rivers, do you offer your amendment?

R. RIVERS: I now move the adoption of this amendment.

PRESIDENT EGAN: Mr. Ralph Rivers moves the adoption of the proposed amendment. Would the Chief Clerk please read that amendment? Is there a second to the motion?

HERMANN: I second the motion.

PRESIDENT EGAN: Mrs. Hermann seconds the motion.

CHIEF CLERK: "Section 18, lines 22 and 23, change the word 'earlier' to 'another'; line 23, insert a period after the word 'date' and strike the balance of the section." So that last sentence reads, "The legislature may by concurrence of two-thirds of the membership of each house provide for another effective date."

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Mr. President, this is not a frivolous effort on my part; otherwise I wouldn't be making the effort. We have all been working hard in the interests of getting this thing straightened out, and I want to point out a little bit from the standpoint of legislative experience. The present Organic Act says that bills when enacted shall become effective 90 days after their enactment, unless an earlier effective date is fixed by the legislature by a two-thirds vote of the members of each house. This gimmick that they used in the legislature for many, many sessions was to say when Mrs. Jones was being reimbursed \$50 because her dress burnt up in the schoolhouse, and they wanted to give her money now instead of making her wait 90 days, that an emergency is hereby declared to exist and this act shall become effective immediately upon its passage and approval. Jack McKay, of Legislative Council, of which I am a member, used a different format in drafting bills for the last session. He cited the Organic Act which said that you could state an earlier effective date for many minor matters, or for any matter, without stating, "An emergency is hereby declared to exist." The purpose of saying that the legislature may provide another date makes sense when you do not have to hook in this emergency business, but you cannot say "An emergency is hereby declared to exist and this bill shall become effective six months from date hereof." If it was such an emergency -- I mean, if it was an emergency, it would not become effective six days from date hereof. It is because of the convenience of the public and the planning that is required that in many instances the legislature

will make something effective six months from date hereof to give everyone a chance to get organized, or upon the commencement of the next fiscal year, or for some suitable purpose. As this thing now stands, unless we doctor it up, every bill will become effective 90 days from date hereof unless an earlier date is brought about by declaring an emergency. Now, if we take it the way that I have put it, it would be exactly the way it is now under the Organic Act. Bills do become effective 90 days from time of enactment unless an earlier date is established by the legislature in that particular act. Also, the legislature has full power, under the present Organic Act, to say an act shall become effective six months from date hereof, and we do not have to declare emergencies under the present practice and procedure under the Organic Act. So, I submit, ladies and gentlemen, that we don't want to compel our legislature to declare an emergency on every little thing where they might, in all equity, want to create an earlier effective date than 90 days and we don't want to block them off from making something become effective six months later instead of 90 days later. I also point out that this creation, forcing every little thing to become an emergency, rather crosses us up on our referendum article. Our referendum article states that everything may be submitted to the people except emergencies, but they say "involving the public peace and safety", or something like that. If we are going to compel the legislature to express an emergency in every little act that they want to speed up the effective date on, we are then going to have to spell out the special kind of emergencies for affecting the peace and safety in connection to make any sense with regard to our initiative article. Now then, I certainly appreciate the vote of confidence which I know you were buying what you might call a blank check.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Question of Mr. McCutcheon. Do you, as Chairman of the Legislative Committee, do you concur with this amendment?

MCCUTCHEON: Mr. Hellenthal, the only question I wanted to propose through the Chair to Mr. Rivers was whether or not he insisted on retaining that two-thirds business in there.

R. RIVERS: Yes, by all means, that is the present rule. They can only shorten that effective date by a two-thirds vote in the present legislature. I know the sentiment now in regard to that two-thirds vote. I am leaving that untouched. I am only trying to state we don't have to declare an emergency to change an effective date by a two-thirds vote.

MCCUTCHEON: I have no objection to it.

PRESIDENT EGAN: Mr. Barr.

BARR: Mr. President, our legislature has been operating up to

this time under a very cumbersome and illogical procedure in this matter, as Mr. Rivers has pointed out, and I believe that now is the time to correct it. We have the opportunity and we should correct it forever by adopting Mr. Rivers' amendment.

UNIDENTIFIED DELEGATE: Question.

PRESIDENT EGAN: The question is, "Shall the proposed amendment as offered by Mr. Ralph Rivers 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 "ayes" have it and the proposed amendment is ordered adopted. Are there other proposed amendments to the article? If not, Mr. Sundborg had asked unanimous consent that the article be referred back to the Committee on Style and Drafting. Is there objection? Mr. Fischer.

V. FISCHER: Will it be open again to amendments when it is reported back by Style and Drafting?

PRESIDENT EGAN: That is another question, Mr. Fischer.

V. FISCHER: All right.

HELLENTHAL: It would appear to me it would be referred back for the specific purpose only of working on the amendments that were made here this evening.

PRESIDENT EGAN: Is that in your motion, Mr. Sundborg?

SUNDBORG: That was my wish, Mr. President.

PRESIDENT EGAN: That it be referred back for the specific purpose as stated by Mr. Hellenenthal. Then, when it comes back, could Style and Drafting report it directly to the Rules Committee for assignment to the calendar in third reading? Is that the intention? This is an unusual procedure.

SUNDBORG: Mr. President, my thought would be that we would report it again with the report of our Committee to the floor and that that report would be subject to acceptance, but it would not require reading the whole act again.

PRESIDENT EGAN: The only thing to be done at that time, would be to be certain that the Style and Drafting Committee had not made any further substantive change. However, whenever it is on the floor, by suspension of the rules for specific amendment, you cannot stop anyone who desired to make such a move from attempting such a move, but it is referred back to Style and Drafting, if there is no objection, for the specific purpose of checking the amendments that were made on the floor. Mr. Sundborg.

SUNDBORG: Mr. President, I wonder if I could be permitted to address a question to Mr. McCutcheon.

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

SUNDBORG: Mr. McCutcheon, did your Committee consider the question of the date from which residence should date in the case of those who are filing for office?

PRESIDENT EGAN: Mr. McCutcheon.

MCCUTCHEON: The Committee discussed the matter, and it was our conclusion that one who files for office must have had full residence before filing their papers for office.

SUNDBORG: So you favor the use of the word "filing"?

MCCUTCHEON: Correct. Yes, sir.

SUNDBORG: Mr. President, I then move and ask unanimous consent that the rules be suspended and that the Committee on Style and Drafting be instructed to insert the words "filing for office" in the executive article in place of the language now there, which is "prior to his election". That covers the case of the governor and the secretary of state and that would make that article harmonious with this one.

PRESIDENT EGAN: You have heard the unanimous consent request of the Chairman of the Style and Drafting Committee. Is there objection? Hearing no objection it is so ordered and the Style and Drafting Committee is authorized to make that change in the executive article. We have before us then, the article on the report of the Style and Drafting Committee, the bill of rights, preamble and declaration of rights article. The Chief Clerk will please read the report of the Committee on Style and Drafting on Article I and the preamble.

(The Chief Clerk then read the report of Style and Drafting Committee in its entirety.)

PRESIDENT EGAN: Mr. Sundborg, does your Committee have a report to make on the work it did on this proposal?

SUNDBORG: Mr. President, the article on preamble and bill of rights was redrafted by a sub-committee consisting of Mrs. Hermann, Mrs. Nordale and Mr. Hurley. It was then submitted to the substantive committee and we understand that it was their opinion that we had not changed any matter of substance in it. It was then reviewed by our full Committee and it is now reported to the floor, and Mrs. Nordale will explain such changes as has been made and will answer any questions by the delegates.

PRESIDENT EGAN: Mrs. Nordale, will you offer that explanation at this time?

NORDALE: We made very few changes. In some instances we returned

to the exact language of the Bill of Rights in the federal Constitution because we were advised that those had been construed and the meaning was very clear. A lot of the original enrolled article was, of course, part of the federal Bill of Rights, but where it deviated, except for additions that were made to sort of modernize the thoughts, we did return exactly to the United States Constitution and Bill of Rights. The preamble we rewrote, shortened slightly. The thing we removed was "government by consent of the governed", but we did introduce that thought in another section. It just seemed that it read more smoothly if we didn't have quite so much in it, and we did add the phrase "in order to secure and transmit to succeeding generations our heritage" because we felt that that actually gave more point to the preamble than it had had before. In the first section, I think there is just very little. We did rewrite one sentence but we didn't change the meaning. Section 2 is changed considerably, but I think if you look at it carefully you will see that we did retain the thought. Obviously, the second sentence wanted to say that "government is of the people, by the people, and for the people," so we said that, "Government derives from the consent of the governed," and there is where we introduced that thought, "and exists solely for the common good." The arrangement has been changed, and there are more sections, as you note, but that is because the federal Constitution, the federal Bill of Rights in many respects has just one item, and we thought to correspond and conform with that that we would separate those rights that were separated in the Bill of Rights. Then we regrouped the sections which dealt with capital offenses and criminal -- things relating to criminal laws -- and put the civil provisions toward the end. You will notice that, in Section 11 of our draft, we have -- in relating to criminal prosecutions -- there was no mention of how the jury could be changed. In the enrolled section it said that "An impartial jury of twelve, except in courts not of record, the jury may consist of not more than twelve or less than six persons." Immediately the question arose, who is to say that the jury may consist of less than twelve? So, we added the same language that had already been put into the section on civil cases, after consulting with a former United States Attorney and several other attorneys as to just how that could possibly be changed. They told us it could be changed by law in the very same manner that the jury in a civil trial could be changed. So, we inserted the same thing here; that was in order to cause no difficulty in interpretation of the two sections. Except for its rearrangement, I believe that is the only comment I have to make at the moment.

PRESIDENT EGAN: Are there questions to be directed to the Committee with relation to the preamble? Mr. Taylor.

TAYLOR: Mr. President, I would like to address one question to Mrs. Nordale regarding the matter she was just speaking of about the jury. I didn't quite understand your remarks on that, Mrs. Nordale, as to jury of six in a criminal case.

NORDALE: The original section dealing with criminal prosecution is Section 12 of the enrolled article, and it says "In all criminal prosecutions, the accused has the right to a speedy trial, by an impartial jury of twelve, except that in courts not of record the jury may consist of not more than twelve nor less than six persons." Then Section 13 said, "In suits at common law. . .the right of trial by jury of twelve is preserved. . ." I am speaking from the enrolled copy. You see, we did rearrange it, so if you will refer to your enrolled copy --

TAYLOR: What section is that? That is what I have -- the enrolled copy.

NORDALE: No, you have the report of Style and Drafting. Go back to your original enrolled copy. It is Section 18 in this one. One section deals with criminal prosecutions and the other deals with suits at common law. Now, the enrolled section dealing with suits at common law said that said that the legislature may provide for a jury of not less than six. With reference to criminal prosecutions it said that the jury must consist of not more than twelve or less than six, but it didn't say how you would arrive at a jury of less than twelve.

TAYLOR: I was going to say that could easily be clarified. You could leave it the way it is because under the Constitution of the United States you are entitled to a jury of twelve and it is only the defendant who can waive less than a jury of twelve.

NORDALE: I understand that the Constitution doesn't say a jury of twelve. I was advised that it was a matter of common law. Maybe Mr. Buckalew could help us.

TAYLOR: A common law was a jury of twelve -- that is a common law jury and only the defendant can give his permission to be tried by less.

NORDALE: These two sections were reviewed by someone who had never seen them before. Immediately the question arose -- "How do you get a jury of less than twelve?" So, we made inquiries of some of the attorneys and they said that you get it by law.

TAYLOR: No, you get it by the defendant waiving the jury of twelve and consenting to be tried. We do it all the time. It is standard procedure in the courts that if the defendant wishes, he can be tried by a jury of less than that.

PRESIDENT EGAN: Miss Awes, do you have a question there?

AWES: I would like to make a statement on that. If it were just a question of a jury of less than twelve, when the defendant waived a larger jury, then you wouldn't have to put it into the constitution. The defendant has the right without any constitutional consent to do it, but as far as trials by the state courts go, the state constitution can provide what kind of a jury trial we reserve or save for them, and it was definitely our intent that the legislature could, in certain cases, provide a jury of less than twelve, and it has been done by other states in their constitutions.

PRESIDENT EGAN: Are there questions with relation to the preamble? With relation to the work the Style and Drafting Committee did on the preamble? If there are no questions on the preamble, are there questions with relation to the work that the Style and Drafting Committee did on Section 1? Questions relating to Section 2? Mr. Hellenenthal.

HELLENTHAL: I think I can make my point at a later date.

PRESIDENT EGAN: Are there questions with relation to Section 2 or Section 3?

HELLENTHAL: Section 2, yes. Frankly, I think that language, "Government derives from the consent of the governed," is to say the least, archaic and curious. I wonder where it came from.

PRESIDENT EGAN: Mrs. Nordale, could you answer the question?

NORDALE: The preamble did say that we "reaffirm our belief in government by consent of the governed," and I think that is an accepted American view. The word "derives" means to arise and go from, and so the thought there is that government is an outgrowth of the consent of the people, that is, their will; it originates with them if it derives from them; it is founded on their will because it is on their consent; and "exists for the common good" means that it was instituted for the common good, for the good of the people as a whole. We felt that we had included all the thoughts that were in that second sentence.

HELLENTHAL: Has that language ever been used before in any bill of rights -- the word "derives".

NORDALE: Excuse me, I am not sure.

HELLENTHAL: You are aware that the original language is, "All government originates with the people, is founded upon their will only," are you not? You think that this is preferable to that?

NORDALE: Well, this is what we decided to use.

PRESIDENT EGAN: Mr. Buckalew has been attempting to get the floor.

BUCKALEW: Mrs. Nordale cleared this provision with only part of the Committee. I know she talked to Delegate Awes and myself and we didn't see anything wrong with it. I have seen this very language in other bills of rights. I don't know that the word "derives" is archaic or not. My only comment is it is in English, and part of the Committee didn't have any objection and we thought it was an improvement.

HELLENTHAL: What bills of rights use that language?

BUCKALEW: Mr. Hellenthal, I could go back up there and find them, I guess. My only comment is I have seen the language before. It is not new or novel or anything strange about it.

PRESIDENT EGAN: Are there other questions relating to Section 2? Mr. Ralph Rivers.

R. RIVERS: May I ask Mrs. Nordale a question?

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

R. RIVERS: Mrs. Nordale, that language mentioned by Mr. Hellenthal means government is based upon the consent of the governed. -- More plain words, is that what you mean?

NORDALE: Our thought was that government really is an outgrowth of the will of the people. That was more the idea that we were trying to convey. It originates and grows out of the will of the people.

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

ROBERTSON: I would like to ask what the sentence, "The legislature shall implement this section. . ." means in Section 3, or the breadth of it or the scope of it?

PRESIDENT EGAN: Mrs. Nordale, could you answer that?

NORDALE: The original enrolled section said -- the first sentence is the same. The next sentence was, "The legislature shall provide appropriate legislation in accord herewith. We took it to mean that it was the desire, that the Committee intended that the legislature should implement this by passing legislation prohibiting discrimination. That was the only way we could interpret it, and we thought we had said that in this. I don't think it is particularly good language, but I think it is better than the other. That is my personal opinion.

HELLENTHAL: Another question. Why were the words "the enjoyment of" not included in Section 3?

NORDALE: Because we felt that this should not deny the right. -- that it is the right you are preserving, not the enjoyment of a right.

HELLENTHAL: Did you consult with any advisers or attorneys in connection with eliminating the words "the enjoyment of"?

NORDALE: Yes, we had two attorneys from your Committee who had no objection to it.

PRESIDENT EGAN: Miss Awes.

AWES: The Committee consulted with Mr. Buckalew and with me on that particular section, and we raised no objection to it at that time.

HELLENTHAL: I have another question. Why were the words --

BUCKALEW: Mr. President --

HELLENTHAL: Why were the words in Section 1, "This constitution is to promote the general welfare of the people," -- why were those words deleted?

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Our feeling was that it was not quite necessary to say it in just those words, that the constitution speaks for itself.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I think perhaps we could save time if Delegate Helleenthal and Delegate Nordale could get together and they could crossexamine each other in the next five minutes and then we can get back to work. I move that we recess for five minutes.

PRESIDENT EGAN: Mr. Buckalew moves that the Convention stand at recess for five minutes. Is there objection?

ROBERTSON: I object.

V. RIVERS: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Victor Rivers. The question is, "Shall the Convention stand at recess for five minutes?" All those in favor of recessing for five minutes, will signify by saying "aye", all opposed, by saying "no". The "noes" have it and the Convention is still in session. Are there other questions

relating to the preamble, Section 1, Section 2, or Section 3? Mr. McNealy.

MCNEALY: If I might direct a question to Mrs. Nordale through the Chair, as a member of the Bill of Rights Committee and also one of the members not consulted in regard to change of language, was it the thought of the Style and Drafting Committee that in these Sections 1, 2, and 3 that the language is preferable, that is the language of Style and Drafting was preferable, or was it done for the purpose of cutting down a few words in each section?

PRESIDENT EGAN: Mrs. Nordale, could you answer that question?

NORDALE: I think it was perhaps a little of both, although it was really more of an effort to smooth the language than it was to eliminate words. As you read the thing out loud it seems to me every once in awhile a sentence sort of comes out of the bill of rights as it originally was written, that doesn't seem to quite fit the tone of the rest of the article, and we were attempting to smooth the language as much as possible.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: May I ask Mrs. Nordale a few questions through the Chair?

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

MCLAUGHLIN: Mrs. Nordale, did you consider the possibility -- or would you consider it awkward, under Section 3, to say "No valid or bona fide person is to be denied any civil or political rights." Would that be silly?

NORDALE: I don't think it would sound quite appropriate in a bill of rights.

MCLAUGHLIN: Then, under Section 4, would you consider "No valid or bona fide person" or "no valid or bona fide law" -- would that sound silly?

NORDALE: Well, again, it seems to me that, the bill of rights is supposed to be --

MCNEALY: Point of order, Mr. President. I don't find those words, "no bona fide person".

MCLAUGHLIN: It is merely to style, and I think it will arise later in another article, Mr. President, and I wanted to make the point clear.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: Mr. President, I rise to a question of personal privilege.

PRESIDENT EGAN: If there is no objection.

(Mr. Hellenthal spoke on the question of personal privilege.)

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: May I just say that actually the United States Constitution guarantees rights, not the enjoyment of rights.

HELLENTHAL: I beg to differ with Mrs. Nordale.

MCLAUGHLIN: Point of order, Mr. President.

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

MCLAUGHLIN: The point of order is, Mr. President, that the comments should be addressed through the Chair and they are limited to questions.

PRESIDENT EGAN: You're correct, Mr. McLaughlin. Your point of order is well taken. Are there other questions relating to Sections 1, 2, or 3? Are there questions relating to Section 4? Mr. Barr.

BARR: Mr. President, may I ask a question through the Chair?

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

BARR: Mrs. Nordale, Section 4 says, "No law shall be made respecting an establishment of religion. . ." Do you mean "of religion" or do you mean "of different kinds of religion"?

MCCUTCHEON: Point of order, Mr. President. That is the identical terminology that came out of the enrolled copy.

PRESIDENT EGAN: If that is the wording in the enrolled copy, Mr. Barr, that, of course, wouldn't be Mrs. Nordale's place to answer it.

BARR: Later I will ask Mr. Hellenthal that question.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: On Section 4, may I address a question to Mrs. Nordale?

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

COGHILL: Section No. 3, excuse me -- "The legislature shall implement this section. Is that a legal terminology for the same meaning in Section 3, "The legislature shall provide appropriate legislation in accordance herewith."?

NORDALE: As far as I am concerned, I don't know that it could be called legal terminology. "The legislature shall provide appropriate legislation in accord herewith" didn't sound -- well, to us, it just didn't sound very good, but obviously the intent was -- I

don't know what "legislation in accord herewith" would be unless it were legislation to carry out the idea, and so that is the way we interpreted it and that is the sentence we came up with.

PRESIDENT EGAN: Mr. Coghill.

COGHILL: Is it then the belief of the Style and Drafting Committee that the word "implement" would substitute, that the intent of Section 3 will be carried out to the letter and no deviation will be made from it?

NORDALE: I believe you are not supposed to deviate from the Bill of Rights.

COGHILL: I realize that but will the word "implement" take up the "appropriate legislation"?

NORDALE: My idea of this is, the statement is there. Frankly, I don't think the laws are needed probably, but obviously the committee that brought out this article wanted some type of legislation which would carry out the idea that no person may be denied the enjoyment of any right because of race, color, or creed, etc. So obviously, that is what they meant, and it must have been a directive to the legislature, so we thought that they meant that the legislature shall implement civil rights by legislation so that we will have them both in the constitution and on the statute book.

PRESIDENT EGAN: Mr. Hurley, a member of the Committee, has been attempting to get the floor for some time. Mr. Hurley.

HURLEY: Mr. President, I would like to point out that material in this was not only considered carefully by the subcommittee of three but was also considered in detail by the Committee of nine upon which sit three very capable attorneys. These matters were considered in the light of their legal implications, and I would like to further point out that the matter was submitted to the representative of the Bill of Rights Committee in accord with a ruling of the Chair and the suggestion of the body that each committee delegate one of its members to consult with the subcommittee on these matters. These matters have gone through their proper channels and, as far as the attorneys are concerned, they have been confronted by at least five attorneys, whom I consider all very qualified. I am not disparaging the question; the question is a good one, but the point I am trying to make is that these things have been considered in their legal light and if they are not, why we will be glad to accept an amendment on the part, but the matters have been considered.

PRESIDENT EGAN: Mr. Armstrong.

ARMSTRONG: In this civil rights bill originally, we were cognizant of the fact that in our present Session Laws of Alaska, there has been an attempt on the part of the legislature to provide for civil liberties. We also realized that it was impossible to spell out all

the civil rights in a section in the declaration. We realize, too, that in the future there would have to be clarification of civil rights. It would have to come into being by further definition on the part of the legislature of the new state. What this is saying is that we want a retention of the bill that is on the record at the present time; that at any moment in the future there has to be further implementation of these standards that our legislature have the right and it is a mandate that they would carry it out. I feel, as a member of the Bill of Rights Committee, and also, knowing the discussion of Style and Drafting, their intent was to take from the past the best and to project into the future our prayers and hopes for the best in civil rights for Alaska.

PRESIDENT EGAN: Mr. Taylor.

TAYLOR: Mr. President, that word "implement" has a strict legal meaning, and it is used in law a great deal. We hear it bandied around here considerably about implementing an act. Now, section 3, as it stands without the last sentence there, would be high-sounding phrase of which we might be proud, but unless the legislature passed an act making that workable, making it enforceable, by legislation with the penalty for violation there, that is all that would remain until eternity -- would be a high-sounding phrase with no meaning whatsoever, so when they use that word, "The legislature shall implement this section," that means legally that they shall enact legislation enforcing the terms of that and providing the penalty. So I would leave it the way it is.

PRESIDENT EGAN: Mr. Barr.

BARR: I disagree with Mr. Taylor but since we're confined to asking questions, I am unable to answer him.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I don't like to belabor this point -- and the only reason I ask the question, is to possibly avoid offering an amendment later, but I would like to address either the Style and Drafting or an attorney on that Committee who used the words, "The legislature shall implement this section" -- now, in drafting and drawing of papers, the question is this: does it mean there, that we will implement and add to or change or enlarge upon this particular section in the constitution, or will the legislature be implementing the content of the section?

TAYLOR: Make it workable and forceable, Mr. McNealy -- provide a penalty.

MCNEALY: Mr. President, the question is, do the words "implement this section" mean implement the content of the section?

PRESIDENT EGAN: Mr. Hurley.

HURLEY: The word "implement" as used in here is intended to mean exactly that: to complement, or add to or carry out the desire of the section. Admittedly, this matter gets into a legal argument. The word is hard to find in a legal dictionary. However, In Webster's International, there is no question of its meaning, it is very plain; and that is what is put in there -- there is no pride of authorship. If Mr. McNealy can find a better word -- and I submit that the word that was in there before, "shall provide appropriate legislation in accord herewith", does not say any more than "implement" -- and we think it says a little bit more by saying "implement".

HELLENTHAL: May I ask Mr. Hurley a question through the Chair?

PRESIDENT EGAN: You may, Mr. Hellenenthal.

HELLENTHAL: Mr. Hurley, were you familiar with the fact that Mr. Elliott from Columbia, who came here and worked with the Bill of Rights Committee, rejected the use of the word "implement" in that section?

HURLEY: Mr. Hellenenthal, I was not familiar with that fact, but I was familiar with the fact that the material was submitted to the Bill of Rights Committee and was not criticized and on those grounds we accepted it.

PRESIDENT EGAN: Are there other questions relating to Section 3 or 4? Are there questions relating to Section 5? To Section 6? To Section 7? Mr. Harris.

HARRIS: Mr. President, it is growing close to our evening adjournment, and due to our rules, I am forced at this time to move that my reconsideration of my vote yesterday is taken care of at this time.

PRESIDENT EGAN: Mr. Harris moves the reconsideration of his vote -- was it Mr. Kilcher's proposed amendment, Mr. Harris?

HARRIS: That is right.

PRESIDENT EGAN: That proposed amendment was to Ordinance No. 17. Mr. Hurley.

HURLEY: Mr. President, I would move and ask unanimous consent that the rules be suspended and the matter be allowed to be taken up in the morning.

PRESIDENT EGAN: Mr. Hurley moves and asks unanimous consent that the rules be suspended and that the matter be allowed to be taken up --

HURLEY: At the beginning of the next plenary session, I should have said.

PRESIDENT EGAN: At the next plenary session meeting. Is there objection to the unanimous consent request? Mr. Barr.

BARR: Didn't Mr. Hurley mean as the first order of business? Did he mean any time during the day?

PRESIDENT EGAN: Mr. Hurley, did you mean that as any time during that session, or as the first order of business?

HURLEY: I would say the first order of business, if that is desirable.

PRESIDENT EGAN: Mr. Hurley includes in his request that the matter of Mr. Harris' reconsideration of the vote on Mr. Kilcher's amendment -- that the rules be suspended and that that matter be made a first order of business at the plenary session tomorrow. Is there objection to that unanimous consent request for suspension of the rules and the consideration of this matter tomorrow? Hearing no objection, it is so ordered. Mr. Sundborg.

SUNDBORG: Mr. President, may we revert to the order of business of committee reports?

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business of committee reports at this time.

SUNDBORG: Mr. President, your committee on Style and Drafting reports to the Convention its redraft of the article on health, education, and welfare.

PRESIDENT EGAN: The report may be read for the first time by the Chief Clerk. Do you have a copy of that report?

CHIEF CLERK: "Your Committee on Style and Drafting herewith presents its redraft of the article on health, education, and welfare for consideration by the Convention."

PRESIDENT EGAN: The report is referred to the Rules Committee for assignment to the calendar. Mr. White.

WHITE: Mr. President, I ask unanimous consent to revert to the business of introduction of motions.

PRESIDENT EGAN: If there is no objection, the Convention will revert to the order of business of introduction of motions at this time. Is there objection? Hearing no objection, Mr. White, you may. --

WHITE: Mr. President, it appears to me that some confusion or slowing up of our process may be due to a gap in our rules. When

we are in the matter of considering the report of Style and Drafting, technically, that is what we are supposed to be doing. Now we have drifted into the practice of allowing committee amendments of substance to be submitted at that time, I suppose on the theory that, those are well-considered amendments, they will be noncontroversial, and it will generally enhance procedures if their introduction is allowed at that time. No delegate feels that his amendment of substance is frivolous, and, frankly, I would like to vote with consistency at any one time as to whether I am going to consider such an amendment or not. I think that is one matter that might be considered by the Rules Committee. The second matter is that it appears to me it might speed processes considerably, now that committees have time to meet, that the final report of the Committee on Style and Drafting be submitted to the full substantive committee to avoid further waste of time on the floor. So, Mr. President, I move and ask unanimous consent that those two matters be referred to the Rules Committee for consideration.

PRESIDENT EGAN: If there is no objection those matters are referred to the Rules Committee for their consideration. Mr. McNealy.

MCNEALY: I would ask unanimous consent to revert to the introduction of committee proposals. The reason for it, Mr. President, is so that the Rules Committee can assign this to the calendar.

PRESIDENT EGAN: If there is no objection, Mr. McNealy, you may submit your proposal.

MCNEALY: Committee Proposal No. 17/b.

PRESIDENT EGAN: The Chief Clerk may read Committee Proposal No. 17/b for the first time.

CHIEF CLERK: "Committee Proposal No. 17/b, SCHEDULE."

PRESIDENT EGAN: The proposal is referred to the Rules Committee for assignment to the calendar. Are there other committee reports to be made at this time? Mr. Hellenthal.

HELLENTHAL: Meeting of Committee No. VI at 1:00 tomorrow afternoon or as soon as the bus unloads upstairs. In the room where we met at this evening.

PRESIDENT EGAN: There will be a meeting of Committee No. VI, the Committee on Elections and Suffrage, tomorrow afternoon at 1:00 upstairs. Miss Awes.

AWES: There will be a meeting of the Bill of Rights Committee tomorrow at 1:00.

PRESIDENT EGAN: A meeting of the Bill of Rights Committee tomorrow at 1:00. Are there other committee announcements? Mr. Coghill.

COGHILL: A point of inquiry. How long will the Convention be holding their session when they are starting their plenary session at 1:30? Could the Chairman of Style and Drafting answer that? The rest of this week?

PRESIDENT EGAN: Mr. Sundborg, what is your opinion?

SUNDBORG: I believe under our motion it was that we do it for the next few days. I might say, Mr. President, that we have had not nearly enough time today, even though we utilized the whole forenoon and even though we worked last night after an early adjournment, and, if we should be continuing in plenary session for the length of sessions that we have had today, I am afraid that we are going to fall far behind in Style and Drafting on the work which we must do. So, I would have to answer the question by saying that we are going to have to continue the arrangement of not having plenary sessions, at least for the balance of this week, in the morning.

COGHILL: My point of inquiry was for the bus schedule, for the transit company.

SUNDBORG: That is up to the Convention to decide and not for us. I am just expressing the desire of the Style and Drafting Committee.

PRESIDENT EGAN: Are there other committee announcements? Mr. Doogan.

DOOGAN: I would like to ask a question that possibly the Rules Committee might consider along with this motion.

PRESIDENT EGAN: If there is no objection you may ask your question, Mr. Doogan.

DOOGAN: For these proposals, when Style and Drafting are through with them and return them to the substantive committee, I would like them to set a period of time, preferably short, of how long the substantive committee can hold them before reporting them out on the floor. I would like them to specify a period of time in a matter of hours or a day or something so that it can't get back into the substantive committee and be tied up there. Time is becoming of the essence.

PRESIDENT EGAN: You are offering that as a suggestion to the Rules Committee when they consider this matter?

DOOGAN: Yes, I am.

PRESIDENT EGAN: Are there other committee reports? Mr. Sundborg.

SUNDBORG: Mr. President, I would like to announce a meeting of Style and Drafting Committee immediately upon adjournment tonight.

PRESIDENT EGAN: There will be a meeting of the Style and Drafting Committee immediately upon adjournment tonight. Are there other committee announcements? Mr. Riley.

RILEY: Rules will meet tomorrow just prior to the plenary sessions convening.

PRESIDENT EGAN: The Rules Committee will meet tomorrow prior to the convening of the plenary session. There will be a meeting of the committee chairmen at 12:30. Let's see -- being that some of the chairmen might not come out until the 12:30 bus comes, it might not be too well to call it for that time. Well, we will have to arrange a meeting of the committee chairmen some time during the day tomorrow. The Chair will not announce it at this time. Are there other committee announcements? If not, the Chair will entertain a motion for adjournment. Mr. Londborg.

LONDBORG: I move that we adjourn until 1:30 tomorrow afternoon.

PRESIDENT EGAN: Mr. Londborg moves and asks unanimous consent that the Convention adjourn until 1:30 tomorrow afternoon. Is there objection?

DAVIS: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Londborg?

LONDBORG: I so move.

DOOGAN: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Londborg, seconded by Mr. Doogan, that the Convention stand adjourned until 1:30 p.m. tomorrow. The question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow?" All those in favor of adjourning until 1:30 p.m. tomorrow, 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: 28 - Awes, Barr, Buckalew, Collins, Cross, Emberg, H. Fischer, Harris, Hellenthal, Hinckel, King, Laws, Londborg, Marston, Nerland, Nolan, Poulsen, Reader, R. Rivers, V. Rivers, Robertson, Rosswog, Smith, Stewart, Sweeney, Taylor, Walsh, White.

NAYS: 26 - Armstrong, Boswell, Coghill, Cooper, Davis, Doogan, V. Fischer, Gray, Hermann, Hilscher, Hurley, Johnson, Kilcher, Knight, Lee, McCutcheon, McLaughlin, McNealy, McNees, Metcalf, Nordale, Peratrovich, Riley, Sundborg, Wien, Mr. President.

ABSENT: 1 - VanderLeest.)

PRESIDENT EGAN: The Convention will come to order.

CHIEF CLERK: 27 yeas, 27 nays and 1 absent. *

PRESIDENT EGAN: So the "nays" have it and the Convention is still in session. We have before us -- Mr. Hellenthal.

HELLENTHAL: May I ask a question, through the Chair, of Mr. Sundborg?

PRESIDENT EGAN: If there is no objection.

HELLENTHAL: I notice that the members of the Rules Committee voted against recessing. Is there any reason for that?

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: You Mean Style and Drafting. We hadn't conferred with one another, Mr. Hellenthal, but I will tell you what my own ideas on it are. We are just now about halfway through the second item on the calendar for today, and there are a half dozen items on the calendar and we are very fearful -- or at least I am -- that unless we continue these plenary sessions nightly until such time as we clear the calendar, as long as more material is coming on it each day, we are never going to finish this Convention on time.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: I take it then, that the "we" that you refer to is the Committee, and that the Committee no longer desires time in the morning to do its work.

SUNDBORG: Mr. Hellenthal, that is not true; we desire not only the full morning time but are going to be obliged to work evenings after the plenary sessions, even if they go until 1:00 in the morning.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Mr. President, as one member of Style and Drafting. I would just like to say that I personally realize the amount of work that still remains, not only in Style and Drafting, but on the floor. We have a tremendous amount of work to do, and at the rate we have been going today, we haven't go a chance of finishing on time. I think, if necessary, we should put in an extra two hours every day, and in the evenings if necessary; otherwise, we will be working 24 hours straight during the last week of the session.

*See page 3147 re correction of the announcement of the roll call.

PRESIDENT EGAN: Let's get at it. Mr. McCutcheon.

MCCUTCHEON: Point of order, Mr. President. Inasmuch as the session is still in plenary session, I think it is in order that Mr. Harris' reconsideration be given at this time.

PRESIDENT EGAN: It is in order, but it was unanimously agreed it be held over to the plenary session tomorrow, Mr. McCutcheon, so it still is alive.

MCCUTCHEON: Mr. President, I dislike arguing with the Chair, but the matter was held over because of the imminence of adjournment. Since adjournment isn't about to be had, I think it would be proper and fitting to take up at this time.

PRESIDENT EGAN: It wasn't stated that way, although you are probably correct, that is probably why the request was made. If it is the desire of Mr. Harris or the body to have that heard at this time --

V. RIVERS: Point of order.

PRESIDENT EGAN: Your point of order, Mr. Victor Rivers.

V. RIVERS: When the motion to reconsider comes on the floor, it does not take preference over something that was already on the floor. It merely takes its place after that particular item is finished. It came on in the middle of this particular item.

PRESIDENT EGAN: We have before us Article I, the article on the declaration of rights as it was reported to us by the Style and Drafting Committee. Are there questions with relation to Section 5, or Section 6, or Section 7? We had asked about those sections before. Are there questions with relation to Section 8? Or to Section 9? To Section 10? Are there questions with relation to Section 11? The delegates will please remain in their seats in the hall of the Convention. Are there amendments to Section 12? Mrs. Nordale.

NORDALE: Mr. President, I forgot to mention something here. Section 12 of our committee report is Section 9 -- oh, part of Section 9, and then there is one sentence, the last sentence of the old Section 10. That is, of the enrolled Section 10, which says, "The administration of criminal justice shall be founded upon the principle of reformation as well as upon the need to protect the public." Our feeling was that, that sentence logically belonged up with, "Excessive bail shall not be required, nor cruel and unusual punishments inflicted. . ." because it related to punishment. However, we found when we moved the sentence up, it was called to our attention that it was found in the judiciary article that the same expression had been used, "the administration of justice", and we consulted with the originating committee, and their feeling was that they didn't mean exactly the same thing that was intended in the article establishing the judiciary branch,

so they gave us exactly what they had in mind, and we substituted this language and put it into the same section that also relates to punishment, because their feeling was that it was penal administration that they wanted to call attention to, not the administration of justice, as we had used it in the judiciary article.

PRESIDENT EGAN: Are there questions to be asked with relation to that subject? If not, are there questions relating to Section 13? Or to Section 14? To Section 15? Mr. Barr.

BARR: Mr. President, Section 15 -- I don't find that in the original proposal.

NORDALE: It is Section 10 of the enrolled copy.

BARR: Oh, Section 10. Well, I have a question to ask but it is in the original, so I will have to wait and ask Mr. Hellenthal about it.

PRESIDENT EGAN: Are there questions relating to Section 16? To Section 17? Are there any questions relating to Section 18? Mr. Ralph Rivers.

R. RIVERS: Mr. President, may I ask Mrs. Nordale a question?

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

R. RIVERS: Mrs. Nordale, the last three words on line 12 refer to common law suit. Does that mean the same as civil suit at law?

NORDALE: I understand that it does, Mr. Rivers. If you recall, the original section began with the phrase, "In suits at common law". Then, there was an amendment added which said "in civil causes". It just said "in civil causes", if you recall. I think it was amended on the floor. The problem arose again of interpreting the constitution. We start the section by saying, "in suits at common law", and we wind up by saying "in civil causes". There was the chance that it might be interpreted that we meant two different things because we had said it in two different ways, but we were advised that it would be far better to stick to the first subject that we had introduced as a section; and that, also, was referred to the originating committee and they saw no objection to it.

R. RIVERS: Thank you.

PRESIDENT EGAN: Mr. Hellenthal.

HELLENTHAL: A question, Mrs. Nordale. Was the Committee aware that that precise question had been decided by precise amendment by this body after a floor discussion?

PRESIDENT EGAN: Mrs. Nordale.

NORDALE: Yes. I realize that, but you see our job, as Mr. Owen told us, is to try to avoid the implication that we are talking about two different things when we use different terms, and at the risk of sacrificing the style, we had to use the same terminology.

PRESIDENT EGAN: Mr. Ralph Rivers.

R. RIVERS: Question, Mrs. Nordale. Perhaps when we changed that wording at the one point, we intended to change it at the other and inadvertently did not do so. Could we have a chance to consult with the Committee, perhaps tomorrow, before we start the amending process? Or are we going to consult with them tonight, the Committee on Style and Drafting?

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, I might suggest, in those particular cases, I think it would be very desirable to consult with the substantive committee, and I am sure we will be acceptable to anything they decide as long as it's consistent.

PRESIDENT EGAN: Miss Awes.

AWES: Would it be proper to have me make a brief statement at this time?

PRESIDENT EGAN: Is there objection to having the Chairman of the Bill of Rights Committee make a brief statement at this time? Hearing no objection, Miss Awes, you may make a brief statement.

AWES: I just wanted to make a statement about this proposal. The proposal was made by the Bill of Rights Committee and came out on the floor in due course and was referred to the Style and Drafting Committee. I was told, or made to understand, that when the Style and Drafting Committee worked on a proposal they asked to have one member of the substantive committee come before them and consult with them.

PRESIDENT EGAN: That subject came before the Convention, Miss Awes, and was agreed to.

AWES: It is also my understanding that it was the duty of the Bill of Rights Committee to draw up substantive provisions, that it is the duty of the Style and Drafting Committee to put it in the proper language so that it sounds well, that it fits in with other proposals and so that it complies with the will of the Convention. So when the Style and Drafting Committee informed me

that they would like to have me or some other member of my committee before them, I went before them, and also asked Mr. Buckalew if he would come. The two of us appeared before them and passed on certain sections which they put before us, and also answered certain questions as to intent, etc. There were certain changes which they made which I did not necessarily think had to be made, or the wording that I particularly didn't like as well as our own, but I didn't feel that the Style and Drafting was what I was concerned with. I felt that I was only there, and I think Mr. Buckalew felt the same way, that he was there to answer questions they had as to substance and meaning. That is what Mr. Buckalew and I tried to do. Now, I am not saying we may not have made a mistake, either or both of us, but we did try to answer the questions as they went, to substance, and we tried to conscientiously do that. As to style and drafting, we didn't feel that that was any of our business. I make this statement just so the body will understand how we proceeded and what was done.

PRESIDENT EGAN: Are there questions relating to Section 18? Mr. Ralph Rivers.

R. RIVERS: May I ask the Chairman again when you are meeting tomorrow?

PRESIDENT EGAN: Miss Awes.

AWES: Tomorrow at 1:00 p.m.

TAYLOR: Just for a matter of explanation to save unnecessary meetings -- that Section 18 is worded -- it cannot be improved upon and I will touch briefly upon what a suit in common law is.

PRESIDENT EGAN: Mr. Taylor, the purpose at this time -- is there any objection to having Mr. Taylor explain that -- is to ask questions of the Style and Drafting Committee.

R. RIVERS: I would rather reserve the article until tomorrow because we are going to do something about this.

TAYLOR: I never heard of anything being referred to any committee.

PRESIDENT EGAN: Mr. Taylor, it has not been referred to any committee, but at this time, we are in the question process, and at the time that any proposed amendments might be offered, at that time, they could be debated. The Chair has probably allowed unnecessary argument at this time or during this evening. The manner in which we are proceeding is that we are asking questions of the Style and Drafting Committee. If you have questions or anyone has questions, or if the body unanimously agrees to hearing a statement -- that is up to the body.

3143

TAYLOR: I will change my statement. I will move that we adjourn until 1:30 tomorrow afternoon.

SWEENEY: I object.

PRESIDENT EGAN: Mr. Taylor moves that the Convention stand adjourned until 1:30 p.m. tomorrow. Is there a second?

POULSEN: I will second the motion.

PRESIDENT EGAN: Mr. Poulsen seconds the motion. The question is, "Shall the Convention stand adjourned until 1:30 p.m. tomorrow? All those in favor of adjourning until 1:30 p.m. tomorrow will signify by saying "aye", all opposed by saying "no". The "noes" have it and the Convention is in session. Are there questions relating to Section 18 to be asked of the Style and Drafting Committee? Are there questions relating to Section 19? To Section 20? To Section 21? Are there other questions relating to this article to be asked of the Style and Drafting Committee? Mr. Sundborg.

SUNDBORG: Mr. President, if there are no further questions, I move and ask unanimous consent that the report of the Style and Drafting Committee with reference to the preamble and the article on the bill of rights be accepted.

PRESIDENT EGAN: Mr. Sundborg moves and asks unanimous consent that the report of the Style and Drafting Committee with reference to the preamble and the article on the bill of rights be accepted. Mr. Barr.

BARR: Mr. President, where will it be then? It will not advance to third reading. Will it be subject to amendment?

PRESIDENT EGAN: Mr. Barr, it could then be subject to specific amendment for substantive purposes, or subject to regular amendment from a standpoint of phraseology if it does not include a substantive change. Is there objection? Mr. Kilcher.

KILCHER: Mr. President, in Section 2, the language in Section 2 --

MCCUTCHEON: Point of order, Mr. President. Have you declared on the unanimous consent?

PRESIDENT EGAN: No. Mr. Kilcher, are you asking this question before you are allowing the unanimous consent request to go through?

KILCHER: Yes. With a majority only could we make amendments here that pertain to Style and Drafting? I mean, to language only?

PRESIDENT EGAN: For phraseology, yes.

KILCHER: I am afraid, of course, that would take a good bit of time, but I would like to express my opinion that several of these

sections, specifically two, the wording is not very lucky. On the other hand, I don't presume that I could sit down and do it better in two minutes. I think ten minutes would do it. I would have to agree with Mr. Hellenthal that Section 2 "government derives from" -- that is unlucky wording. It doesn't sound good and is not logical.

PRESIDENT EGAN: Mr. Kilcher, are you objecting to the unanimous consent request for acceptance of the report?

HINCKEL: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. Sundborg?

SUNDBORG: I so move.

RILEY: I second the motion.

PRESIDENT EGAN: It has been moved by Mr. Sundborg, seconded by Mr. Riley, that the report of the Style and Drafting Committee be accepted. All those in favor of accepting the report will signify by saying "aye", all opposed, by saying "no". The "ayes" have it and the report has been accepted. Mr. Doogan.

DOOGAN: Mr. President, I ask unanimous consent that the article be placed on the calendar in third reading and up for final passage.

PRESIDENT EGAN: You ask unanimous consent that the rules be suspended?

DOOGAN: Yes.

PRESIDENT EGAN: Mr. Doogan moves and asks unanimous consent that the rules be suspended. Mr. Doogan.

DOOGAN: Point of order. I don't think the rules have to be suspended.

PRESIDENT EGAN: The rules would have to be suspended. That is the only way you can get it into third reading at this time.

LONDBORG: Point of order, Mr. President.

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

LONDBORG: I think they would have to be unless there are no amendments as to phraseology.

PRESIDENT EGAN: Mr. Londborg, they would, in any event, have to be suspended at this time to move it into third reading. Is there a second to that motion of Mr. Doogan's?

MCCUTCHEON: I second the motion.

PRESIDENT EGAN: Mr. McCutcheon seconded the motion. The question is, "Shall the rules be suspended and the article on preamble and declaration of rights be advanced to third reading and placed in

final passage?" The Chief Clerk will call the roll. Mr. Armstrong.

ARMSTRONG: Does this mean then, that it would be passed?

PRESIDENT EGAN: No, Mr. Armstrong, it would mean that if this motion carries, then that this article will be in third reading, open for debate, and when that debate is completed, the vote would be called for final passage.

HINCKEL: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Hinckel.

HINCKEL: It also means that everything would take a two-thirds vote to amend it instead of a majority?

PRESIDENT EGAN: That is right, it would take --

HINCKEL: Because we could not have changes in phraseology right now without that.

PRESIDENT EGAN: Mr. Hinckel, it would take 37 votes to suspend the rules at this time and place the article in third reading. If, in third reading, an amendment were to be made of substance, a substantive amendment, there would be no change at all. I mean, it would take a two-thirds vote at this time to make a substantive amendment. It will take a two-thirds vote to send it back to second reading for specific amendment -- rather, substantive amendment -- at that time. Now, whether or not phraseology amendments could be made in third reading, there is nothing in the rules as the Chair recollects that allows any type of amendment to be made in third reading. If this motion carries it would take a two-thirds vote to do anything in third reading to change this article.

HELLENTHAL: Point of information.

PRESIDENT EGAN: Your point of information, Mr. Hellenenthal.

HELLENTHAL: I understood and I believe some others of us understood that the committee meeting tomorrow was so that we could get together with representatives of Style and Drafting to try to ease out some of these matters expeditiously without doing it from the floor.

KILCHER: Point of information.

PRESIDENT EGAN: Mr. Kilchcr, your point of information.

KILCHER: As the situation appears now that last motion that carried, will that still leave this amendable for phraseology on a majority?

PRESIDENT EGAN: Not as the Chair sees it -- if it goes to third reading. The motion has not carried yet. If this motion carries, in order to make any change whatsoever to the article, as the Chair views the rules, it would take a two-thirds vote to send it back for specific amendment, even if it was a phraseology amendment.

KILCHER: If the vote does not carry, then tomorrow we could make --

PRESIDENT EGAN: You could make phraseology amendments with a majority vote, in the opinion of the Chair. The question is, "Shall the rules be suspended and the article on preamble and declaration of rights be advanced to third reading and placed on final passage?" The Chief Clerk will call the roll.

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

Yeas: 17 - Boswell, Cross, Doogan, Gray, Harris, Johnson, King, Laws, Londborg, McCutcheon, Metcalf, Nolan, Riley, Robertson, Sweeney, Taylor, Walsh.

Nays: 37 - Armstrong, Awes, Barr, Buckalew, Coghill, Collins, Cooper, Davis, Emberg, H. Fischer, V. Fischer, Hellenthal, Hermann, Hilscher, Hinckel, Hurley, Kilcher, Knight, Lee, McLaughlin, McNealy, McNees, Marston, Nerland, Nordale, Peratrovich, Poulsen, Reader, R. Rivers, V. Rivers, Rosswog, Smith, Stewart, Sundborg, White, Wien, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 17 yeas, 37 nays, and 1 absent.

PRESIDENT EGAN: So the "nays" have it and the proposed suspension has not been adopted. Mr. Fischer.

V. FISCHER: I move we have a 15-minute recess to allow the Bill of Rights Committee to meet.

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Fischer moves, seconded by Mr. Doogan, that --

V. FISCHER: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked that the Convention have a 15-minute recess in order to allow the Bill of Rights Committee to meet. Mr. Taylor.

TAYLOR: Before that question is put, Mr. President--

PRESIDENT EGAN: The motion is not debatable.

TAYLOR: I would like to ask of the Chairman of the Administration Committee if any arrangement has been made for a change in the bus coming out and picking up the delegates?

PRESIDENT EGAN: Mr. Coghill.

COGHILL: No, there hasn't, Mr. President, but as soon as I get the schedule here from my able assistant -- the next bus will leave the University at 6:50 tomorrow morning.

PRESIDENT EGAN: The question is, "Shall the Convention stand at recess for 15 minutes in order that the Bill of Rights Committee may meet?" All those in favor of recessing for 15 minutes will signify by saying "aye", all opposed by saying "no". The "ayes" have it and the Convention is at recess for 15 minutes.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Sergeant at Arms will inform the delegates that the Convention has come to order. The Chair would like to inform the delegates that the Chief Clerk had sent a note up to the President, and the President did not turn the note over, and it was after business had been done, following the original first motion for adjournment, and the note said that the actual vote instead of being 27 to 27 had been 28 in favor and 26 opposed. However, it was one of those things where something had been done that could not be undone because we had proceeded with the business of the Convention, but the Chair would like to correct that matter for the record. Mr. Hinckel.

HINCKEL: Mr. President, I would like to have a few minutes on personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Hinckel, you may have the floor on personal privilege.

(Mr. Hinckel spoke on a matter of personal privilege.)

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: May I speak on the matter of personal privilege?

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

(Mr. Sundborg spoke on a matter of personal privilege.)

PRESIDENT EGAN: Miss Awes.

AWES: I think maybe it would speed up matters a little if I made a report as to what your committee did during the recess.

PRESIDENT EGAN: If there is no objection, Miss Awes, you may make a report as to what your committee did during the recess.

AWES: All members of the Bill of Rights Committee were present and there were also three members of the Style and Drafting Committee, and in addition to that, one member of our committee is also a member of Style and Drafting Committee. Several individual members brought up several suggested changes in style and drafting which we discussed. I think there were two made, and in both

cases the committee decided not to make any recommendations on the floor. Then, when it was time to convene again, a motion was made as to style and drafting, that the committee accept the proposal as brought out by Style and Drafting and that proposal, or that motion, I should say, was adopted by a vote of four to two, so as to style and drafting, the committee is not going to make any amendments. Of course, any amendments that are made by individual members will be made by them as individuals rather than as this committee.

PRESIDENT EGAN: Mr. McNees, you had been attempting to get the floor.

MCNEES: I was just going to repeat some of the remarks that Mr. Hinckel made, and the only reason I hadn't made them earlier was that I was going to reserve that until tomorrow -- I will not take the floor session tonight, I will reserve the remarks for tomorrow.

PRESIDENT EGAN: We have before us the article on preamble and declaration of rights. That has not yet been referred. Mr. Sundborg, its status right now is that it is still before us, is that right? It has been accepted.

SUNDBORG: As far as we are concerned, Mr. President, we are all through with it, but it is still before the body.

PRESIDENT EGAN: Are there proposed amendments to the preamble of this proposal? Or, I mean, are there proposed amendments to phraseology to the preamble of this proposal? Mr. Ralph Rivers.

R. RIVERS: Before we send this on I would like to ask the chairman of the substantive committee a question because I want the answer read into the record. Miss Awes, in Section 18, where we speak of suits at common law, on line 6 and on line 12, does the Committee mean "suits at law" as distinguished from "suits in equity"?

AWES: I think perhaps the best way to answer that is to say that Section 11 dealt with criminal suits, and then Section 18 we wanted to refer to civil suits as opposed to criminal suits, and by "common law" we mean just those suits that you are entitled to a jury at common law, so, as a matter of fact, it would be law as opposed to equity because at the common law you never were entitled to a jury in equity.

V. RIVERS: You are aware that the common law in Alaska in several matters is only retained insofar as it is not in conflict with the rules of civil procedure, notwithstanding that, when you say "at common law", you mean any civil case in which a person would be entitled to a jury. Is that what you mean?

3149

AWES: That is right.

V. RIVERS: Thank you.

PRESIDENT EGAN: Are there any proposed amendments to the preamble? Mr. White.

WHITE: I have an amendment.

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

CHIEF CLERK: "Strike the preamble in Style and Drafting report and reinsert the preamble from the first enrolled copy."

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

WHITE: I move the adoption of the amendment.

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

TAYLOR: I rise to a point of order.

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

TAYLOR: I believe the first preamble has been stricken and this one put in. I think it would be out of order.

PRESIDENT EGAN: Mr. Taylor, Mr. White's motion, as the Chair heard it, states that the preamble as it appeared in the enrolled copy, would be the exact preamble as it left the Convention to go to the Style and Drafting Committee. Is that not correct, Mr. White?

WHITE: Yes.

PRESIDENT EGAN: Then the amendment would be in order and it would be only an amendment of phraseology. Is there a second to Mr. White's motion?

METCALF: I second the motion.

PRESIDENT EGAN: Seconded by Mr. Metcalf. Mr. White.

WHITE: Mr. President, I will not take much time on this. I just feel that the preamble as it left the floor in second reading had received a thorough and detailed consideration of a large number of the delegates, I forget how many names were appended to that preamble -- it was a good preamble and I particularly am unhappy to see the deletion of the words "reaffirm our belief in government by consent of the governed within the Union of States." I think that has point and pertinence in our preamble of the constitution of the State of Alaska at this time.

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

LONDBORG: It would seem to me that if that is the only reason that Mr. White would want this original preamble or the enrolled copy to be back, that he should move to insert those words into this. I think there is evidently some other reasons why he doesn't like the reshifting or the work of the Style and Drafting. That is my opinion and I think that with their inserting this down below that Style and Drafting has taken care of the work in fine order. If it is a matter of just that one phrase, "reaffirm our belief in government by consent of the governed", that could be inserted in place here in the Style and Drafting copy, but I can't see that they have done any harm to the preamble.

PRESIDENT EGAN: Mr. Riley.

RILEY: I rise to, I believe, a point of order.

PRESIDENT EGAN: Your point of order.

RILEY: Whichever thinking goes in, or is agreeable to the body, it will have to be under specific suspension of the rules, suspension of the rules for a specific amendment, and if Mr. Londborg sees fit to seek to amend an amendment he will have to proceed in the same manner that the amendment is --

PRESIDENT EGAN: Not as to phraseology, Mr. Riley.

RILEY: I believe this goes beyond phraseology, does it not?

PRESIDENT EGAN: Mr. Riley, in the opinion of the Chair, if Mr. White's amendment does not add anything that was not in the original preamble, it couldn't be a change in -- a substantive change.

RILEY: Even apart from that, Mr. Londborg, I believe, should seek to amend the amendment, rather than discuss at random what the approach might be.

PRESIDENT EGAN: You probably have a point there, Mr. Riley. Is there anyone else who wishes to be heard? Mr. Hinckel.

HINCKEL: One of the things that I spoke on before, that 55 delegates or thereabouts, -- I think we were pretty near all here at the time this preamble was decided upon. It was argued at length on the floor -- there was a lot of thought given to it. It doesn't even resemble the same preamble now. I think Mr. White is right in asking that the original preamble as written and amended and discussed on the floor here by the delegates of the Convention should be used and not just changed over to suit the will of a small group.

PRESIDENT EGAN: Miss Awes has been attempting to get the floor. Miss Awes.

AWES: I will vote against Mr. White's amendment. I think I voted against adoption of the preamble as shown in the enrolled copy when it was presented. Mr. White says that the preamble shown in the enrolled copy was duly considered in being drawn up, and Mr. Hinckel says it was considered on the floor. Well, I suppose that is true, but that is true of everything that is adopted, but it still goes to the Style and Drafting Committee, and I personally think that the Style and Drafting Committee has considerably improved the preamble. I think it reads much more smoothly, I think it still embodies the thought. If there is a certain phrase left out that Mr. White disapproves of, then like Mr. Londborg, I suggest that he amend to that phrase, but I don't think that it is right to just say let's throw out the work of the Style and Drafting Committee and go back to what we had before. The thing to me is a question of information, if we went back to the preamble that we had before, then wouldn't it go back to Style and Drafting again, and what would they do with it then?

PRESIDENT EGAN: Mr. Cross.

CROSS: It seems to me Style and Drafting has done an excellent job here, and I would like a chance for the body to adopt it as it is.

PRESIDENT EGAN: Is there further discussion? The question is, "Shall the proposed amendment as offered by Mr. White 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 "noes" have it and the proposed amendment has failed of adoption. Are there other amendments to the proposed preamble or to Section 1? Are there amendments to be proposed for Section 2? Mr. Hellenthal.

HELLENTHAL: Mr. Chairman, this is the only amendment that I am going to make.

PRESIDENT EGAN: Is it an amendment of substance, Mr. Hellenthal, or phraseology?

HELLENTHAL: No. No, it is an amendment of phraseology -- at least that seems to be the consensus of opinion. I could see on these matters where unanimity would be quite difficult. I regard it though as a matter strictly of style and that is the way that Style and Drafting must have regarded it, or they wouldn't have made it. I move that Section 2 in the committee report be deleted and Section 2 of the enrolled copy be inserted in its place.

PRESIDENT EGAN: Mr. Hellenthal moves that Section 2 of the committee report be deleted and Section 2 of the enrolled copy be inserted in its place. It has been seconded by whom?

BUCKALEW: I seconded it.

PRESIDENT EGAN: Mr. Buckalew seconded the motion.

TAYLOR: I ask unanimous consent.

PRESIDENT EGAN: Unanimous consent is asked.

DOOGAN: I object.

PRESIDENT EGAN: Objection is heard. The motion is open for discussion. Mr. Hellenthal.

HELLENTHAL: I make this motion. I realize it is a matter of style, but style is rather important or we wouldn't have these committees on style, and I am familiar with the words "government is derived from the consent of the governed," and the word "derived" is sometimes used in our constitution, and I believe it was used in the Declaration of Independence, and I have studied the bills of rights of the 48 states, and I like to encourage novelty, but, at the same time, I am not familiar with this usage, "Government derives from the consent of the governed". I have never heard it before in any constitution. I have never heard it in common language before. It is a word -- I think that you just fall all over it when you read it. Now the language that was originally adopted by this body and which I think is stirring language and good language -- brief and it is excellent -- "All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole." That is the kind of language that sounds good. That is the kind of language I would like to explain to my son, but I don't want to go and tell him, "Son, government derives from the consent of the governed."

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: Mr. President, I will be brief and frank and tell you my position on this. Mr. Hellenthal said this was the only amendment he was going to offer. He is an honorable man, I relied on him, I seconded it, and I would like to get Mr. Hellenthal's language in there, and he can play the Battle Hymn of the Republic and he can read it to his boy.
(Laughter)

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

MCNEALY: Mr. President, I am on the Committee, and I too don't

want to take up time at this late hour, but I do hope, because it is late, that the body won't pass this over hurriedly because actually this Section 2, our platitudes were put in there, the thought of the Committee was a nice sounding thing, and I say this without any criticism of Style and Drafting in having some recognition of their work, but if the language as proposed of the government deriving something, if that is to be left in, then I would much prefer that we would strike out Section 2 entirely because it is a platitude, and if we are going to have that in the constitution,

something for the people to read -- I don't know whether my boys will ever read it or not -- but on the other hand, others might read it. I like the words there, the words that "the government originates with the people."

PRESIDENT EGAN: Miss Awes, you've had the floor, have you not?

AWES: This is one of the things that the Committee decided not to take official action on, but speaking as an individual, I also intend to vote for Mr. Hellenthal's amendment.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Having received the assurance that Mr. Hellenthal will not be heard again on the article, I am prepared to desert the Style and Drafting Committee and vote in favor of this amendment.

PRESIDENT EGAN: Mr. Marston.

MARSTON: I hope Mr. Hellenthal is heard from again, and I am going to vote for this motion of his right now.

PRESIDENT EGAN: Mr. Sundborg.

SUNDBORG: I ask unanimous consent for the adoption of Mr. Hellenthal's amendment.

NORDALE: I object.

PRESIDENT EGAN: Mr. Poulsen.

POULSEN: Mr. President, I feel the same thing, that Mr. Hellenthal should be heard from any time that we can. He comes up with a lot of constructive ideas.

PRESIDENT EGAN: Mr. McNees.

MCNEES: I will go further than Mr. McLaughlin did, Mr. President. I deserted the Style and Drafting and some of their work two or three days ago. I feel this is an issue that we are going to have to face up to sooner or later, and I intend to be heard from again on this subject. I am going to support Mr. Hellenthal's amendment here, primarily because I know this floor spent hours, at times, debating some of these subjects and at a time when we had months left. We now have less than weeks left, and I don't like to see it hurried through in minutes.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I rise to a point of personal privilege.

PRESIDENT EGAN: If there is no objection, Mr. Davis, you have the floor on a point of personal privilege.

(Mr. Davis spoke on a matter of personal privilege.)

(Mr. McCutcheon spoke on a matter of personal privilege.)

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

HELLENTHAL: I should like to withdraw my amendment rather than raise what I consider to be a false issue as has been raised by the last speaker.

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

HELLENTHAL: I ask permission to withdraw my amendment.

PRESIDENT EGAN: Do you ask unanimous consent?

HELLENTHAL: I think the harmony of this group is...

POULSEN: I object.

PRESIDENT EGAN: Objection is heard to the unanimous censent request. The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?"

JOHNSON: Roll call.

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 27 - Awes, Barr, Boswell, Buckalew, Collins, Cooper, Emberg, Harris, Hellenthal, Hinckel, Hurley, Kilcher, King, McLaughlin, McNees, Marston, Metcalf, Nolan, Poulsen, Reader, Robertson, Rosswog, Smith, Stewart, Taylor, White, Wien.

Nays: 27 - Armstrong, Coghill, Cross, Davis, Doogan, H. Fischer, V. Fischer, Gray, Hermann, Hilscher, Johnson, Knight, Laws, Lee, Londborg, McCutcheon, McNealy, Nerland, Nordale, Peratrovich, Riley, R. Rivers, V. Rivers, Sundborg, Sweeney, Walsh, Mr. President.

Absent: 1 - VanderLeest.)

CHIEF CLERK: 27 yeas, 27 nays, 1 absent.

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

MCNEALY: Mr. President, I wish now to announce a reconsideration of my vote at the next plenary session.

PRESIDENT EGAN: Did Mr. McNealy vote "no"?

CHIEF CLERK: Mr. McNealy voted "no".

PRESIDENT EGAN: Then Mr. McNealy serves notice of a reconsideration of his vote on this amendment. Are there other amendments to Section 3? Mr. Metcalf.

METCALF: I have an amendment to Section 3, Mr. Chairman.

PRESIDENT EGAN: Mr. Metcalf may offer his proposed amendment to Section 3. Mr. Metcalf, is it a substantive amendment?

METCALF: Change back to the original section in the enrolled copy.

PRESIDENT EGAN: If there is no objection the Convention will be at recess for about three minutes. The Convention is at recess.

RECESS

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk may read the amendment proposed by Mr. Metcalf.

CHIEF CLERK: "Strike Section 3 of the report of the Committee on Style and Drafting and insert in lieu thereof Section 3 of the enrolled copy."

METCALF: Mr. Chairman, I move for its adoption.

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

BARR: I second the motion.

PRESIDENT EGAN: Mr. Barr seconds the motion.

UNIDENTIFIED DELEGATE: Question.

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

MCNEALY: May we have a roll call, Mr. President?

PRESIDENT EGAN: The Chief Clerk will call the roll.

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

Yeas: 18 - Barr, Collins, Cooper, Hellenthal, Hinckel, Kilcher, Laws, McNees, Metcalf, Poulsen, Reader, R. Rivers, Robertson, Rosswog, Stewart, Taylor, White, Wien.

Nays: 36 - Armstrong, Awes, Boswell, Buckalew, Coghill,

Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Harris, Hermann, Hilscher, Hurley, Johnson, King, Knight, Lee, Londborg, McCutcheon, McLaughlin, McNealy, Marston, Nerland, Nolan, Nordale, Peratrovich, Riley, V. Rivers, Smith, Sundborg, Sweeney, Walsh, Mr. President.

Absent: 1 - VanderLeest.)

PRESIDENT EGAN: The Convention will come to order. The Chief Clerk is tallying the ballot.

CHIEF CLERK: 18 yeas, 36 nays and 1 absent.

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

MCNEALY: Mr. President, I wish to give notice at this time of my reconsideration on this vote at the next session.

PRESIDENT EGAN: Mr. McNealy serves notice of his reconsideration on his vote on the amendment. Mr. McLaughlin.

MCLAUGHLIN: I move and ask unanimous consent that we adjourn until 1:30 tomorrow.

PRESIDENT EGAN: Mr. McLaughlin moves and asks unanimous consent that the Convention adjourn until 1:30 tomorrow.

LONDBORG: I object.

PRESIDENT EGAN: Objection is heard. Is there a second to the motion?

WHITE: I second the motion.

PRESIDENT EGAN: Mr. White seconds the motion. The question is, "Shall the Convention stand adjourned until 1:30 tomorrow?" All those in favor of adjourning until 1:30 tomorrow will signify by saying "aye", all opposed by saying "no". The "nays" have it and the Convention is still in session. Are there amendments, other amendments to be offered? Mr. Barr.

BARR: May I have the privilege of the floor for one minute?

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

(Mr. Barr spoke on a matter of privilege.)

PRESIDENT EGAN: Are there other amendments to the article?

TAYLOR: Other than the fact Mr. McNealy moved his reconsideration

at this time --

PRESIDENT EGAN: He served notice of reconsidering his vote which holds it over until tomorrow on this amendment, Mr. Taylor. Mr. McNealy.

MCNEALY: Point of inquiry. Are there other amendments to the article or to the section?

PRESIDENT EGAN: The sections other than those we have considered so far, beginning with Section 4, I believe it is.

MCNEALY: Mr. President, I don't have it written out, but to save time, I move to substitute the words from the enrolled copy, taking the Committee copy of Section 18, and from Section 13 of the enrolled copy, the last words in the line, the last words are "in a common law suit", and I propose that the wording of the enrolled copy "in civil causes" be substituted for "in a common law suit".

PRESIDENT EGAN: Could you write that amendment out, Mr. McNealy?

MCNEALY: Yes, Mr. President.

PRESIDENT EGAN: The Convention will be at ease, not at recess. The Chair would like to announce that the temperature is now about 40 degrees below, and, if the delegates have their cars out there, they probably should start them in order that they will start. There has been a sudden drop in the temperature - outside. (Laughter) The Convention will come to order. Mrs. Sweeney.

SWEENEY: Mr. President, I move that the rules be suspended and that we take up Mr. McNealy's reconsideration on his vote on the Metcalf amendment.

PRESIDENT EGAN: Mrs. Sweeney moves -- Mr. McNealy?

MCNEALY: Point of order, Mr. President. Under a point of order --

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

MCNEALY: I wish to state -- Mrs. Sweeney got to the floor before I did, but the point is that I would like to state this, if Mrs. Sweeney will withdraw her motion, it is my intention to at this time ask to have Section 2, the reconsideration at this time, and then I will ask unanimous consent to withdraw my motion for reconsideration on the implementing section and will also ask unanimous consent to withdraw the amendment I proposed to Section 18.

SWEENEY: I will withdraw my motion.

PRESIDENT EGAN: Mr. McNealy moves that his reconsideration of his vote on Section 2 be placed before the Convention at this time. Is there a second to the motion?

SUNDBORG: Point of order. I simply want to inquire, inasmuch as we have a motion before us, is Mr. McNealy's motion in order? There was a motion by Mr. McNealy to amend a different section. It had been seconded and --

PRESIDENT EGAN: Do you ask unanimous consent to withdraw that motion, Mr. McNealy?

MCNEALY? I hadn't moved the amendment.

PRESIDENT EGAN: It hadn't been read? Is there a second to Mr. McNealy's amendment? It will take a two-thirds vote to consider the reconsideration at this time. Is there objection to the suspension of the rules in order that the reconsideration can be taken at this time? Hearing no objection, then the rules have been suspended and the question before us then, on the motion -- Mrs. Sweeney? The rules have been suspended.

SWEENEY: All right, but what I want to know now is, is it a simple majority since --

PRESIDENT EGAN: The rules have been suspended --

SWEENEY: I mean on the question.

PRESIDENT EGAN: And it will be a simple majority on the question, that is true, Mrs. Sweeney. Mr. McNealy has moved that the reconsideration take place at this time. The question is, "Shall the proposed amendment as offered by Mr. Hellenthal be adopted by the Convention?" The Chief Clerk will please read that proposed amendment. Mr. Harris.

HARRIS: Mr. President, before the vote is taken on this I would like to explain my vote. I intend to vote for the enrolled copy, not because I have anything against our Committee on Style and Drafting; I think they have been doing a wonderful job. But it so happens that Section 2 in the enrolled copy appeals to me more than Section 2 in the other one, and I am not voting on the fact that it might be good style or good drafting. I am a simple country boy and I am voting for what appeals to me. So, I don't want my vote to be construed as being a vote against the Committee, I think they have done a wonderful job.

PRESIDENT EGAN: Mr. Fischer.

V. FISCHER: Likewise, Mr. President, I am going to vote for the amendment not as a vote of nonconfidence to the Committee.

PRESIDENT EGAN: Mr. McNealy.

MCNEALY: I believe that I should mention, too, that in this I have given a little sober and serious consideration to the Section 3 I moved to reconsider on, and I am of the opinion now

that the language satisfies my thought there, and so I am going to withdraw that, but I do feel like this, that while I have respect and I have said nothing derogatory or even by implication to any of the Style and Drafting Committee, but like Mr. Harris ably expressed it, I like the language a little better in that section.

PRESIDENT EGAN: Mr. Davis.

DAVIS: Mr. President, I hope that each and all of the delegates will vote on this motion according to what they think should go in the constitution, not to show confidence in the Committee or lack of confidence in the Committee. Vote according to your convictions on this motion.

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

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

Yeas: 34 - Armstrong, Awes, Barr, Boswell, Buckalew, Collins, Cooper, Emberg, H. Fischer, V. Fischer, Harris, Hellenthal, Hinckel, Hurley, Kilcher, King, Knight, Laws, McLaughlin, McNealy, McNees, Marston, Metcalf, Nolan, Poulsen, Reader, V. Rivers, Robertson, Rosswog, Smith, Stewart, Taylor, White, Wien.

Nays: 19 - Coghill, Cross, Davis, Doogan, Gray, Hermann, Hilscher, Johnson, Lee, Londborg, McCutcheon, Nerland, Nordale, Peratrovich, Riley, Sundborg, Sweeney, Walsh, Mr. President.

Absent: 2 - R. Rivers, VanderLeest.)

CHIEF CLERK: 34 yeas, 19 nays and 2 absent.

PRESIDENT EGAN: And so the "yeas" have it and the proposed amendment is ordered adopted. Mr. McNealy.

MCNEALY: At this time I would like to move and ask unanimous consent that I might withdraw my notice of reconsideration to Section 3.

PRESIDENT EGAN: Mr. McNealy moves and asks unanimous consent that he be allowed to withdraw his notice of reconsideration on the amendment to Section 3. Is there objection?

BARR: I object.

PRESIDENT EGAN: Objection is heard. Do you so move, Mr. McNealy?

MCNEALY: I so move.

PRESIDENT EGAN: Mr. McNealy so moves. Is there a second to the motion?

DOOGAN: I second the motion.

PRESIDENT EGAN: Mr. Doogan -- Mr. White?

WHITE: I just wanted to object for a question, Mr. President. The reason I voted previously to return to the original language was because I was impressed by the arguments of some of the committee members that, if I understood them correctly, the deletion of the words "enjoyment of" weakened the section. I would like to ask Mr. McNealy if that is the point he has been satisfied on through further consideration. Is it, in your opinion, the section now as strong as it was previously?

MCNEALY: You are referring now to Section 3?

WHITE: Yes, I am.

MCNEALY: Well, I find myself in the position hard to support my own motion. I believe I can answer the question this way. The only reason that I moved to reconsider there was because of the fact that we had a colored lady appear before the Committee here and asking for very strong language and quite lengthy language, and to avoid the lengthy language we attempted to spell out -- we didn't attempt -- we did spell out the correct wording for directing the legislature there. I don't like the way it ended up with the "herewith" on it, but nevertheless we thought it made it a little bit stronger language for the parties interested, especially in civil rights.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: Mr. President, I would like to give notice of my intention to ask that we rescind our action on Mr. Barrie White's amendment taken this evening, and ask that my notice be entered on the minutes.

PRESIDENT EGAN: Which amendment was it?

V. RIVERS: It has to do with the replacement of the original enrolled preamble.

PRESIDENT EGAN: That motion did not carry, did it, Mr. White?

CHIEF CLERK: No, it did not.

PRESIDENT EGAN: We have a motion before us at this time, Mr. Rivers.

V. RIVERS: I just gave notice, Mr. President. I am not making a motion, I asked that it be entered on the minutes. I will bring it up tomorrow.

WHITE: I don't know if I was the only one that objected to Mr. McNealy's motion or not. Anyway, I withdraw my objection.

PRESIDENT EGAN: Mr. Barr had also objected. Mr. Barr.

BARR: Mr. President, I believe that the original wording was very good, but I especially object to the word "implement". The only thing it does is to shorten that sentence, but it does a lot of other things to it. That word "implement", regardless of whether it has been in long legal usage or not, it came into general use some time during the war when we frequently found that in long verbose government directives, in the middle of a sentence that was a page long, written by some new bureaucrat who had gone into government service, and they always seemed to use it when they couldn't think of any other words to use. I do not think it is the right kind of word to use in the constitution. Constitutions should be clear and simple, something that everybody could read, know what it means, and sounds good to them, and I prefer to go back to the original wording on that last sentence of the section, not because it is a little longer, but because it is simple and clear. I don't believe that word "implement" has any place here at all. There are a lot of other like words such as this "and/or" which has no place in the English language, but people who like to appear learned use it when some other shorter word could do it as well. Therefore, my principal objection to this present wording of the section is on account of the word "implement", and I will go along on the original wording of the first sentence also.

PRESIDENT EGAN: Mr. Metcalf.

METCALF: May I speak further on this section?

PRESIDENT EGAN: You may. You can speak to the motion as to whether or not to allow Mr. McNealy to withdraw his notice, and in doing so you, of necessity, have to speak to the section.

METCALF: I feel like Mr. Barr, that this section here should be clear and simple for eighth-grade civics students. I prefer the original section in the enrolled copy.

PRESIDENT EGAN: It will take a two-thirds vote, it seems to the Chair, to order the withdrawal of the notice of reconsideration inasmuch as objection was heard. Mr. Coghill.

COGHILL: Mr. President, I think that the Style and Drafting has done a very good job on this particular section. I was the one that raised the question on "implement", and all I was seeking was to get a legal definition of the word "implement" as to uses in law. After looking it up in the dictionary and asking some of the learned attorneys of our group, we find that the word "implement" is used very extensively in defining treaties and other governmental documents. I think that it is very fitting and very fine the way Style and Drafting came out.

PRESIDENT EGAN: Mr. Cooper.

COOPER: Mr. President, I feel apologetic to have to get up and speak on this, but my objection is to the word "denied" as to the words "denied the enjoyment of". "Denied" to me means -- I get this feeling and sense from this: "denied the minimum of civil and political right". When I read the enrolled copy it says "denied the enjoyment" which to me means the full enjoyment. I would like to have this be reconsidered properly; "denied the enjoyment" which to me would give any and all the full right, the full enjoyment. Leaving the word "enjoyment" out of Section 3 as it now appears to me is only offering the very minimum.

PRESIDENT EGAN: Mr. Hurley.

HURLEY: Mr. President, may I speak on behalf of the subcommittee that put this word in there. Referring to both these sections, I am sure if the subcommittee had known there was as much antipathy towards the use of these words, they would not have used them. As I say, our only recourse was to the Committee, and evidently we didn't understand the reaction of the Committee. Speaking for myself as one of the three, I certainly don't think it is going to kill the constitution one way or another whether this is in there or not in there, and I sincerely regret that we have caused all of this difficulty. Had we known we were going to cause it, I am sure that we would not have made the changes because we didn't feel they were substantive changes, we felt that, perhaps, stated a little more clearly. We were not on the committee, we did not have the benefit of all the arguments, and therefore we were not as well prepared as the Committee was, but I think the matters are relatively insignificant, and I for one have no objection to either reconsidering or not reconsidering this motion.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to ask a question. We have been debating here now for about 15 or 20 minutes whether Mr. McNealy should be allowed to withdraw his motion for reconsideration. I was just wondering, do we accomplish anything by it, because if we force him to let it stand, he is the only one that can exercise that option tomorrow, isn't he, so if he doesn't want to reconsider, he still doesn't have to.

PRESIDENT EGAN: Miss Awes, that would not be quite correct. Any other delegate could move the reconsideration. It is not the Chair's understanding of rules governing reconsideration that it is only the person who serves the notice. After he has served the notice, any other delegate may move before adjournment tomorrow. Mr. Davis.

DAVIS: Mr. President, I agree with Miss Awes that we are wasting a lot of time on something of no importance whatsoever. I would

like to ask unanimous consent of the Convention at this time to let Mr. McNealy's motion for reconsideration be put right here and now, and I will waive -- as far as I am concerned, I would like to have unanimous consent that we waive the two-thirds rule so it can be handled on a simple majority.

PRESIDENT EGAN: Mr. Davis asks unanimous consent that we do reconsider the vote on the particular amendment at this time. Do you object, Mr. McNealy?

MCNEALY: I have no objection.

PRESIDENT EGAN: Is there objection? Hearing no objection then, the motion to withdraw has been superseded by a unanimous consent motion or act of the Convention to reconsider the vote on the amendment offered by Mr. Metcalf at this time. And the question is -- then the rules have been suspended and the question is, "Shall Mr. Metcalf's proposed amendment be adopted by the Convention?" The Chief Clerk will read that proposed amendment.

CHIEF CLERK: "Strike Section 3 and insert Section 3 of the enrolled copy."

PRESIDENT EGAN: Mr. Davis.

DAVIS: You meant Mr. McNealy, did you not?

PRESIDENT EGAN: No, Mr. Metcalf offered the amendment, as the Chair recalls it, Mr. Davis. Is that correct?

CHIEF CLERK: Yes.

PRESIDENT EGAN: Mrs. Hermann:

HERMANN: Isn't the vote on whether Mr. McNealy may withdraw his --

PRESIDENT EGAN: No. By unanimous consent, which is a complete suspension of the rules, Mrs. Hermann, by unanimous consent and without objection, including no objection from Mr. McNealy, we suspended the rules in order that the reconsideration of the vote on Section 3 may come before us at this time. That suspension of the rules allowed the reconsideration and placed before us the original question. The question is, "Shall Mr. Metcalf's proposed amendment be adopted by the Convention?" The Chief Clerk will call the roll.

HERMANN: Mr. President, I wish to abstain from voting.

PRESIDENT EGAN: Mrs. Hermann wishes to abstain from voting. If there is no objection, Mrs. Hermann, you may abstain. The question is on the adoption of Mr. Metcalf's amendment proposing to delete Section 3 and insert the Section 3 that appeared in the enrolled

copy of the article. The Chief Clerk will call the roll on the adoption of the amendment.

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

Yeas: 19 - Armstrong, Barr, Collins, Cooper, Harris, Hellenthal, Hinckel, Hurley, Kilcher, McNealy, McNees, Metcalf, Poulsen, R. Rivers, V. Rivers, Robertson, Smith, Stewart, Wien.

Nays: 34 - Awes, Boswell, Buckalew, Coghill, Cross, Davis, Doogan, Emberg, H. Fischer, V. Fischer, Gray, Hilscher, Johnson, King, Knight, Laws, Lee, Londborg, McCutcheon, McLaughlin, Marston, Nerland, Nolan, Nordale, Peratrovich, Reader, Riley, Rosswog, Sundborg, Sweeney, Taylor, Walsh, White, Mr. President.

Absent: 1 - VanderLeest.

Abstaining: 1 - Hermann.)

HURLEY: Mr. President, I would like to change my vote from "no" to "yes".

PRESIDENT EGAN: Mr. Hurley changes his vote from "no" to "yes".

CHIEF CLERK: 19 yeas, 34 nays, 1 absent, and 1 abstaining.

PRESIDENT EGAN: So the "nays" have it and the proposed amendment has failed of adoption. Mr. Davis.

DAVIS: Mr. Chairman, at this time I move that the Convention discharge its Committee on Style and Drafting and appoint a new committee so that the business of the Convention may go forward.

JOHNSON: I will second that motion.

BARR: I object.

PRESIDENT EGAN: If there is no objection, the Chair will hold that such a motion is out of order.

DAVIS: May I explain? Normally, I would have to speak on the motion afterwards. May I give my reason? Mr. President, it is obvious to me that the Committee has not the confidence of very nearly 50 per cent of this Convention. Under those circumstances it is going to be impossible to do any business. We have a very short time to complete the business of this Convention. So far as I personally am concerned, I do not wish to be responsible for acting as a member of Style and Drafting if Style and Drafting has nothing to do, and it is obvious that many, many people here feel that that is the case. Now, I don't mean to say that people should

not vote their convictions. I said that a while ago and I meant every word of it, but I am thinking of the fact that it is entirely clear here that many people feel that Style and Drafting is going too far with their work, and it is equally clear that anything that is done from here on out is going to be continually harassed with amendments by people who feel that the language that they used first was much better than the language finally used. And for that reason, it would be much better for everybody concerned that this Committee be discharged and a new committee be appointed, a committee in which the Convention can have complete confidence, so that we can go ahead and get the job done and get this constitution written.

PRESIDENT EGAN: Miss Awes.

AWES: I would like to speak. I am Chairman of the Bill of Rights Committee that drew up this original proposal. So far as I know, this is the first proposal to which amendments of this type have been proposed in such a wholesale order. I don't pretend to know the reason for it. The Committee as a committee made no such amendments. I, as a person, have confidence in the Style and Drafting Committee. I think they are doing a good job. Like the rest of the committees, they are not infallible. I voted in favor of Mr. Hellenthal's amendment. It is the only amendment of that type that I have voted for so far, and it is the only amendment of that type that I am going to vote for on the bill of rights proposal -- I can't say anything about the others coming up. But I do think it is going to be impossible to have a constitution unless the Style and Drafting Committee continues its work; and I think that we have some of the most competent people at the Convention on that Committee; and I think that they have shown their competence in what they have done so far; and, if such a motion as Mr. Davis has proposed comes to a vote, I think that the Convention should use it as a means of giving a vote of confidence to the Style and Drafting Committee, and I think we should stop and hesitate a long time before we continue to make motions such as we have made this evening.

PRESIDENT EGAN: Mr. Victor Rivers.

V. RIVERS: I think that all of the committees have had to stand on this floor and defend their best efforts and their best thinking. Now I personally believe that this motion is not a motion that is in order. We all have to stand up and take the final agreement of 55 members of this body and I for one feel that we have all been subjected to the same thing, and we have all had to accept at times certain revisions in our thinking, and I feel that this bill of rights is one of the highly controversial issues and was worked on thoroughly on the floor. There are strong convictions on it. I feel this is the one exception perhaps to the time in which the Style and Drafting may perhaps, have their final judgment questioned. I don't think that in the final analysis, however, that the motion should be entertained by the body or voted on.

PRESIDENT EGAN: Mr. Davis.

DAVIS: It doesn't make any difference to me, one way or the other, as to whether our final judgment is upheld or whether it isn't. That isn't important. After all, we are perfectly capable of standing up here and taking all the slings and arrows that anybody can throw. Of course, the other committees did that and we should too. The point is that we have got to get ahead here. Now, in the last two hours, we have considered the preamble; we had a motion to strike it; we voted it down by a rather close margin; we have considered one, two, three other sections of the bill of rights. Of those, at least two, I think all three, have had motions to strike the Committee's work and to replace it with the original as it went off the floor. On those, the votes have been close. Two of them have had votes of reconsideration. The matter of the preamble has a reconsideration. Those things all have to be taken care of, and as long as that is going on we can't move. The point I am trying to make is that if we are not doing what the Convention wants, it is time for us to step down and let somebody else do what the Convention does want.

PRESIDENT EGAN: Mr. Buckalew.

BUCKALEW: I don't think we should get too excited about it. I was on this Committee, and the Style and Drafting Committee called Miss Awes and they tried to get ahold of other members of the Committee, and probably we consented to things that we should have talked to other members of the Committee on, but I have seen occasions, when I was on the Bill of Rights Committee, and I think that two tigers in a rain barrel would have probably gotten along better than John Hellenthal and Buckalew at one time or another during the course of some of our debates. We have been working hard and our nerves are a little shattered and we're getting tired, and things sort of disagree with us a little, but I think that is the cause of this whole furor, and I don't think it is any lack of confidence on the part of anybody in this Convention. It is just one of those things that go with too much work and too much heat. We will probably get a little more excited as we go along, but we are going to get finished, and I don't think that there is anybody that has lost any confidence in Ed Davis or anybody that are members of his Committee.

PRESIDENT EGAN: Mr. McLaughlin.

MCLAUGHLIN: Is a motion to adjourn in order?

PRESIDENT EGAN: It is in order, but the Chair would state again that the motion as made by Mr. Davis is not in order. The Committee on Style and Drafting is a permanent committee of this Convention. And a motion to adjourn is in order.

MCLAUGHLIN: Mr. Chairman, I move that we adjourn until 1:30 tomorrow.

PRESIDENT EGAN: Mr. McLaughlin moves that the Convention stand adjourned until 1:30 tomorrow. Is there a second?

V. RIVERS: I second the motion.

DAVIS: I wonder if I could ask Mr. McLaughlin to hold his motion for one minute. This has nothing to do with the present matter. I would like to ask, Mr. President, that the Style and Drafting Committee be allowed to make substantive changes in Section 18 of this bill of rights article, and I think that I can guarantee that we will come out with something that people can agree on.

PRESIDENT EGAN: You have heard Mr. Davis's unanimous consent request. Is there objection? Hearing no objection it is so ordered and you have that authority, Mr. Davis. Mr. Hilscher.

HILSCHER: Mr. President, before we act on the matter of adjournment we should arrange something about transportation -- a show of hands as to who has cars and how many can go with those cars. We will have to order out cabs and that will take about 15 minutes.

PRESIDENT EGAN: Would those delegates hold their hands up who need transportation? Does everyone have their hands up that need a cab? (A count was taken of those having cars, and those needing cabs.)

METCALF: May I make a motion that Mr. Davis's motion be postponed until February 5. (Laughter)

PRESIDENT EGAN: If there is no objection the motion has been carried and is ordered adopted. If there is no objection the Convention will stand adjourned until 1:30 p.m. tomorrow.